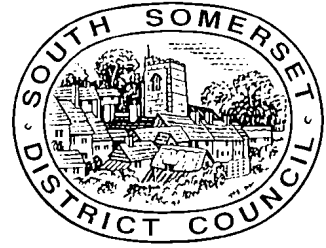


**South Somerset District Council**

*Notice of Meeting*



# Regulation Committee

*Making a difference where it counts*

**Tuesday 20th March 2018**

**10.00 am**

**Council Chamber  
Council Offices  
Brympton Way  
Yeovil BA20 2HT**

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



The public and press are welcome to attend.

If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, **Jo Boucher, Case Services Officer (Support Services) - 01935 462011**, website: [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk)

This Agenda was issued on Monday 12<sup>th</sup> March 2018.

**Alex Parmley, Chief Executive Officer**

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



INVESTORS IN PEOPLE

# Regulation Committee Membership

The following members are requested to attend the meeting:

**Chairman:** Peter Gubbins  
**Vice-Chairman:** Angie Singleton

Clare Aparicio Paul  
Mike Best  
Neil Bloomfield  
Tony Capozzoli

Sarah Dyke  
Graham Oakes  
David Recardo  
Sylvia Seal

Gina Seaton  
Martin Wale  
Nick Weeks  
Colin Winder

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# Information for the Public

## Public Participation at Committees

This is a summary of the Protocol adopted by the Council and set out in Part 3 of the Council's Constitution.

## 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

Comments about planning applications will be dealt with at the time those applications are considered, rather than during the Public Question Time session.

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 3 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:

- County Council, Town or Parish Council Representative
- Objectors
- Supporters
- Applicant and/or Agent

Ward members, if not members of the Regulation Committee, will speak after the town/parish representative.

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.

## **If a Councillor has declared a Disclosable Pecuniary Interest (DPI) or a personal and prejudicial interest**

In relation to Disclosable Pecuniary Interests, a Councillor is prohibited by law from participating in the discussion about the business on the agenda that relates to this interest and is also required to leave the room whilst the relevant agenda item is being discussed.

Under the new Code of Conduct adopted by this Council in July 2012, a Councillor with a personal and prejudicial interest (which is not also a DPI) will be afforded the same right as a member of the public to speak in relation to the relevant business and may also answer any questions, except that once the Councillor has addressed the Committee the Councillor will leave the room and not return until after the decision has been made.

## **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>

# Regulation Committee

**Tuesday 20 March 2018**

## Agenda

### *Preliminary Items*

**1. Minutes**

To approve as a correct record the minutes of the previous meeting held on 21st November 2017.

**2. Apologies for Absence**

**3. Declarations of Interest**

**4. Public Question Time**

**5. Planning Application 17/03874/OUT - Land Adjoining Long Orchard Way Martock (Pages 6 - 23)**

**6. Date of Next Meeting**

The next scheduled meeting of the Regulation Committee is on Tuesday 17<sup>th</sup> April 2018 at 10.00am. However this meeting will only take place if there is business to conduct.

# Agenda Item 5

## Officer Report On Planning Application: 17/03874/OUT

<b>Proposal :</b>	Outline planning application for the erection of 10 No. bungalows (incorporating details of access) and associated works including drainage infrastructure and highway works.
<b>Site Address:</b>	Land Adjoining Long Orchard Way Martock
<b>Parish:</b>	Martock
<b>MARTOCK Ward (SSDC Member)</b>	Cllr Graham Middleton Cllr Neil Bloomfield
<b>Recommending Case Officer:</b>	Nicholas Head Tel: (01935) 462167 Email: nick.head@southsomerset.gov.uk
<b>Target date :</b>	25th December 2017
<b>Applicant :</b>	Blue Spruce Properties Ltd
<b>Agent: (no agent if blank)</b>	Mr Jeff Martin Motivo Alvington Yeovil BA20 2FG
<b>Application Type :</b>	Major Dwlg 10 or more or site 0.5ha+

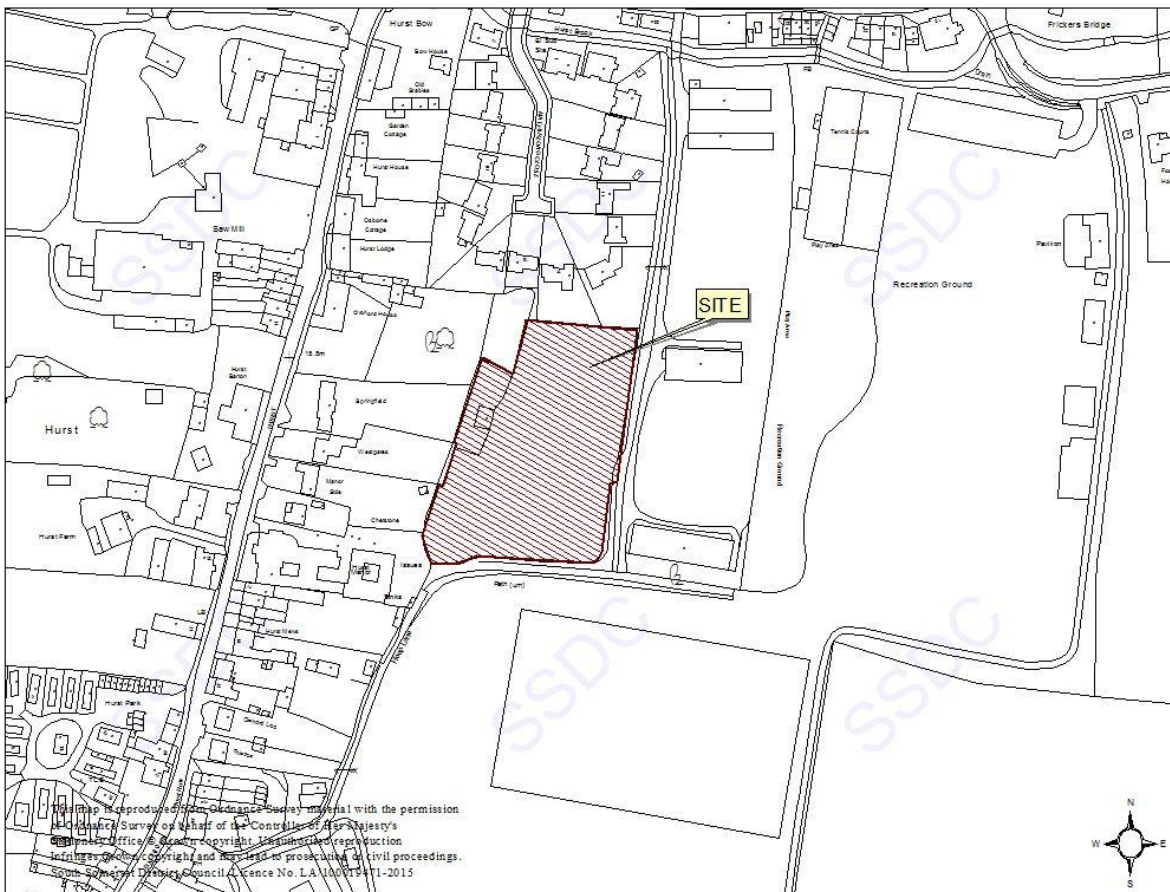
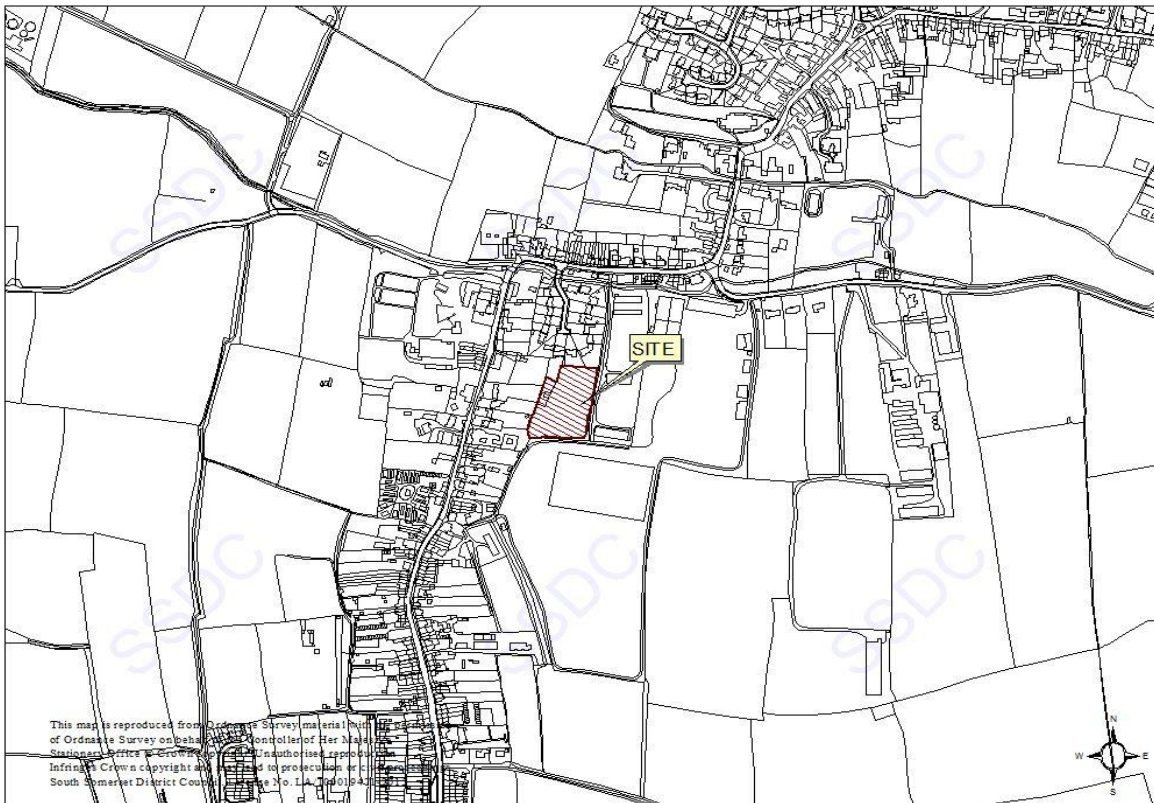
### **Reason for Referral to Regulation Committee**

The application has been referred to the Regulation Committee with a recommendation of refusal from Area North Committee on the basis of a concern for flood risk resulting from the proposed development.

### **Background**

The report was considered by Area North Committee at its meeting on 28 February 2018. Because members were minded to refuse the application for reasons that had already been dealt with by the Appeal Inspector dealing with previous application 16/04699/OUT, the Lead Officer, in consultation with the Area Chair, decided to refer the matter to the Regulation Committee under the Scheme of Delegation.

# Site Description and Proposal



The site is an open piece of land between the housing fronting onto Water Street and Hurst and the new housing development currently under construction south of Water Street ('Martock Leat'). The development fronting both Water Street and Hurst is within the conservation area, which forms the western edge of the site. The site is bounded to the north by the modern housing fronting onto Matfurlong Close. To the east is the new residential development of 35 dwellings under construction; the south boundary is defined by a footpath joining Hurst in the west with the recreation ground towards the east.

Outline permission is sought for the erection of 10 single-storey dwellinghouses.

## **HISTORY**

16/04699/OUT - Outline planning application for the erection of 12 No. dwellings (incorporating details of access) and associated works including drainage infrastructure and highway works - refused. An appeal was submitted, and the appeal dismissed on 5 October 2017.

## **POLICY**

The South Somerset Local Plan (2006 - 2028) was adopted on the 5th March 2015. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the adopted local plan now forms part of the development plan. As such, decisions on the award of planning permission should be made in accordance with this development plan, unless material considerations indicate otherwise. Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

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

SD1 - Sustainable Development  
SS1 - Settlement Strategy  
SS4 - District Wide Housing Provision  
SS5 - Delivering New Housing Growth  
SS6 - Infrastructure Delivery  
HG3 - Provision of Affordable Housing  
HG5 - Achieving a Mix of Market Housing  
TA4 - Travel Plans  
TA5 - Transport Impact of New Development  
TA6 - Parking Standards  
HW1 - Provision of Open Space, Outdoor Playing Space, Sports, Cultural and Community Facilities in New Development  
EQ1 - Addressing Climate Change in South Somerset  
EQ2 - General Development  
EQ4 - Biodiversity  
EQ5 - Green Infrastructure

### **National Planning Policy Framework (March 2012):**

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
3. Supporting a prosperous rural economy
4. Promoting sustainable transport
5. Supporting high quality communications infrastructure
6. Delivering a wide choice of high quality homes



7. Requiring good design
8. Promoting healthy communities
10. Meeting the challenge of climate change, flooding and coastal change
11. Conserving and enhancing the natural environment
12. Conserving and enhancing the historic environment

**National Planning Practice Guidance** - Department of Communities and Local Government, 2014.

### **Policy-related Material Considerations**

Somerset County Council Parking Strategy, March 2012 and September 2013.  
Somerset County Council Highways Standing Advice, June 2013.

Martock Local Community Plan 2012 Summary  
Martock Local Community Plan 2007

### **CONSULTATIONS**

**Parish Council:** The PC recommends refusal of the application on the following grounds:

1. That the issues around flooding have not been resolved.
2. There are still concerns around the density of the site with less units that would cover a greater area.

**Highways Authority:** No objection. A travel plan is required, secured by S106 Agreement. Subject to guidance for the applicant in relation to a future reserved matters application, and to various conditions.

**SSDC Conservation Officer:** No comment received. Comments from previous application: *Generally..., the conservation area and listed building turn away from this land. The site appears not to be of any great significance to the conservation area, and there are no important views to or from the heritage assets, especially since we granted consent adjacent.*

*So what is left is to get the density and layout so that it sits well with the adjoining development*

**SSDC Landscape Officer:** No objection. Comment from previous application accepted the principle of development of 12 dwellings on the site.

**SSDC Tree Officer:** No objection is raised. Comments have been made on the protection of trees in relation to the badger protection plan, which have been taken into account by the applicant.

**SSDC Environmental Protection:** No comments. However, it is noted that for the previous application the following comment was made: *Due to the presence of potentially contaminated materials on the adjacent site, which may have migrated onto this site, I would recommend that should the application be approved, it be subject to the following condition. A condition was requested at that time relating to potential contamination.*

**SSDC Ecologist:** The Initial Comment was that there was insufficient information on the presence and impact to protected species to enable the application to be approved. Further survey work was undertaken and a detailed comment has been made:

*This application was dismissed at appeal due to insufficient wildlife surveys. The applicant has addressed this with the following reports (by ECOSA ecological consultants) and amended plan:*

1. *Badger Survey and Ground Level Tree Assessment (18th December 2017).*
2. *Ecological Mitigation And Management Plan (Revision 2, January 2018).*
3. *Illustrative Site Plan (Revision G, January 2018).*

### Badgers

*The badger survey confirms the existence of a badger main sett on the application site. Although marked confidential (for badger welfare reasons), I don't believe the report identifies anything that isn't already known by local neighbours. Dialogue with the applicant has been taking place to refine the badger mitigation plans.*

*As the main sett is within part of the site proposed for housing, it is proposed to provide a replacement artificial sett a short distance to the south (indicated on the illustrative site plan), and to close the existing sett which will require a licence application to Natural England (following grant of permission). This approach is not uncommon and acceptable in principle.*

*The proposed location of the replacement badger sett has been chosen to:*

- *remain within the badger social group's territory,*
- *avoid the maintenance zone for the ditch,*
- *avoid the root protection zone of the nearby protected oak tree, and to avoid significant damage to the root system of the neighbour's boundary hedge.*

*A 'badger corridor' is proposed along the west and north boundaries of the site so as not to prevent badgers from being able to access any areas that they currently access for foraging purposes.*

*I recognise that some neighbours may not particularly welcome badgers in their gardens, or may fear that loss of this site to development may intensify badger visits to their gardens.*

*As a typical badger territory is in the region of 50 hectares, the application site is likely to represent only a very small proportion of their total foraging area. Furthermore, the overgrown nature of the site makes it sub-optimal for badgers as they prefer short turf or bare ground for foraging. I therefore consider it unlikely that the development will lead to any significant increases in foraging disturbance to neighbouring gardens.*

*Further concerns may arise from the construction of new setts. The replacement artificial sett is of similar area to the existing natural sett and will be constructed to be of similar or better quality. Underground barrier fencing will prevent the badgers from being able to extend the sett into neighbouring properties.*

*In addition to the main sett, badgers create smaller (often single entrance) 'outlier' setts elsewhere within their territory. I consider the development and sett relocation will be very unlikely to change the risk of outlier setts being created on neighbouring properties.*

*It should be noted that neighbouring gardens are already at risk of disturbance from badgers and this could happen at any time prior to, during, or post development. I've sought to ensure the badger mitigation measures don't significantly increase this risk.*

*Further details on badger mitigation are in the Ecological Mitigation And Management Plan.*

***I approve of the proposed badger mitigation measures and sett relocation, and conclude the proposed development is unlikely to significantly affect either the welfare of badgers, or the impact of badgers on the amenity of neighbours.***

### Reptiles

*It has been assumed, on the basis of reptile surveys and translocations from the neighbouring development site, very similar habitat, and proximity, that this application site will also have a 'high' population of slow worms and possibly also some grass snakes. I consider this to be valid and I support this assumption.*

*Mitigation for reptiles, in line with 'standard' guidelines, is proposed and detailed in the Ecological Mitigation And Management Plan. **I support the proposed reptile mitigation measures.***

### Bats and trees

*The Badger Survey and Ground Level Tree Assessment included a survey of trees for potential to be used by bats for roosting. Only one tree was identified as having low potential. **I support the 'standard' precautionary mitigation measures that are proposed for tree works.***

### Water voles

*Although the most recent surveys for the adjacent development site didn't record any evidence of water vole in the adjacent ditch/watercourse, their possible presence is assumed. On the whole, due to the 9m maintenance strip, water voles are unlikely to be significantly affected. Works to replace the bridge and provide access to the site have a small chance of encountering water voles. **Appropriate precautionary mitigation is proposed, that I consider acceptable.***

### Conclusion and recommendations

***I conclude the further survey work and Ecological Mitigation And Management Plan adequately address the reason for refusal given by the planning inspector, and are consistent with industry guidance. I recommend the mitigation measures are made a requirement by condition.***

**SSDC Climate Change Officer:** An objection is raised on the basis of the details of the submitted layout, which might be prejudicial to the installation of PV panels.

**SSDC Sports Arts Leisure:** No contributions required as the development falls below the threshold (10 dwellings or less) set out in the Government online guidance for 'tariff-style' contributions.

**Lead Local Flood Authority:** Reference is made to the earlier comments submitted in relation to application 16/04699/OUT, and conditions requested: *The development indicates an increase in impermeable areas that will generate an increase in surface water runoff. This has the potential to increase flood risk to the adjacent properties or the highway if not adequately controlled.*

*The applicant has provided an outline drainage strategy within the submitted flood risk assessment. This includes a proposal to capture and store surface water runoff in underground geocellular storage tanks adjacent to Bower Hinton Brook, Bower Hinton Brook is a Viewed Rhyne and is under the jurisdiction of the Internal Drainage Board, the LLFA would have concerns that storage at this close proximity to the rhyne would not be acceptable to the IDB and the applicant has not put forward any alternative location for the storage tanks.*

*In principle the LLFA has no objection to the proposed development, as submitted, subject to approval being given by the Internal Drainage Board [and a] drainage condition being applied.*

**Environment Agency:** No comment received. However, for the previous application, a response stated that no objection was raised.

**Natural England:** No comments.

**County Archaeologist:** No objections.

**County Rights of Way:** No objections.

**Somerset Drainage Board:** No objection, subject to suggested conditions and informative notes.

**Wessex Water:** No comment received. For previous application general advice was offered for the developer on the drainage requirements of the site, and the presence of services on or near the site.

**Police Liaison Officer:** No objection is raised, but comments are offered on details of the layout.

## REPRESENTATIONS

10 letters of objection have been received, making the following main points:

- over-development in the context of housing provision for Martock, where there is no local need for such housing
- development will exacerbate flood risk and existing flooding issues in the area
- additional traffic would cause highway safety harm - both vehicular and pedestrian traffic; existing highways are narrow and heavily parked with residents' vehicles
- adequate parking off-street is questioned
- sewage management is queried (and other arrangements needing a management company)
- the proposal is out of character with the setting and conservation area
- the house types do not meet local need
- submitted ecology and drainage proposals are inadequate
- an outline permission does not give clarity on final impact
- the site is a greenfield site
- there would be loss of amenity and open space

## CONSIDERATIONS

### Principle of Development: Refusal of Previous Application

The previous application for 12 dwellings (16/04699/OUT) was refused by Area North Committee for two reasons:

*01. The proposed development, by reason of the level of development and loss of open space, would result in an unacceptable loss of amenity and outlook to existing residents to the north and west. As such the proposal is contrary to policy EQ2 of the South Somerset Local Plan 2006-2028 and the policies contained within the National Planning Policy Framework.*

*02. The proposed development, by reason of the level of development and loss of characteristic open space, would result in an unacceptably adverse impact on the setting of the adjacent conservation area. As such the proposal is contrary to policy EQ3 of the South Somerset Local Plan 2006-2028 and the policies contained within the National Planning Policy Framework.*

In determining the appeal against this refusal, the Inspector considered these two reasons for refusal. On the issue of residential amenity, he concluded:

*A good amount of space between the rear gardens of neighbouring dwellings and the nearest proposed properties could be retained. The proposal would not bring about any additional sense of enclosure for neighbouring residents. The dwellings and additional activity on the land may be noticeable from nearby properties. However this would not have an unreasonable impact upon the outlook from those dwellings*

*or their gardens. The low intensity of the proposed development would not significantly harm the tranquillity of the area. Residential amenity of neighbouring properties would be suitably protected. In relation to this main issue, the proposal would not have a harmful effect on living conditions at neighbouring properties. This would comply with LP Policy EQ2 and the requirement in paragraph 17 of the Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.*

On the second reason for refusal (character and appearance), he concluded:

*The proposal would have an acceptable effect upon the character and appearance of the area which would preserve the setting of the Conservation Area and nearby Listed Buildings, safeguarding those heritage assets. This would comply with policies EQ2 and EQ3 of the South Somerset Local Plan.*

The appeal was then dismissed solely on the grounds of potential harm to biodiversity, specifically protected species. The appeal decision is attached as Appendix A.

There have been no significant changes to policy or legislation since the appeal decision (30 October 2017). This decision therefore represents the starting point for determination of the current proposal which is for a reduced number of dwellings (10), and which should be assessed on the degree to which the reason(s) for refusal of the previous application have been overcome.

The principle of 10 dwellings is acceptable on the site, subject to appropriate compliance with policies and legislation relating to biodiversity, as raised by the Appeal Inspector.

## **Ecology**

Adequate survey work and preparation of mitigation measures in relation to protected species on the site have now been submitted to overcome the reason for dismissal of the earlier appeal (fully detailed by the Council's Ecologist - set out in full above). It is not considered that there is any ecological or biodiversity issue that would indicate a refusal of the current application.

## **Housing Numbers: Policy Considerations**

Martock is identified as a Rural Centre in the Local Plan, a settlement 'with a local service role where provision for development will be made that meets local housing need, extends local services and supports economic activity appropriate to the scale of the settlement' (Policy SS1 of the Local Plan). Policy SS5 sets out figures for each of the settlements aimed at achieving the overall housing numbers required during the Plan period. The aspirational figure (this is not a maximum) for Martock/Bower Hinton is 230 dwellings.

To date, a total of 153 dwellings have extant permission granted in this period, of which 106 have been completed. The current proposal for 10 dwellings would not result in the target figure in Policy SS5 being exceeded.

## **Five-Year Supply of Housing Land**

It remains the position that the Council cannot demonstrate an adequate housing land supply. As with the previous application, contributions towards the overall supply must carry additional weight in assessment of planning applications, as advised by the NPPF.

## **Impact on the Setting (including the Conservation Area)**

As noted, the Planning Inspector was satisfied that the impact of 12 dwellings on the setting would be acceptable. This proposal for a smaller number of dwellings is not considered to represent demonstrable

harm to the character and appearance of the setting, including the setting of the conservation area, that would warrant refusal.

### **Residential Amenity**

This was comprehensively dealt with by the Planning inspector for the previous case, quoted above. There is not considered to be any amenity harm resulting from the development of 10 dwellings on the site that would justify refusal of the application.

### **Drainage and Flood Risk**

Drainage was comprehensively considered during the course of the previous application, and nothing relevant has changed since that assessment. It was also considered by the Appeal Inspector, who noted: *Drainage concerns have been raised although the proposal would require new drainage infrastructure to be installed and there is no evidence that this could not adequately serve the development.* It is not considered that there is any drainage or flood risk issue that would indicate refusal of the proposal. The development is recommended to be made subject to the same conditions as previously requested by the Lead Local Flood Authority.

The conditions requested by the Drainage Board are largely covered by the condition required by the Lead Local Flood Authority. It is not considered appropriate to include a requirement to submit foul drainage plans, given the applicant's intention to use local mains services, and which is a building control matter in any event.

### **Highway Safety**

The Highway Authority raises no objection. Their comments are noted, and suitable conditions proposed. However, it is not agreed that a travel plan can be justified for this scale of development. Policy TA4 of the Local Plan sets out appropriate levels of travel plan commensurate with the scale of development, and thresholds for various types of plan. For developments greater than 10 dwellings, the requirement is a Measures Only Travel Statement. Full travel plans are only required for developments above 50 dwellings. This proposal does not fall within the lowest category, not being greater than 10 dwellings.

### **Restrictive Conditions**

As the application seeks the erection of 10 dwellings, and this number has various practical implications (e.g. application of tariff-style contributions), a condition is proposed limiting development to that number. Although reference is made to 'bungalows' in the application, it is not considered essential that there be a blanket limitation on height. The impact on the setting, amenity, etc., of two-storey development might be acceptable depending on the design details, which are to be determined at the reserved matters stage.

### **Climate Change Concerns**

The concerns of the Climate Change Officer are noted. However, they relate to design details, all of which are reserved to be considered at the next stage of the process (i.e. reserved matters application). Only the principle of the development and the means of access are being considered at this stage.

### **Planning Obligations**

The proposed development falls below the threshold set out in the Government's online planning practice advice for applicability of tariff-style contributions. No obligations are therefore being sought. However, an informative note is recommended advising that this can be revisited should the final

development at Reserved Matters stage exceed the 1000 sq. m floor area threshold.

### **Concerns of Local Residents**

The concerns raised in letters of representation have been carefully considered. Some of the issues raised have been dealt with above, but as a general comment it is noted that consideration takes its starting point from the Planning Appeal Inspector's decision of 30 October 2017. That decision records a careful consideration of all relevant issues relating to the development of housing on this site, resulting in refusal solely on the basis of concerns about biodiversity and protected species. This appeal came after a similar comprehensive consideration of a scheme for 12 dwellinghouses, where the determination only related to concerns around residential amenity and impact on the setting. There have been no significant policy or legislative changes since the determination of the application. Matters relating to flood risk, drainage, highway safety, and the principle of housing development have been dealt with. Some additional points can be made:

- there is no reason why an outline first stage permission should not be considered, given the view taken by the Appeal Inspector in the case of the previous application for the erection of 12 houses
- there is no requirement in the Local Plan relating to meet detailed local needs in respect of house type
- the site is large enough to ensure adequate on-site parking in accordance with policy at the final design stage
- detailed sewerage and drainage solutions are engineering matters which can be addressed at the detailed design stage (some of which are building control matters in any event).

### **Conclusion**

The proposed development would not exceed the numbers of approved dwellings being sought in the Local Plan during the plan period (2006 - 2028) and would result in the development of much-needed additional housing in the context of a sustainable settlement.

The application has now overcome the sole reason for refusal of the earlier application for 12 dwellings, namely the impact on biodiversity and protected species on the site.

As with the earlier application, it is considered the impacts on the setting can be adequately mitigated in the detailed design, which does not form part of this application, but which is to be determined at the second, reserved-matters stage.

The key issue which determined the refusal of the previous application at appeal (impact on biodiversity - protected species) has now been adequately addressed.

The scheme would see the site coming forward in line with the economic role of sustainable development and the Government's aim of boosting significantly the supply of housing. It is accordingly recommended for approval.

### **RECOMMENDATION:**

Grant permission.

01. The proposal makes provision for ten dwellings within a Rural Centre that would contribute towards the enhancement of the sustainability of the settlement. The development respects the character and appearance of the setting without causing harm to highway safety, residential amenity, ecology and wildlife. Notwithstanding local concerns, it is not considered that demonstrable flood risk

would result from the proposal. In these respects the proposal is considered represent sustainable development that accords with the aims and objectives of the NPPF and the relevant policies of the South Somerset Local Plan, including Policies SD1, SS1, SS5, SS6, HG3, TA5, TA6, EQ1, EQ2, EQ3 and EQ4.

**SUBJECT TO THE FOLLOWING:**

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

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

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

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

03. All reserved matters referred to in Condition 2 above shall be submitted in the form of one application to show a comprehensive and coherent scheme with respect to design, layout, plot boundaries, internal ground floor levels, materials, and landscaping.

Reason: To ensure that the development of the site is dealt with in a comprehensive manner to protect the character and appearance of the local setting and to secure a high quality development in accordance with the NPPF and policies SD1, EQ2 and EQ3 of the South Somerset Local Plan, 2006.

04. In respect of the access and site boundary, the development hereby permitted shall be carried out in accordance with the following approved plan: the drawing ref. 3699/PL/001 Rev F.

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

05. In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development and development must be halted on that part of the site. If the LPA considers it necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with the NPPF and Policy EQ7 of the South Somerset Local Plan.

06. No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation, management and maintenance for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority in conjunction with the Internal Drainage Board. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works



shall be carried out in accordance with the approved details, and the agreed surface water drainage scheme shall be permanently managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed and maintained in accordance with the approved details throughout the lifetime of the development, in accordance with paragraph 17 and sections 10 and 11 of the National Planning Policy Framework, Paragraph 103 of the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework (March 2015).

07. The development (including site clearance and preparation works) shall be implemented in full accordance with the Ecological Mitigation And Management Plan (Revision 2, January 2018, ECOSA), subject to any modifications required by the Natural England licence in respect of legally protected species, unless otherwise approved in writing by the local planning authority.

Reason: For the protection, conservation and enhancement of biodiversity in accordance with NPPF and Local Plan policy EQ4 and to avoid harm to legally protected species in accordance with the Wildlife and Countryside Act 1981.

08. There shall be no obstruction to visibility greater than 300 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 25 metres either side of the access onto the Martock Leat estate. Such visibility shall be fully provided before the development hereby permitted is commenced and shall thereafter be maintained at all times

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

10. The development hereby permitted shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with Somerset County Council). The plan shall include construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of public transport amongst contractors. The development shall be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: In the interests of highway safety and general amenity.

11. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing

by the Local Planning Authority. Such provision shall be installed before the site first comes into use and thereafter maintained at all times.

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

12. The development hereby permitted shall comprise no more than 10 dwellinghouses, and the combined gross internal floorspace of development shall not exceed 1000 square metres in extent.

Reason: To determine the scope of the permission on the basis that the number of dwellings applied for constitutes sustainable development particularly in relation to mitigation measures required to be secured by planning obligation, in accordance with the aims of the NPPF, the online Government Planning Practice Guidance and Policies SD1, HG3 and HW1 of the South Somerset Local Plan.

13. The applicant shall ensure that all construction vehicles leaving the site during construction works are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to commencement and thereafter maintained until construction works on the site are complete.

Reason: In the interests of highway safety

#### **Informatives:**

01. The applicant's attention is drawn to the advice of the Parrett Internal Drainage Board in their letter of 23 October 2017, a copy of which was sent to the applicant's agent, and which can be viewed on the Council's website.
02. Please be advised that subsequent full or reserved matters approval by South Somerset District Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice.

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

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

03. The reserved matters application shall include full details of proposals for the incorporation of features within the design and layout to enable the enhancement of biodiversity on the site in accordance with the aims of the National Planning Policy Framework.
04. The applicant's attention is drawn to the comments of the County Rights of Way Officer in relation to the nearby footpath, which can be viewed on the Council's website.
05. Whilst no liability for contributions towards affordable housing, leisure facilities or other purposes has been identified in this application, this is on the basis of Government advice related to the threshold number of units (i.e. the development is not greater than 10 dwelling units). However,

there is an additional threshold figure of a total floor area of 1000 sq m. The applicant should be aware that, should the net floor area of the eventual development exceed 1000 sq. m., then contributions could be required, and the Council reserves the right to re-visit this issue at the Reserved Matters stage should that be necessary.



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# Appeal Decision

Site visit made on 5 October 2017

**by Andy Harwood CMS MSc MRTPI**

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

**Decision date: 30 October 2017**

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**Appeal Ref: APP/R3325/W/17/3176111**

**Land Adjacent to Mertoch Leat, Water Street, Martock TA12 6LD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Blue Spruce Properties Ltd against the decision of South Somerset District Council.
  - The application Ref 16/04699/OUT, dated 16 November 2016, was refused by notice dated 27 March 2017.
  - The development proposed is an outline planning application for the erection of 12 No dwellings (incorporating details of access) and associated works including drainage infrastructure and highway works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have used the date of the planning application from the ownership certificates rather than the earlier declaration date on the planning application form. I have also taken the address of the site from the planning application forms which accurately describe the location. It is not clear why the Council altered this on its decision notice.
3. The application was originally submitted for 23 dwellings but was reduced to 12. Given that this was the basis upon which the Council made its decision, I have also considered the proposal in that way and have used the description of the proposal from the decision rather than planning application forms.
4. The proposal is made in outline form with access being the only detail at this time with all other matters being reserved for future consideration.

## Background and Main Issues

5. The Council agrees that at present they cannot demonstrate a 5 year supply of deliverable housing sites. Accordingly, paragraph 49 of the National Planning Policy Framework (the Framework) states that the relevant policies for the supply of housing should not be considered up to date. In these circumstances, the fourth bullet point of paragraph 14 of the Framework makes clear that the presumption in favour of sustainable development means granting permission for the proposed development, unless any adverse impacts significantly and demonstrably outweigh its benefits or specific policies in the Framework indicate development should be restricted.

6. In view of this, the main issues in this appeal are whether any specific policies in the Framework indicate that the proposed development should be restricted or whether any adverse impacts of the proposal would significantly and demonstrably outweigh its benefits, having particular regard to the suitability of the site for housing with regard to:
- The effects upon biodiversity;
  - The effect of the proposal on the character and appearance of the area with particular regard to the setting of the Martock Conservation Area (CA) and whether the setting of listed buildings would be preserved; and
  - The effect on living conditions at neighbouring properties with reference to outlook and additional activity.

## Reasons

### *Biodiversity*

7. The Council's refusal did not raise concerns over the effects of the proposal upon habitats of or directly to protected species. Planning conditions related to this matter have been suggested. However, the preliminary ecological report indicates that further survey work is required, some of which relates to reptiles (slow worms and grass snakes) that were translocated here from the adjoining development site and also badgers.
8. Circular 06/2005<sup>1</sup> states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it *"...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"* (paragraph 99). The circular advises surveys should only be required by condition in exceptional circumstances. Furthermore, where surveys have been conducted and the presence of protected species has been confirmed, it is the responsibility of the developer to include proposals for appropriate mitigation measures in their evidence.
9. Broad elements of mitigation for reptiles have been provided. However further survey work is required to determine the abundance of such species and also to agree a plan and method for mitigation. Additionally, the matter of whether there are badgers' setts on site in addition to the sett just outside of the site, as well as the latrines and foraging holes within and adjoining the site, is not clear. This also requires further survey work and therefore potentially details of mitigation. The presence and extent of these protected species on the site has not been clearly established and necessary measures to protect them have not been specified. I do not consider that I can impose a condition to require further survey work as there are no apparent exceptional circumstances that would justify that approach.
10. Some mitigation has been recommended within the preliminary ecology report in relation to other species which would involve the retention of hedges,

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<sup>1</sup> Department for Communities and Local Government, Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System

drainage ditches, foraging and commuting habitat. The supplementary tree planting and a landscape buffer would also assist. Some biodiversity interests would be enhanced. However, these factors do not overcome or outweigh my concerns in relation to this main issue, that significant harm to biodiversity resulting from the development may not be avoided or adequately mitigated for as required by paragraph 118 of the Framework. This is a specific policy within the Framework that indicates that development should be restricted.

### *Character and appearance*

11. This part of Martock is partially a linear settlement with traditional and modern buildings, set out alongside the road known as Hurst. However, to the north of the settlement there are roads running off of the main central routes of Church Street and Water Street with a greater mix of uses. There are Modern developments such as that at Matfurlong Close to the north and adjoining the site. A residential development is under construction, to the north east. The buildings on the eastern side of Hurst have gardens adjoining the western boundary of the site which coincides with the boundary of the CA. The appeal site is an area of undeveloped land previously been used as an orchard.
12. The boundary around the site includes many trees growing out of the hedges providing a soft edge to the CA. When viewing from Hurst, some of the substantial trees growing up from the hedges are noticeable from the road, between the buildings. Those are significant for the general setting of the CA. Some trees would be removed as a result of the development. These are within the site and generally are of little significance or amenity value outside of it or therefore to the character and appearance of the CA. A large common ash of higher amenity value is proposed for removal but it is well within the site and its loss would not have a harmful impact upon the setting of the CA.
13. The site would remain well screened from adjoining dwellings and the nearby park particularly with the proposed additional planting and retention of a substantial landscape buffer. The density of hedge and tree cover around the boundary of the appeal provides a clear definition along the western side to the CA. The existing openness within the site has a limited effect upon the setting of the CA given the degree of enclosure by trees and hedges.
14. The proposed development would be at a density allowing substantial rear gardens where the site adjoins the properties to the west. The detailed consideration of design including the position, size and bulk of the proposed dwellings would determine the degree that any dwellings would be noticeable from nearby rear gardens within the CA, from Hurst or when looking towards the CA from the park and new dwellings currently under construction. The modern development at Matfurlong Close has a similar relationship to the CA as is proposed and I consider that it has respected the local context. In my view, a development of 12 dwellings could be designed whilst ensuring that the setting of the CA is not harmed. The site is also substantially separate from the Listed Buildings of Orchard House and the nursing home at Hurst Manor with the substantial tree cover again preventing harmful impacts upon them.
15. The proposal would have an acceptable effect upon the character and appearance of the area which would preserve the setting of the CA and nearby Listed Buildings, safeguarding those heritage assets. This would comply with

policies EQ2 and EQ3 of the South Somerset Local Plan<sup>2</sup>. It is unnecessary to undertake the balance set out within paragraph 134 of the Framework.

### *Living conditions*

16. A good amount of space between the rear gardens of neighbouring dwellings and the nearest proposed properties could be retained. The proposal would not bring about any additional sense of enclosure for neighbouring residents. The dwellings and additional activity on the land may be noticeable from nearby properties. However this would not have an unreasonable impact upon the outlook from those dwellings or their gardens. The low intensity of the proposed development would not significantly harm the tranquillity of the area. Residential amenity of neighbouring properties would be suitably protected. In relation to this main issue, the proposal would not have a harmful effect on living conditions at neighbouring properties. This would comply with LP Policy EQ2 and the requirement in paragraph 17 of the Framework to secure a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters**

17. My finding that significant harm to biodiversity resulting from the development may not be adequately avoided or mitigated for as required by paragraph 118 of the Framework means that this is a case where a specific policy in the NPPF, at paragraph 134, indicates that development should be restricted. Even though relevant policies for the supply of housing cannot be considered up-to-date, that does not in itself weigh in favour of granting planning permission. Some concern has been expressed including from the Parish Council regarding an oversupply of housing. That is based upon the LP allocations and policies that are out of date. Furthermore, the Framework seeks to boost significantly the supply of housing and does not require maxima. I attach no harm in this regard to the proposal which would be a benefit, boosting the housing supply as required by the Framework and which would include affordable dwellings.
18. The proposed access that would be through the adjoining estate currently under construction. I have no evidence that traffic generation or the highway layout within the village would cause highway safety problems within the settlement. Drainage concerns have been raised although the proposal would require new drainage infrastructure to be installed and there is no evidence that this could not adequately serve the development.
19. Counterpart planning obligations under the provisions of S106 of the planning act have been submitted which would secure affordable housing as well as various financial contributions. Given that I am dismissing the appeal for other reasons, it has not been necessary for me to consider this in any further detail.

### **Conclusion**

20. The other matters and my conclusions on 2 of the main issues do not outweigh my conclusion on the first main issue. The appeal should be dismissed.

*Andy Harwood*

INSPECTOR

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<sup>2</sup> South Somerset Local Plan (2006-2028), adopted March 2015