

Somerset County Council
Regulation Committee –
Report by Helen Vittery
Service Manager – Planning & Development

Application Number: SCC/3706/2020

Date Registered: 8 April 2020

Parish: Charlton Musgrove

District: South Somerset

Member Division: Wincanton and Bruton

Local Member: Councillor Anna Groskop

Case Officer: Charlie Pope

Contact Details: charlie.pope@devon.gov.uk (01392 383000)

Description of Application: Infill of disused railway cutting with inert waste (part retrospective).

Grid Reference: Easting - 370824, Northing – 129155

Applicant: Mr N Keen

Location: Former Railway Cutting, Land off Verrington Lane, Wincanton

1. Summary of Key Issues and Recommendation(s)

1.1 The application relates to the infilling of part of a former railway cutting at land off Verrington Lane. The application is part retrospective due to 870 tonnes (580 m³) of material having already been imported and deposited. The applicant seeks to import a further 1,740 tonnes (1,160 m³) over two years. The main issues for Members to consider are:

- planning policy considerations;
- retrospective and future ecological impacts of importation;
- sustainable design of proposed landform and appropriate restoration;
- surface water management of the site; and
- other environmental impacts and their control.

1.2 It is recommended that planning permission be GRANTED subject to the conditions set out in section 9 of this section report, and that authority to undertake any minor nonmaterial editing which may be necessary to the wording of those conditions be delegated to the Service Manager – Planning & Development.

2. Description of the Site

2.1 The application site extends to 0.16ha within an existing agricultural land holding, with its grassed fields being bisected by a railway cutting that forms part of the disused Somerset and Dorset railway line. Approximately 870 tonnes of inert materials have been deposited from Summer 2019 in the railway cutting prior to submission of this application from a nearby construction site. The remainder of the application site comprises grassland and scrub.

2.2 The site is located off Verrington Lane, which is accessed from the B3081, and surrounding land is largely in agricultural use. The edge of the town of Wincanton is approximately 190 metres to the south. The nearest residential properties to the site are at a distance of 50 metres which are accessed by the same track used to previously import material.

3. Background and Planning History

3.1 Planning permission was granted in 2003 to South Somerset District Council to 'raise level of land for agricultural purposes by tipping inert excavated material' (application ref: 03/02333/CPO). This temporary consent expired after three years, and it is not known if it was implemented before then.

3.2 This development came to the attention of the Waste Planning Authority through the County Council's Enforcement Officer in Summer 2019. The applicant subsequently requested pre-application advice, and this was provided in November 2019. The advice recommended that the development would only be supported subject to a number of requirements being met including effective restoration. It was not felt that the application as initially submitted addressed all of these requirements, including the application not demonstrating that the proposal used the minimum amount of waste to achieve acceptable landform; inadequate provision for new planting to compensate for the loss of biodiversity; and inadequate information on the impacts on surface water drainage and pollution control.

3.3 Following negotiations with the applicant the proposal has undergone significant amendments and it is now considered appropriate for determination.

4. Proposal

- 4.1 The application seeks retrospective consent for the previous importation of 870 tonnes (580 m³) of inert waste materials and to import a further 1,740 tonnes (1,160 m³) of topsoil and subsoil as part of land clearance from local development sites. This material is to be delivered to the site over two years to bring ground levels up to adjoining agricultural field levels.
- 4.2 The inert material is indicated to be brought in from nearby construction sites. A new trackway is proposed to be constructed within an existing field to enable the remaining waste to be brought in off Verrington Lane, avoiding the public highway and the neighbouring houses.
- 4.3 The purpose the infilling is to link a southern field with the adjoining farmland to the north of the railway line. Following completion of the infilling, the land is proposed to be covered with topsoil and planted up as grassland, thereby joining the two fields together for use as productive agricultural land.
- 4.4 Initial mitigation comprised a mixed species hedge, but mitigation measures have been significantly revised and improved. Key elements of the revised mitigation are as follows:
- clearance of the tipped waste material to allow four metres headroom under the arches of the bridge with at least a three metres distance from the bottom of the bridge to the start of the slope, with two bat boxes installed under each arch;
 - the remaining land will be levelled using some of the material removed from under the bridge arches;
 - a causeway leading from the existing gateway to a new field gate, enabling the two fields to be connected and providing an agricultural benefit, will be constructed of 150mm compacted hardcore to allow grass to grow up through the middle and provide a very low-key agricultural trackway;
 - the existing filled surface will be covered with sub soil with drainage and a slope grading down to the west, topped with adequate top soil and planted with a suitable wildflower and shrub mix, and existing fill will be pulled away from remaining trees on the northern side of this area;
 - a new mixed hedge will be planted along the edge of the proposed grass trackway to include a composition of hawthorn, blackthorn, field maple, common dogwood, hazel, guelder rose, spindle and wild rose, with honeysuckle plants to be added every 15 metres. This hedgerow will continue along the southern boundary of the former railway, with the hedge to be interspersed with native trees at 5m spacing.
 - a new copse will be planted using native trees; and
 - confirmation is given that no new spoil will be brought to the site, merely sub soil and topsoil to reinstate the land.

5. The Application

- 5.1 Plans and documents submitted with the application:
- Application form and fee

- Location Plan 19130-3 B
- Site Location Plan 19130-3A
- Existing Site Survey and Section 19130-1B
- Revised Proposed Site Plan 19130-5B
- Planning Statement (Brimble, Lea & Partners, March 2020)
- Ecological Report by David Leach Ecology

6. Environmental Impact Assessment (EIA)

- 6.1 The Town and Country (Environmental Impact Assessment) Regulations 2017 refer to various types of development in Schedules 1 and 2. Development proposals falling within Schedule 1 are regarded as 'EIA development' and trigger EIA procedures. For Schedule 2 development, consideration must be given to whether it is likely to have a significant effect on the environment by virtue of its nature, size or location in deciding whether or not the proposed development should be regarded as EIA development.
- 6.2 The infilling activity does not fall within the scope of Schedule 1 of the 2017 EIA Regulations. While paragraph 11(b) of Schedule 2 includes installations for the disposal of waste, the area of development does not exceed that listed in that Schedule, and the proposal is not within a sensitive area. The application falls below the indicative criteria and thresholds of 50,000 tonnes of waste per year and area of 10 hectares. The proposed development is therefore not regarded as 'EIA development' and submission of an Environmental Statement was not required.

7. Consultation Responses Received

External Consultees

7.1 South Somerset District Council

No objections.

7.2 Charlton Musgrove Parish Council

In response to the consultation, the Parish Council recommended that the application should be refused. They comment that had this application gone through the proper process with the opportunity to survey the site before infill, the Council may have reached a different decision. If the SCC Ecologist would allow this infill to be completed with his/her agreement of a replacement habitat, they would be happy to review another application whilst following the Ecologist's guidance.

7.3 Environment Agency

From the information submitted they cannot determine if the applicant has met the criteria of a U1 exemption. Given the location the applicant would need to have appropriate pollution control measures in place to prevent surface water runoff during the infilling. They conclude that the works are not significant in scale or environmental designations, so have no further comments to make.

7.4 South West Heritage Trust

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.

Internal Consultees

7.5 **Lead Local Flood Authority**

The site itself appears to be located within a high surface water flood risk area and we would like to understand how this may be affected by the proposal. Furthermore, we would advise that further details are provided on what is currently in place on site in regard to surface water drainage, and how this will be impacted due to the proposal. The Planning Statement indicates post development that there will be several land drains implemented, however we would advise that further information is provided around this system to demonstrate how surface water will be managed.

We would also advise that safeguards are in place during the construction stage, this should cover pollution control measures, the use of plant and machinery and vehicle movement as well as any compaction of the soil is addressed.

Following submission of further information, the Lead Local Flood Authority provided a response that requested the following condition be attached. The condition requires details during construction and the implementation of the drainage system, including further details on the proposed drainage system ensuring that surface water will be managed appropriately:

No development shall be commenced until details of the surface water drainage scheme together with a programme of implementation and maintenance has been submitted to and approved in writing by the Waste Planning Authority. The drainage strategy shall ensure that surface water runoff post development is managed 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.

7.6 **Highways Development Management**

The Highway Authority initially raised concerns over the applicant's right of access over the initial section of the lane between Verrington Lane, and the property shown as The Old Barns on the submitted drawings. This has now been confirmed.

They comment that the total amount of material to be imported as part of the proposal is 870 tonnes per year. The limited number of vehicles results in no specific grounds on which to raise an objection to this proposal.

7.7 **County Ecologist**

The County Ecologist commented in response to the original application that they are in agreement with the neighbouring concerns regarding the potential impacts to biodiversity, including protected species, as a result of the retrospective infilling of inert waste.

From reviewing the aerial images of the site prior to the waste filling it is possible to see that the railway cutting contained a grassland dip that, due to its location and being cut off from intensive-agricultural fields, is likely to have contained a semi-improved grassland sward containing a variety of wild flowers. The aspect, including north and south facing banks would have supported invertebrates, including pollinators, with the south facing bank providing a potential basking location for reptiles.

The image shows a number of trees, potentially including hawthorn, ash, and field maple that would have provided nesting, roosting and foraging opportunities for birds, and without seeing them may have also supported roosting bats.

The cutting being protected from the predominant southwest winds and its linear nature, containing a mosaic of grassland, banks, tall ruderal herbs, scrub and scattered trees would have supported commuting and foraging bats, a range of invertebrates, potential reptile refuge and breeding habitat, and as identified by the neighbouring response would have most likely provided a commuting and foraging route for roe deer, fox, badgers and a range of small mammals. I am personally aware of a badger sett within 150m of the site, so badger foraging is highly likely.

I am also concerned regarding the infilling of the railway tunnel. As identified within a neighbouring response, barn owls have been potentially identified, presumably, roosting within the tunnel. Furthermore, the tunnel may have supported bat roosts, including crevice dwelling bats within the gaps and holes between the brick and mortar, as well as providing a potential night-time and/or feeding roost under the arches.

The site falls within the following SCC species consultation zones (zones of potential negative impacts: Zone A = High, Zone B = Moderate, Zone C = Low):

NAME	Consultation Zone
Barn Owl	C
Common Pipistrelle Bat	A and B
Grass Snake	A
Noctule Bat	C
Serotine Bat	C

The assessment was based on the current situation. If the present protected species potential and habitats were to be mitigated for only, then this may have been enacted by appropriate conditions to mitigate impacts to species such as nesting birds. However, the assessment avoids the requirement to compensate for lost habitats, and the species for which they would have supported, incurred by the retrospective vegetation removal and land filling.

As part of the mitigation hierarchy, including the requirement for all development to avoid, then mitigate and compensate impacts to biodiversity, I do not see how this development can proceed as proposed. Furthermore, SCC are working towards adhering to the 10% biodiversity net gain (BNG) requirement within the draft Environment Bill; thus I do not see how the development can mitigate for the impacts caused to date, then compensate and include a 10% net gain enhancement within the development boundary, unless this is achieved elsewhere within the applicants landholding.

Therefore, for the reasons outlined above I will need to put forward a holding objection, unless the following could be conditioned:

A full compensation and biodiversity net gain delivery program which may include a new cutting installed to the west of the site, replacing habitats lost,

including semi-improved north and south facing grassland banks, tree planting, scrub succession, a reptile hibernaculum and a new bat roost comprised of an area to replicate both night time/feeding and crevice dwelling features for bats (to be transferred to a fully wooded condition, on agreement between SCC and applicant). If in the same landholding or arranged through off-site financial BNG contributions.

Otherwise, I would wish to see the existing habitat and bridge returned, through sub-soil clearance and planting, back to its original state.

Following submission of revised mitigation, SCC Ecologist provided a response that commented that, in the event that the application is approved, the following should be conditioned:

A Biodiversity Mitigation and Enhancement Plan (BMEP) shall be submitted to, and be approved in writing by, the Waste Planning Authority prior to works commencing. Photographs of the installed features listed below (a-j) will also be submitted to the Waste Planning Authority prior to occupation: The content of the BMEP shall include the following:

- a) One purpose-built bat box with a void to support horseshoe and long-eared bats mounted under the bridge archway, and maintained thereafter.
- b) Two Beaumaris Woodstone maxi bat boxes, or similar, will be mounted under the bridge archway and maintained thereafter.
- c) Four Vivara Pro Woodstone Nest Boxes (32mm hole version), or similar, mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter
- d) Four Vivara Pro Barcelona Woodstone Bird Boxes (open front design) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter
- e) One Barn owl box, purchased, or following plans from, the Barn Owl Trust, erected onto a mature tree within the applicant's land holding.
- f) The western block of the infill to be tilled and drilled with wildflower seed and managed thereafter as a wildflower meadow.
- g) One reptile hibernaculum installed within the western section of grassland marked as E on the plan 19130-5 B
- h) New hedge and tree planting will be planted as shown within site plan 19130-5 B. This is to be a new mixed hedge including a good composition of hawthorn, blackthorn, field maple, common dogwood, hazel, Guelder rose, spindle and wild rose. Honeysuckle plants to be added every 15m. This hedgerow to continue along the southern boundary of the former railway line and to the eastern side of the farm track as well as to the western side of the existing metalled track where there is no hedge at present. The hedge to be interspersed with trees at 5m spacing chosen from the following list:

- o Alder *Alnus glutinosa*

o	Aspen	Populus tremula
o	Beech	Fagus sylvatica
o	Bird cherry	Prunus padus
o	Crab apple	Malus sylvestris
o	Downy birch	Betula pubescens
o	Elm	Ulmus sp.
o	Field maple	Acer campestre
o	Goat willow	Salix caprea
o	Hawthorne	Crataegus monogyna
o	Hazel	Corylus avellana
o	Holly	Ilex aquifolium
o	Hornbeam	Carpinus betulus
o	Lime, common	Tilia x europaea
o	Oak	Quercus robur
o	Rowan	Sorbus aucuparia
o	Silver birch	Betula pendula
o	Wayfaring tree	Viburnum lantana
o	Whitebeam	Sorbus aria
o	Wild Cherry	Prunus avium
o	Wild Service-tree	Sorbus torminalis

- i) In area marked D within site plan 19130-5 B, a new copse to be planted using a mixture of species as from the above list.
- j) A minimum of 4 access gates within fencelines to allow badger access within and through the site.

Due to the ecological sensitivities associated within the site, and the requirement to ensure that biodiversity compensation and enhancement is achieved please attach the following condition to any approved planning application:

A report prepared by the Ecological Clerk of Works or similarly competent person certifying that the required mitigation, compensation and enhancement measures identified in the BEMP have been completed to their satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to the Waste Planning Authority for approval before development completion, or at the end of the next available planting season, whichever is the sooner. Any approved remedial works shall subsequently be carried out under the strict supervision of a professional ecologist following that approval.

In the event that any further vegetation, comprised of scrub and ruderal herbs are to be removed to facilitate the proposed biodiversity compensation and enhancement plans, please attach the following condition:

No removal of scrub and tall ruderal herbs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Waste Planning

Authority by the ecologist. In no circumstances should netting be used to exclude nesting birds.

Due to the opportunistic behaviour of some bat species, including pipistrelles, along with the site's location set within habitats that will support bats, please attach the following informative to any planning permission granted:

The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the event that bats are encountered during implementation of this permission it is recommended that works stop and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.

Public Consultation

7.8 Five representations have been received directly by Somerset County Council from members of the public, with a further five representations being submitted to South Somerset District Council, the main points of which are summarised below:

- criticism of the retrospective nature of the application;
- concern regarding the nature of the material deposited being a heavy impacted sludge;
- the impact on the local wildlife that were present at the site prior to the infilling. Bats, deer, foxes, badgers, owls and other birds had been observed at the site. Further along the railway cutting newts, toads and frogs are said to be clearly visible;
- suitability of the access track/footpath between resident's property and the application site;
- damage to the access track that occurred with the original importation of material; and
- should consent be granted, conditions imposed that ensure that; any further infill be introduced in a sympathetic way; that the damage to the railway bridge be addressed; that the final appearance of the site will be to a high standard to redress the environmental damage that has occurred; and that the fence removed to carry out the original importation be reinstated.

8. Comments of the Service Manager - Planning & Development

8.1 The key issues for Members to consider are:

- planning policy considerations;
- retrospective and future ecological impacts of importation;
- sustainable design of proposed landform and appropriate restoration;
- surface water management of the site; and
- other environmental impacts and their control.

The Development Plan

8.2 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the following documents, with their policies of relevance to this proposal being listed in Section 10 of this report:

- Somerset Waste Core Strategy (adopted February 2013)
- South Somerset Local Plan (adopted March 2015)

Material Considerations

8.3 Other material considerations to be given due weight in the determination of the application include the following:

- National Planning Policy Framework (February 2019)
- National Planning Policy for Waste (October 2014)
- Planning Practice Guidance

Planning Policy Considerations

8.4 Policy WCS4 (Waste Disposal) of the Somerset Waste Core Strategy requires that planning permission will not be granted for any form of landfill development unless the applicant demonstrates that:

a) The waste cannot be managed in a more sustainable way through diversion up the waste hierarchy; and

b) The proposed development will, in particular, be in accordance with Development Management Policies 1-9.

Planning permission may be granted subject to the applicant demonstrating that the proposal:

c) Is restoration-led, enabling an area of land to be used more effectively or for another purpose; for example, for agriculture, nature conservation or built development; or

d) provides justified visual or acoustic screening; and

e) uses the minimum amount of waste to achieve the stated purpose, depositing inert waste only.

8.5 It is understood that the inert waste resulting from excavation is not suitable for recycling or reuse. Following amendments to originally submitted application the proposal is now restoration-led enabling this land to be used for agricultural production again (grassland) and provide a level of connectivity between the field to the north and the field to the south for additional grazing for cattle. A part of the application is a trackway to extend interconnectivity between the two fields.

8.6 It is considered the application meets the criteria of Policy WCS4. The application provides adequate justification as to increased productivity following the importation of the material and that the minimum amount of material is used to achieve this.

8.7 The Waste Core Strategy includes a range of other policies that address the impacts of waste development, where relevant to the development being proposed, these are addressed in the following sections of the report.

Impact of the Proposal on Biodiversity

- 8.8 Policy DM3 (impacts on the environment and local communities) requires that *'the proposal includes adequate measures to mitigate adverse impacts or, as a last resort, proportionately compensate for or offset any loss of biodiversity, supported by appropriate ecological assessment'* The retrospective nature of this application means that the an appropriate full assessment was not provided. Policy EQ4 (biodiversity) requires that proposals must *'maximise opportunities for restoration, enhancement and connection of natural habitats'* and *'incorporate beneficial biodiversity conservation features where appropriate'*.
- 8.9 A degree of mitigation was initially provided with the landscape planting; however, it was considered inadequate and did not address the infilling that had already occurred.
- 8.10 The applicant was requested to produce a compensation and biodiversity net gain delivery program, on the same landholding, as requested by the County Ecologist. This was provided and is now considered to be acceptable subject to it being secured by condition.
- 8.11 Taking account of the above, it is considered that the proposal accords with Waste Core Strategy Policy DM3 and Local Plan Policy EQ4.

Impact of Proposed Landform and appropriate Restoration

- 8.12 Policy DM4 (site restoration and aftercare) requires that planning permission for waste management development will *"only be granted where acceptable restoration and aftercare measures will be implemented at the earliest practicable opportunity, either in a phased manner during operation or immediately on completion of the operational life of the development"*
- 8.13 Following revised plans being submitted it is considered that the proposal contributes positively to the character and quality of the area and takes into account the other requirements including adequate landscaping.
- 8.14 Taking account of the above, with the addition of a condition requiring that importation is time limited to two years, it is considered that the proposal accords with Waste Core Strategy Policy DM4.

Impact of the Proposal on Water Resources

- 8.15 Policy DM7 (water resources) of the Somerset Waste Core Strategy requires that the applicant demonstrate that *'adequate provision has been made to protect ground, surface and coastal water quality and the proposed development will not have an unacceptable impact on the volumes, direction and rates of flow of ground and surface water'*.
- 8.16 In respect of the railway cutting, the fill is said to be free draining with permeability maintained. The applicant also commented that the fields either side of the old railway line have no modern field drains and all the water soaks away naturally.
- 8.17 The nature of the material deposited is heavily compacted and free draining properties cannot be assumed. Further to this, the infilling of the railway cutting effectively has removed a substantial drainage channel which in turn increases potential run off onto Verrington Lane.

- 8.18 It is necessary for a surface water management scheme to be submitted prior to development commencing to as a means to address surface water runoff concerns and provide sufficient assurance that the development will not have an unacceptable impact on the volumes, direction and rates of flow of ground and surface water. With the imposition of this condition the application accords with Waste Core Strategy Policy DM7.

Other Environmental Impacts and their Control

- 8.19 Policy DM3 (impacts on the environment and local communities) of the Somerset Waste Core Strategy ensures that planning permission will only be granted for waste development that *'will not generate significant adverse impacts from noise, dust, vibration, odour, emissions, illumination, visual intrusion or traffic to adjoining land uses and users and those in close proximity to the development'*.
- 8.20 The representations received, referred to in paragraph 7.8, raised concern regarding noise of the development and suitability of the access track/footpath between resident's property and the application site.
- 8.21 The importation of material at the site has the potential to cause adverse impacts on the local community and environment through the generation of noise, dust and traffic. However, conditions to control and mitigate these effects, including limitations on hours of working, noise lighting together with the proposed new access mean that the development would not generate significant adverse impacts.

Concluding Comments

- 8.22 It is considered that the former railway cutting provided a valued ecological habitat which is properly mitigated following a revised restoration and planting scheme. The application provides justification for the loss of this habitat in the planning balance for productive agricultural land.

9. Recommendation

- 9.1 It is recommended that planning permission be GRANTED subject to the imposition of the following conditions, and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Service Manager – Planning & Development.

COMPLETION IN ACCORDANCE WITH THE APPROVED DETAILS

1. The development hereby permitted shall be carried out in strict accordance with the approved plans:
- Location Plan (drawing no 19130 - 3 A) dated 24 September 2019
 - Existing Site Survey and Section (drawing no 19130 - 1 B) dated 29 August 2019
 - Revised Proposed Site Plan (drawing no. 19130 - 5 B) submitted 28 August 2020

and with any scheme, working programme or other details submitted to and approved in writing by the Waste Planning Authority in pursuance of any condition attached to this permission.

Reason: To enable the Waste Planning Authority to deal promptly with any development not in accordance with the approved plans or other submitted details.

DURATION OF PERMISSION

2. The development shall cease and the site shall be restored in accordance with the requirements of the area shown on approved plan Revised Proposed Site Plan drawing no. 19130 - 5 B submitted 28 August 2020 and Condition 4 not later than two years from the date of this Decision Notice (or sooner subject to the requirements and timescales of infilling).

Reason: To ensure that the site is properly restored in the interests of the landscape and addressing issues associated with residential amenity in accordance with Policies DM3 and DM4 of the Somerset Waste Core Strategy.

SUBMISSION OF SCHEMES

SURFACE WATER SCHEME

3. Prior to any further importation of waste materials and within three months of the date of this decision notice, a surface water drainage scheme together with a programme of implementation and maintenance shall be submitted to and approved in writing by the Waste Planning Authority. The drainage scheme shall ensure that surface water runoff post development is managed 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.

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 throughout the lifetime of the development, in accordance with National Planning Policy Framework and Planning Practice Guidance, Policy DM7 of the Somerset Waste Core Strategy and Policy EQ7 of the South Somerset Local Plan.

BIODIVERSITY COMPENSATION AND ENHANCEMENT

4. Prior to any further importation of waste materials and within three months of the date of this decision notice, a Biodiversity Mitigation and Enhancement Plan (BMEP) shall be submitted to and approved in writing by the Waste Planning Authority. Photographs of the installed features listed below (a-j) will also be submitted to the Waste Planning Authority within one month of their installation. The content of the BMEP shall include the following measures together with a timescale for their implementation:
 - a) One purpose-built bat box with a void to support horseshoe and long-eared bats mounted under the bridge archway, and maintained thereafter.
 - b) Two Beaumaris Woodstone maxi bat boxes, or similar, will be mounted under the bridge archway and maintained thereafter.
 - c) Four Vivara Pro Woodstone Nest Boxes (32mm hole version), or similar, mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter
 - d) Four Vivara Pro Barcelona Woodstone Bird Boxes (open front design) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter

- e) One Barn owl box, purchased, or following plans from, the Barn Owl Trust, erected onto a mature tree within the applicant land holding.
- f) The western block of the infill to be tilled and drilled with wildflower seed and managed thereafter as a wildflower meadow.
- g) One reptile hibernaculum installed within the western section of grassland marked as E on the plan 19130 - 5 B
- h) New hedge and tree planting will be planted as shown within site plan 19130 - 5 B. This is to be a new mixed hedge including a composition of hawthorn, blackthorn, field maple, common dogwood, hazel, Guelder rose, spindle and wild rose. Honeysuckle plants to be added every 15m. This hedgerow to continue along the southern boundary of the former railway line and to the eastern side of the farm track as well as to the western side of the existing metalled track where there is no hedge at present. The hedge to be interspersed with trees at 5m spacing chosen from the following list:
 - o Alder - *Alnus glutinosa*
 - o Aspen - *Populus tremula*
 - o Beech - *Fagus sylvatica*
 - o Bird cherry - *Prunus padus*
 - o Crab apple - *Malus sylvestris*
 - o Downy birch - *Betula pubescens*
 - o Elm - *Ulmus sp.*
 - o Field maple - *Acer campestre*
 - o Goat willow - *Salix caprea*
 - o Hawthorne - *Crataegus monogyna*
 - o Hazel - *Corylus avellana*
 - o Holly - *Ilex aquifolium*
 - o Hornbeam - *Carpinus betulus*
 - o Lime, common - *Tilia x europaea*
 - o Oak - *Quercus robur*
 - o Rowan - *Sorbus aucuparia*
 - o Silver birch - *Betula pendula*
 - o Wayfaring tree - *Viburnum lantana*
 - o Whitebeam - *Sorbus aria*
 - o Wild Cherry - *Prunus avium*
 - o Wild Service-tree - *Sorbus torminalis*
- i) In area marked D within site plan 19130 – 5 B, a new copse to be planted using a mixture of species as from the above list.
- j) A minimum of 4 access gates within fencelines to allow badger access within and through the site.

The BMEP shall be implemented in accordance with the approved details and timescale.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 170(d) of the National Planning Policy Framework, Policies DM3 and DM4 of the Somerset Waste Core Strategy and Policy EQ4 of the South Somerset Local Plan

OPERATIONAL CONDITIONS

RESTRICTION OF LANDFILL MATERIALS

5. No materials other than topsoils and inert sub soils shall be imported to the site.

Reason: To minimise the risk of pollution to local watercourses and supplies and to protect the character of the area in accordance with In the interests of residential amenity and highway safety in accordance with Policies DM3 and DM7 of the Somerset Waste Core Strategy and Policy EQ7 of the South Somerset Local Plan.

IMPORTATION LIMIT

6. Within any 12 months period the total quantity of materials imported to the site shall not exceed 870 tonnes.

The operator shall maintain records of their monthly importation and shall make them available to the Waste Planning Authority at any reasonable time on request. All records shall be kept for at least a rolling 24 months period.

Reason: In the interests of residential amenity of the area, highway safety and effective restoration in accordance with Policies DM3, DM4 and DM6 of the Somerset Waste Core Strategy.

HOURS OF WORKING

7. No operations hereby permitted shall be carried out except between the hours of 08:00 and 17:00 Mondays to Fridays and 08:00 to 12:00 on Saturdays. No work shall be carried out on Sundays and Bank or Public Holidays.

Reason: To limit the potential adverse impacts on local communities in accordance with Policy DM3 of the Somerset Waste Core Strategy.

ENTRANCE GATES

8. Any entrance gates erected shall be hung to open inwards, and shall thereafter be maintained in such condition at all times.

Reason: In the interests of highway safety in accordance with Policy DM6 of the Somerset Waste Core Strategy and Policy TA5 of the South Somerset Local Plan.

PREVENTION OF MUD AND DEBRIS ON THE HIGHWAY

9. No mud, dust, debris or water from the permission area shall be allowed to enter onto the public highway. The site access road and associated drainage shall be maintained in an effective state of repair until completion of the restoration and aftercare.

Reason: In the interests of highway safety and public amenity in accordance with Policies DM3 and DM6 of the Somerset Waste Core Strategy.

POLLUTION PREVENTION

10. Any fuel, oil, lubricant and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of any watercourses or aquifers. Any above ground oil/chemical storage tanks shall be surrounded by an impervious bund and integral base with a retention capacity of at least 110% of the largest tank within the bunded area.

There shall be no connections between the storage tanks to any point outside the bunded area.

Reason: To minimise the risk of pollution of watercourses and aquifers in accordance with Policies DM3 and DM7 of the Somerset Waste Core Strategy and Policy EQ7 of the South Somerset Local Plan.

EXTERNAL LIGHTING

11. No external floodlighting shall be installed within the site.

Reason: In the interests of visual amenity, residential amenities and ecological interests of the area in accordance with Policy DM3 of the Somerset Waste Core Strategy.

NOISE LIMIT

12. Noise arising from deposition of material shall not exceed an Leq(1hour) level of 50dB(A) when assessed as a free field noise level within 10m of the residential properties.

Reason: In the interests of residential and public amenity to limit the level of typical noise arising and facilitate phased site development in accordance with Policy DM3 of the Somerset Waste Core Strategy.

COMPLAINT RECORDING AND ACTIONS

13. The operator shall maintain records of any noise complaints associated with the site activities and any actions taken as a result of such complaints, for the duration of the development hereby permitted. The records shall be made available to the Waste Planning Authority at any reasonable time upon request.

Reason: In the interests of recording and addressing issues associated with residential amenity in accordance with DM3 of the Somerset Waste Core Strategy.

NOISE CONTROL MEASURES

14. All plant used on site shall be effectively silenced to manufacturers' specifications and all noise control measures shall be maintained to their design specification for the duration of the development hereby permitted.

Reason: In the interests of safeguarding residential and public amenity in accordance with Policy DM3 of the Somerset Waste Core Strategy.

REVERSE WARNING DEVICES

15. All reverse warning devices to be used on site-based plant shall be broadband devices or similar and designed to minimise noise disturbance.

Reason: In the interests of safeguarding residential and public amenity in accordance with Policy DM3 of the Somerset Waste Core Strategy.

PROTECTION FOR NESTING BIRDS

16. No removal of scrub and tall ruderal herbs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Waste Planning Authority by the ecologist. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with Policies DM3 and DM4 of the Somerset Waste Core Strategy and Policy EQ4 of the South Somerset Local Plan

LANDSCAPE PROTECTION

17. Existing trees and shrubs on the site which are not directly affected by operations shall be retained and protected during the period of the development.

Reason: To ensure that the site is properly restored in the interests of the landscape and the amenity of local residents and wildlife in accordance with Policies DM3 and DM4 of the Somerset Waste Core Strategy.

SOIL PROTECTION

18. No topsoil or subsoil shall be removed from the site unless previously agreed in writing with the Waste Planning Authority.

Reason: To ensure that the site is properly restored in the interests of the landscape and the amenity of local residents and wildlife in accordance with Policies DM3 and DM4 of the Somerset Waste Core Strategy.

RESTORATION AND AFTERCARE CONDITIONS

MITIGATION COMPLIANCE

19. A report prepared by the Ecological Clerk of Works or similarly competent person certifying that the required mitigation, compensation and enhancement measures identified in the BEMP have been completed to their satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to the Waste Planning Authority for approval before development completion, or at the end of the next available planting season, whichever is the

sooner. Any approved remedial works shall subsequently be carried out under the strict supervision of a professional ecologist following that approval.

Reason: To ensure that ecological mitigation measures are delivered and that protected /priority species and habitats are safeguarded in accordance with the BEMP and that Policies DM3 and DM4 of the Somerset Waste Core Strategy and Policy EQ4 of the South Somerset Local Plan have been complied with.

REMOVAL OF STRUCTURES

20. On the cessation of tipping any structures formed or erected in connection with the operation shall be removed.

Reason: To ensure that the site is properly restored in the interests of the landscape and the amenity of local residents and wildlife in accordance with Policy DM4 of the Somerset Waste Core Strategy

AFTERCARE

21. Trees, shrubs and hedges planted in accordance with the approved plans shall be maintained and any plants that die, are removed or become seriously damaged or diseased within 5 years of planting shall be replaced in the next planting season with others of similar species.

Reason: In the interests of amenity and wildlife conservation in accordance with Policy DM4 of the Somerset Waste Core Strategy.

10. Relevant Development Plan Policies

- 10.1 The following is a summary of the reasons for the County Council's decision to refuse planning permission.

- 10.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the decision on this application should be taken in accordance with the development plan unless material considerations indicate otherwise. The decision has been taken having regard to the policies and proposals in:

Somerset Waste Core Strategy (adopted February 2013)

The policies in the Waste Core Strategy particularly relevant to the proposed development are:

WCS4: Disposal

DM3: Impacts on the Environment and Local Communities

DM4: Site Restoration and Aftercare

DM6: Waste Transport

DM7: Water Resources

South Somerset Local Plan (2006-2028)

The policies in the Local Plan particularly relevant to the proposed development are:

SD1: Sustainable Development

TA5: Transport Impact of New Development

EQ2: General Development

EQ4: Biodiversity

EQ7: Pollution Control

10.3 The Waste Planning Authority has also had regard to all other material considerations in particular the National Planning Policy Framework, Planning Practice Guidance and Planning Policy for Waste.

10.4 **Statement of Compliance with Article 35 of the Town and Country Development Management Procedure Order 2015**

In dealing with this planning application the Waste Planning Authority has adopted a positive and proactive manner. The Council offers a pre- application advice service for minor and major applications, and applicants are encouraged to take up this service. This proposal has been assessed against the National Planning Policy Framework, Waste Core Strategy and Local Plan policies, which have been subject to proactive publicity and consultation prior to their adoption and are referred to in the reasons for approval. The Waste Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant/agent as necessary.