

REGULATION COMMITTEE

Thursday 9 February 2023

2.00 pm Luttrell Room - County Hall,
Taunton



To: **The members of the Regulation Committee**

Cllr T Lock (Chair), Cllr S Coles (Vice-Chair), Cllr B Bolt, Cllr M Caswell, Cllr M Dunk, Cllr T Grimes, Cllr E Hobbs, Cllr A Kendall, Cllr M Martin, Cllr M Murphy, Cllr K Pearce, Cllr A Soughton and Cllr M Wale

All Somerset County Council Members are invited to attend.

Issued By Scott Wooldridge, Monitoring Officer and Head of Governance and Democratic Services - 1 February 2023

For further information about the meeting, please contact Jamie Jackson on 01823 357628 or democraticservicesteam@somerset.gov.uk or Fiona Abbott on 01823 357628 or democraticservicesteam@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda.

This meeting will be open to the public and press, subject to the passing of any resolution under Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

This agenda and the attached reports and background papers are available on request prior to the meeting in large print, Braille, audio tape & disc and can be translated into different languages. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers

Are you considering how your conversation today and the actions you propose to take contribute towards making Somerset Carbon Neutral by 2030?



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AGENDA

Item Regulation Committee - 2.00 pm Thursday 9 February 2023

**** Public Guidance notes contained in agenda annexe ****

1 **Apologies for Absence**

To receive member's apologies.

2 **Declarations of Interest**

Details of all Members' interests in District, Town and Parish Councils can be viewed on the [Council Website](#)

The Statutory Register of Member's Interests can be inspected via request to the Democratic Service Team.

Any new or updated declarations of interest will be received.

3 **Accuracy of the Minutes of the meeting held on 1 December 2022** (Pages 9 - 16)

The Committee will consider the accuracy of the attached minutes.

4 **Public Question Time**

The Chair will allow members of the public to present a petition on any matter within the Committee's remit. Questions or statements about the matters on the agenda for this meeting will be taken at the time when the matter is considered and after the Case Officers have made their presentations. Each speaker will be allocated 3 minutes. The length of public question time will be no more than 30 minutes.

5 **Unit 22, Evercreech Junction, Shepton Mallet, Somerset BA4 6NA - Application SCC/3854/2021** (Pages 17 - 32)

Section 73 application to vary conditions 2 (approved plans), 3 (noise mitigation) and 4 (night time noise limit) in respect of planning permission reference 2017/3147/CNT (section 73 application to amend condition 2[approved plans and specification], 3 [noise mitigation] and 5 [dust control] in respect of planning permission 2013/2083 for the construction of an Anaerobic Digestion plant)"

To consider this report.

Note – members of the Committee will be undertaking a site visit ahead of the meeting.

Item Regulation Committee - 2.00 pm Thursday 9 February 2023

*The purpose of a Members' site visit is to view the site and its surroundings. The site visits are fact-finding exercises and **there will be no discussion of the merits of the applications, nor will any decision be taken.** Somerset County Council's Constitution states that "applicants, owners, agents, objectors and other interested parties are able to attend site visits and observe but **there should be no lobbying of Committee members.**"*

6 **Abbey Farm, Chilkwell Street, Glastonbury, Somerset, BA6 8DB - Application SCC/4015/2022** (Pages 33 - 40)

Application by West Heritage Trust for proposed new roadside sign.

To consider this report.

7 **Somerset Council Rights of Way Public Path Order Policy consultation** (Pages 41 - 76)

To consider this report.

(There is a covering report and 6 appendices).

8 **Briefing to Somerset Planning Committees - Somerset Statement of Community Involvement Consultation** (Pages 77 - 108)

To consider this report.

9 **Any Other Business of Urgency**

The Chair may raise any items of urgent business.

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Regulation Committee General Guidance notes for the meeting

1. **Council Public Meetings**

The former regulations that enabled virtual committee meetings ended on 7 May 2021. Since then, all committee meetings need to return to face-to-face meetings. The requirement is for members of the Committee and key supporting officers to attend in person, along with some provision for any public speakers. Provision will be made wherever possible for those who do not need to attend in person including the public and press who wish to view the meeting to be able to do so virtually.

2. **Inspection of Papers**

Any person wishing to inspect minutes, reports, or the background papers for any item on the agenda should contact Democratic Services at democraticserviceteam@somerset.gov.uk or telephone 01823 357628. They can also be accessed via the council's website on www.somerset.gov.uk/agendasandpapers.

3. **Members' Code of Conduct requirements**

When considering the declaration of interests and their actions as a councillor, Members are reminded of the requirements of the Members' Code of Conduct and the underpinning Principles of Public Life: Honesty; Integrity; Selflessness; Objectivity; Accountability; Openness; Leadership. The Code of Conduct can be viewed on the council website at [Code of Conduct](#).

4. **Minutes of the Meeting**

Details of the issues discussed, and recommendations made at the meeting will be set out in the minutes, which the Committee will be asked to approve as a correct record at its next meeting.

5. **Public Question Time**

At the Chair's invitation you may ask questions and/or make statements or comments about **any matter on the Committee's agenda**. You may also present a petition on any matter within the Committee's remit. **The length of public question time will be no more than 30 minutes in total.**

A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been considered. However, questions or statements about the matters on the agenda for this meeting will be taken at the time when that matter is considered and after

the Case officers have made their presentations.

The Chair will usually invite speakers in the following order and each speaker will have a maximum of 3 minutes:

1. Objectors to the application (including all public, parish council and District Council representatives)
2. Supporters of the application (including all public, parish council and District Council representatives)
3. Agent / Applicant

Where a large number of people are expected to attend the meeting, a representative should be nominated to present the views of a group. If there are a lot of speakers for one item than the public speaking time allocation would usually allow, then the Chair may select a balanced number of speakers reflecting those in support and those objecting to the proposals before the Committee.

Following public question time, the Chair will then invite local County Councillors to address the Committee on matters that relate to their electoral division.

If you wish to speak either in respect of Public Question Time business or another agenda item, you must inform the Committee Administrator by 5.00pm three clear working days before the meeting email democraticserviceteam@somerset.gov.uk or telephone 01823 357628. When registering to speak, you will need to provide your name, whether you are making supporting comments or objections and if you are representing a group / organisation e.g. Parish Council.

Statements/questions must be received in writing and by the PQT deadline which is three clear working days before the meeting.

Requests to speak after this deadline will only be accepted at the discretion of the Chair.

You must direct your questions and comments through the Chair. You may not take direct part in the debate.

Comments made to the Committee should focus on setting out the key issues and we would respectfully request that the same points are not repeated.

The use of presentational aids (e.g. PowerPoint) by the applicant/agent or anyone else wishing to make representations to the Committee will not be permitted at the meeting.

An issue will not be deferred just because you cannot be present for the meeting.

In line with the Council's procedural rules, if any member of the public interrupts a meeting the Chair will warn them accordingly.

If that person continues to interrupt or disrupt proceedings the Chair can ask the Democratic Services Officer to remove them as a participant from the meeting.

The Chair will decide when public participation is to finish. The Chair also has discretion to vary the public speaking procedures.

Remember that the amount of time you speak will be restricted, normally to three minutes only.

6. **Substitutions**

Committee members are able to appoint substitutes from the list of trained members if they are unable to attend the meeting.

7. **Late Papers**

It is important that members and officers have an adequate opportunity to consider all submissions and documents relating to the matters to be considered at the meeting and for these not to be tabled on the day of the meeting.

Therefore any late papers that are to be submitted for the consideration of the Regulation Committee, following the publication of the agenda/reports, should be sent to the Strategic Commissioning Manager via planning@somerset.gov.uk in respect of Planning and Town and Village Green items, and to the Senior Rights of Way Officer via planning@somerset.gov.uk in respect of Rights of Way items, and should be received **no less than 48 hours before the meeting**.

8. **Meeting Etiquette**

- Mute your microphone when you are not talking.
- Switch off video if you are not speaking.
- Only speak when invited to do so by the Chair.
- Speak clearly (if you are not using video then please state your name).
- If you're referring to a specific page, mention the page number.
- Switch off your video and microphone after you have spoken.
- There is a facility in Microsoft Teams under the ellipsis button called

turn on live captions which provides subtitles on the screen.

9. **Recording of meetings**

The Council supports the principles of openness and transparency. It allows filming, recording, and taking photographs at its meetings that are open to the public - providing this is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings. No filming or recording may take place when the press and public are excluded for that part of the meeting.

Please contact the Committee Administrator or Democratic Services on 01823 357628 or email democraticserviceteam@somerset.gov.uk if you have any questions or concerns.

REGULATION COMMITTEE

Minutes of a Meeting of the Regulation Committee held in the Luttrell Room - County Hall, Taunton, on Thursday 1 December 2022 at 2.00 pm

Present: Cllr T Lock (Chair), Cllr S Coles (Vice-Chair), Cllr B Bolt, Cllr M Caswell, Cllr M Dunk (attended virtually), Cllr T Grimes, Cllr E Hobbs, Cllr M Murphy, Cllr K Pearce and Cllr M Wale

Other Members present: Cllr H Farbahi and Cllr D Johnson

Other members present virtually: Cllr A Kendall*, Cllr H Kay*, Cllr A Dingwall, Cllr S Wakefield, Cllr B Clarke and Cllr S Collins
(*Reserve Committee member)

Apologies for absence: Cllr A Soughton

1 **Declarations of Interest** - Agenda Item 2

The following declarations of interest were made at the meeting: -

- (a) Cllr T Lock – application SCC/3938/2022 (agenda item 5 refers) – officers Report mentions Primrose Lane School in Yeovil, which is in Division – non-pecuniary interest
- (b) Cllr D Johnson – application SCC/3938/2022 (agenda item 5 refers) – application is in Somerset West and Taunton Council area and local Division member – non-pecuniary interest
- (c) Cllr H Farbahi – application SCC/3938/2022 (agenda item 5 refers) – application is in Somerset West and Taunton Council area and local Division member – non-pecuniary interest
- (d) Cllr T Grimes – application SCC/4005/2022 (agenda item 6 refers) – application is in Division – non-pecuniary interest.

2 **Accuracy of the Minutes of the meeting held on 3 November 2022** - Agenda Item 3

The Minutes of the previous meeting held on 3 November 2022 were accepted as accurate and signed.

3 **Public Question Time** - Agenda Item 4

2 members of the public and 3 applicant/agents registered to speak by the deadline and their statements / questions were considered as part of agenda item 5, Application No SCC/3938/2022.

4 **Land at Comeytrove, Taunton, Somerset TA4 1FE - Application
SCC/3938/2022 - Agenda Item 5**

Regulation 3 application for the erection of a new primary school & nursery, to include construction of sports pitches, parking area, new access onto spine road and incorporating landscaping and infrastructure – Land at Comeytrove, Taunton, Somerset TA4 1FE (application no. SCC/3938/2022).

(Outline approval granted as part of wider Orchard Grove development (42/14/0069).

Applicant - Mrs D Charlesworth, BAM Construct UK Ltd on behalf of Somerset County Council.

Committee members had undertaken a site visit ahead of the meeting.

1. The Committee received a Report by the Service Manager - Planning and Development. The Service Manager, with reference to the report, presentation, supporting papers and the use of maps and plans, outlined the application and the key issues for consideration – whether the principle of the development is acceptable; site layout / design; impact on residential amenity; flood risk; ecological impacts; and highways impacts / safety. The Service Manager referred to the level of responses received to the application, as detailed in the report and also to the response from the Lead Local Flood Authority (LLFA) and to the amended officer recommendation which had been circulated to all Committee members on 30 November 2022 as a supplementary paper.

2. The Committee had received written submissions and heard from the following at the meeting. Their comments / views are summarised as shown below:

C Warburton – objector – inadequate public consultation in Trull Parish; this is EIA development and should be advertised and consulted on as such; why ignore the views of the Design Panel; proposals are unfit for purpose; failed to meet policy for play spaces overall; lack of community access; site is waterlogged space, flooding risk and ‘danger for many’ and unsafe; area is ideal for treating phosphates; lack of parking spaces; application is for 420 pupils – 640 is number predicated – proposals for expansion must be considered here; profit is overruling children’s futures.

T Smith – objector – impact of development on the site; flooding risk; not seen LLFA report and opinion; spine-road won’t reach school site until Spring 2024; there is an unspecified ‘host’ site; application doesn’t embody a design for necessary pupil numbers on site; proposals for fresh and foul-water discharge not specified; unrealistic travel plan; material information not been advertised in accordance with EIA development; unsustainable development; needs to be safe, future-proof and credit to Somerset.

C DuCrog – Planning Agent - Stride Treglown: -

- applicant team have proactively engaged with the Council from early stages and through design process
- through consultation have made numerous changes to the design and layout
- school has been designed to accommodate future growth (subject to future planning application) – school is very much needed
- want to deliver carbon neutral building using Passivhaus concept
- made changes to parking arrangements and some initial changes to the colour palette of the school
- happy with the LLFA comments
- confirmation from SCC highways that in the unlikely event that the new link road within the site is not completed in time when the school is open, there will be arrangements made for the safe access of pupils to the school

R Healey – Prospective Head Teacher: -

- Primary Head Teacher for Castle Partnership Trust and prospective Head Teacher of Orchard Grove Primary School
- Trust has great enthusiasm for the new school
- Reassurance and excitement that new School will have a similarly strong start for its children and its families when it opens
- Aware of need for the new school in terms of housing development locally and additional families moving into the area
- Have close working partnership with the LPA
- Will encourage all to walk, cycle or scoot

H Waring (on behalf of E Smith) - SCC Education: -

- Works in Schools Commissioning team alongside Ms Smith
- Statutory duty to supply school places
- Existing schools in area cannot be expanded
- Proposing 420 primary school initially – expand if needed (to 640)
- Design based on Passivhaus concept
- School is planned to open in September 2023 and will open on a host site until the new school building is completed
- The temporary host arrangements will be at the Trusts' Wellington School and 'home to school' transport will be provided
- The Castle Partnership Trust is the Sponsor who will run the school

3. The Local Division member Cllr H Farbahi address the Committee and made the following comments: -

- Increasing numbers with Education Health and Care Plans (EHCP) and number of people with SEN and support. Most common type of needs for those with EHCP is autistic spectrum disorder and those with SN support is speech language and communication needs – need to ensure

that children and young people are given best start – in early years need to provide extra rooms and space – need to provide this now

- Essential that the spine road has 20mph limit in place
- Concerned about proximity of car park to nursery, reception classes
- Need sensory planting area around the school, with wildflowers as well
- Community use – urge Committee to encourage after school activities
- Pleased to see the proposed walking / cycling to Comeytrove and to be in place before occupation of the school

4. The Local Division member Cllr D Johnson addressed the Committee and made the following comments, covering Special Education Needs, safety, and biodiversity: -

- Supportive of the application and applaud the carbon neutral, Passivhaus design
- Needs to be aspirational build and best possible design from outset
- Landscaping – want more trees on development – for wellbeing and mental health
- Road safety – not all will or can walk / cycle so need adequate car parking provision and addressed
- Potential issue re spine road and why be completed later (2024)
- Drainage – LLFA been addressed properly and answered? Serious concern for whole development and school site is on wettest part of this development
- Land drainage – propose defer until flood and drainage is properly resolved (and school site is safe and accessible)
- Need all infrastructure in place, buses sorted before the school is built

5. The Service Manager, the Highways Service Manager, and the Lead local Flood Authority (LLFA) responded to the points raised by the objectors, supporters, applicant / agent and the Division members: -

- Addressed the EIA concerns and publicity as part of presentation – that no EIA was necessary in relation to this application
- SEND is an issue for the management of the school as is not necessarily a landlord or planning issue
- Referred to proposed condition 5 regarding community usage
- Referred to proposed condition 9 regarding the Landscape and Ecological Management Plan (LEMP)
- Note comments re the spine road and its construction – the school will utilise the host site in Wellington if the spine road is not constructed or completed in time. Mention of bus service operating from Orchard Grove development to take pupils to and from the site. The spine road will be delivered by a third party (consortium)
- The *wider* principles of the traffic impact of the school would have been assessed at the 2014 / 2015 outline approval stage
- Role of the schools own traffic management plan referred to as well

- The parking area has been reduced down to a total of 33 spaces – levels of parking are in line with necessary standards.
- The landscaping has been revised and enhanced at the site frontage to improve the access to the site and the entrance to the proposed school.
- Highways now raise no objection subject to conditions and legal agreement to secure the provisions of the travel plan
- LLFA views – satisfied that adequate information has been provided to demonstrate that a suitable and appropriate drainage strategy can be delivered on the site. Do need some further detail and clarification on a few aspects of the strategy, which can be achieved through appropriate conditions
- Comments made re surface water overland flow route across site – the drainage strategy will need to look at managing that overland flow route and this is included in the proposed draft condition

6. The Committee discussed the matter, and the following comments were made and responded to by Officers, as follows: -

- Would like to more solar panels in the design – noted is already a sustainable design
- Question on the car park and would like to see improved surface run off / use of permeable surface and that need more cycle parking provided – confirmed that as school grows will look at this through travel management plan process, through discussion with the education authority. Cycle storage will be in place before the school opens. The provision of 33 parking spaces is in line with SCC parking strategy, which has been in place since 2013 as standard policy and so the application is policy compliant.
- Concerns mentioned about design of the school, landscaping at front of school, concerns about drop off point and why bike racks are proposed to be located where they are.
- Having an avenue of trees coming down to a canopy entrance would help; propose need better landscaping and a kinder entrance to the school; concerns that spine road not being open and available before the school opens; would help if car park had more permeable surface, as would help with water distribution away from the school; all technical and small changes that can be accommodated via conditions – noted there is an existing proposed condition relating to surface water / prevention on to the highway so is covered

7. Cllr M Caswell, seconded by Cllr T Grimes, moved the recommendation and the Committee **RESOLVED**: -

- (1) That planning permission be **GRANTED** subject to the prior completion of a Section 106 agreement to secure the financial provisions of the School Travel Plan dated Oct 2022 (Revision C) including the travel plan fee of £700 and the safeguarded sum of £49,320 and to the conditions

and informatives as set out in the Report of the Service Manager - Planning and Development, and the additional condition: -

Condition: Details of the filter strips and their locations, details of the detention basin including freeboards at 300mm, rainwater butts within the orchard, cellular storage, exceedance strategy and onward connection to the wider site drainage system shall be submitted to and approved in writing by the local planning authority prior to the commencement of development.

Reason: In accordance with Policy CP6 of the Taunton Deane Core Strategy

- (2) 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 and Development.
- (3) To request that the applicant take account of the views expressed at the meeting in relation to landscaping in the design process.

5 **Application for planning permission for discharge of s106 obligation at Delhorn Lane, Lymsham, Weston-Super-Mare, Somerset BS24 0EB (SCC/4005/2022) - Agenda Item 6**

Application to Discharge the requirements of a s106 obligation at Delhorn Lane, Lymsham, Weston-Super-Mare, Somerset (Grid ref 334176 153444 Bridleway AX22/11 & AX17/11 (application no. SCC/4005/2022).

Applicant – Yvonne and John Hopkins.

Committee members had undertaken a site visit ahead of the meeting.

1. The Committee received a Report by the Service Manager – Planning & Development, Enforcement and Compliance. The Service Manager, with reference to the report, presentation, supporting papers and the use of maps, photographs, and plans, outlined the application and the key issues for consideration. The applicant is seeking to discharge the requirements of a section 106 agreement entered into between the applicant and Somerset County Council (SCC) in 2016. The section 106 agreement secured, inter alia, the payment of financial contributions to SCC for vegetation clearance and repairs to the surface of a bridleway which the application was seeking to divert in order to carry out a development.

2. The Chair confirmed that there were no requests to speak on this item.

3. The Committee discussed the matter, and the following comments were made and responded to by Officers, as follows: -

- Clarification on the length of the bridleway in question and the legal agreement – the authority felt that it was reasonable to have a s106 legal

agreement in perpetuity and providing, inter alia, for the applicant to make a payment of £4,000 for vegetation clearance for the new bridleway and a payment of £3,000, which has since been repaid, to be used by the County Council for repairs or reinstatement of the surface of the bridleway arising within 5 years of the date provided, in addition to a payment to cover the legal costs of the council in drawing up the order. The officer explained that the legal agreement allowed SCC and Sedgemoor DC to withdraw their objections to the diversion order requested and this enabled the approved development to be carried out (agricultural barn). SCC felt that the maintenance costs would be greater as a result of diverting the footpath and by the agreement entered into, the applicant agreed to contribute towards those additional maintenance costs and the payment was made upfront

- View of the applicant – the applicant considers that the requirement for a sum for maintenance for the footpath is unfair and seeks repayment of that money together with legal costs. The key issue is whether or not the section 106 agreement still serves a useful purpose

4. In conclusion, the Service Manager explained that the financial provision that was secured through the section 106 agreement for future maintenance (of only the diverted section of path) is still required to keep the surface free of vegetation. This is an additional cost to the Council arising from the diversion order, as a consequence of a development proposal for an agricultural building which obstructed an existing Public Right of Way. The planning obligation continues to serve a useful purpose and no evidence has been presented that justifies its discharge.

5. Cllr Coles, seconded by Cllr Hobbs, moved the recommendation by the Service Manager - Planning & Development, Enforcement and Compliance and the Committee unanimously **RESOLVED:** -

That the requirements of the agreement entered into in 2016 should remain in force and the application to discharge the section 106 agreement and refund the amount paid be **REFUSED**, for the reasons set out in the submitted report. *Reason: The planning obligation continues to serve a useful purpose and no evidence has been presented that justifies its discharge.*

6 **Any Other Business of Urgency** - Agenda Item 7

There were no additional items of business raised at the meeting.

(The meeting ended at 3.38 pm)

CHAIR

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**Somerset County Council
Regulation Committee – 10 February 2022
Report by Service Manager - Planning & Development, Enforcement &
Compliance**

Application Number: SCC/3854/2021

Date Registered: 22 December 2021

Parish: Evercreech Parish Council,

District: Mendip District Council

Member Division: Mendip South,

Local Members: Councillor Claire Sully, Councillor Alex Wiltshire

Case Officer: Ruth Amundson

Contact Details: planning_control@somerset.gov.uk

Description of Application: Section 73 application to vary conditions 2 (approved plans), 3 (noise mitigation) and 4 (night time noise limit) in respect of planning permission reference 2017/3147/CNT (section 73 application to amend condition 2[approved plans and specification], 3 [noise mitigation] and 5 [dust control] in respect of planning permission 2013/2083 for the construction of an Anaerobic Digestion plant)"

Grid Reference: Easting - 363548, **Northing** - 137105

Applicant: BioConstruct,

Location: Unit 22, Evercreech Junction, Shepton Mallet, Somerset, BA4 6NA

1. Summary of Key Issues and Recommendation(s)

The key issues to consider are:

- The principle of development and policy context
- Does the proposal represent sustainable development
- Impact of the proposal on the highway network
- Impact of the proposal on residential amenity – noise, odour and dust
- Impact of the proposal on landscape character and visual amenity

It is recommended that:

1. **planning permission be granted subject to the conditions set out in section 10 of this report and subject to a deed of variation being agreed to the existing section 106 obligation relating to highway improvements.**
2. **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.**

2. Description of the Site

2.1 The site is located at the northern end of Evercreech Business Park. The business park was developed on former railway land (a station and marshalling yard) and comprises a number of businesses, including the Evercreech waste transfer station on land to the south of the application site. Access to the business park is directly from the A371.

2.2 The village of Evercreech lies 1.4 kilometres to the north east of the site, the Bath and West Showground 2.15km to the north and the village of Ditchat approximately 1.05km to the south west. The town of Shepton Mallet lies 6km to the north. The application site is set within an agricultural land, with fields to the north and west. Industrial, retail, storage, transport and other uses occur in the developed areas to the south and east.

2.3 The proposed AD plant site is a relatively level parcel of land extending to about 1.6ha, with landscaped bunds topped by fences to the northern and western boundaries. The AD facility is under construction.

3. The Proposal

3.1 The application seeks to vary conditions attached to the substantive permission for the site following a change in technology.

3.2 The application seeks to vary conditions 2, 3 and 4, which are set out below.

Condition 2

The development hereby permitted shall be carried out in strict accordance with the approved plans and specifications [as listed below and as varied by the non-material amendments dated 8 September 2017 and 26 November 2018 and the S73 application hereby approved], 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.

Application Documents List:

(i) Planning Application form;

(ii) 'Design and Access Statement' (GP Planning, September 2013);

(iii) 'Planning Statement' (GP Planning, September 2013), including,

- Appendix 3 Anaerobic Digestion Process Diagram;*
- Appendix 4 Feedstock Report;*
- Appendix 5 Grid Connection Information; and*
- Appendix 9 Interpretative report on Ground Investigation.*

Evercreech AD Plant 3 Job No. 26195/Rev C

BioConstruct December 2021

(iv) 'Air Quality Assessment for a Proposed AD Facility Near Evercreech, Somerset' (GFE Environmental, September 2013);

(v) 'Preliminary Ecological Appraisal – Evercreech Junction AD Plant' (Scales Consultancy Ltd, 5 September 2018);

(vi) 'Flood Risk Assessment for Tamar Energy, Anaerobic Digestion Facility, Evercreech' (Craddy Pitchers Davidson, Ref. 9722w001, September 2013);

(vii) 'Proposed Anaerobic Digestion Facility, Evercreech - Landscape and Visual Assessment' (Nicholas Pearson Associates, ref. TE/NPA/10678, September 2013);

(viii) 'Highways and Traffic' (December 2018);

(ix) Drawings and Illustrations

- 'Site Location Plan' (GP Planning, ref. GPP/TE/E/13/01rev1, 1:25000@A4);*
- 'Site Plan' (GP Planning, ref. GPP/TE/E/13/02rev2, 1:5000@A3);*
- 'Site Context Plan Including Distances to Properties' (GP Planning, ref. GPP/TE/E/13/04rev1, 1:5000@A3);*
- 'Site Context Plan Including Aerial Photograph' (GP Planning, ref. GPP/TE/E/13/05rev1, 1:5000@A3);*
- 'Site Layout (Existing)' (Jones AD, ref. 13017_01, 1:500@A2);*
- 'Site Layout' (Qila Energy, ref. 13017_02 revP11, 1:500@A2);*
- 'Site Layout Plan' (Qila Energy, ref. G021A3 revR3, 1:500@A3);*
- 'Site Elevations' (Qila Energy, ref. 13017_03 revR7, 1:250@A1);*

- 'Site Sections' (Qila Energy, ref. 13017_04 revR7, 1:250@A1);
- 'Reception Building' (Qila Energy, ref. 13017_RB1, 1:200@A2); and
- 'Vehicle Movements' (Qila Energy, ref. 13017_V1, 1:500@A2)

(x) 'Odour Management Information Note' dated 8 November 2013 and updated November 2017 and December 2018.

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

Condition 3

The proposed combined heat and power (CHP) units shall not be brought into operation until:

(a) a screening fence has been constructed in accordance with the specification provided in the Site Layout Plan ref. G021A3 revision R3, and this fence shall be retained for the duration of the development hereby permitted;

(b) detailed specifications of the proposed CHP units and exhaust silencers have been submitted to and approved by the Waste Planning Authority.

Reason: In the interests of the residential amenities of the area.

Condition 4

Noise emissions during the hours of 2300-0700 from the development hereby permitted shall be limited to a maximum free field level of Leq (15min) 25 dB(A) when measured at an exposed bedroom window of any residential property.

Reason: In the interests of the residential amenities of the area.

3.3 The proposals include minor changes to the layout of the site and to the buildings and finishing materials. The number of CHP units would be reduced from 3 to 1 and the reception building would be redesigned to increase the floor area from 1,496m² to 1,726m², to completely clad the building in Juniper Green clad sheeting, to increase the number of roller shutter doors from 5 to 7 and to introduce 7 personnel doors / fire exits.

3.4 In addition, the applicant seeks to omit an acoustic bund from the development, and to increase the 25 decibel night time limit in condition 4 to 38 decibels.

3.5 The proposals are summarised below.

No.	Item	Change
1	Weighbridge	Minor position change
2	Weighbridge Office / Ancillary Building	Design and minor position change
3	Car Parking Spaces	Position change and reduction from 7No. to 5No. parking spaces
4	Odour Control Filter	Design change and repositioned
5	Reception Building	Design change
6	Transformer	Minor position change
7	Substation	Minor position change
8	LV Board	Minor position change
9	Buffer Tank (Heating System)	New addition
10	CHP Engine	Position change and reduction from 3No. to 1No.
11	Boiler	New addition
12	Emergency Generator	New addition
13	Gas Upgrading Unit	Minor design and position change
14	Grid Entry Unit	Minor position change
15	Propane Tanks (10.00m Exclusion Zone)	Minor design and position change
16	Flare (10.00m Exclusion Zone)	Minor design and position change
17	Digestate Storage Tank (20.00mØ)	Position change, size and number reduced
18	Fire Safety Tank	New addition
19	Pre-Storage Tank	Position change
20	Buffer Tank (12.00mØ)	New addition
21	Fermenter Tank (3No. @ 20.00mØ)	Reduced number of tanks and position change
22	Technical Building	New addition, replacing the control room
23	Post Fermenter Tank (2No. @	New addition in location of previous

	24.00mØ)	Digester Tanks
24	Gas Processing Unit, Pasteurisation Tank (3No.), Technical Container	New position and minor design change
25	Reception Tank for Ferric Chloride	New addition
26	Bund Gate Minor position change	
27	Oxygen Generator Room	New addition
28	External Containment Floor Sumps	Below ground drainage element
29	Condensate Pit (1.00mØ)	New addition, below ground system

4. Background

4.1 Permission was granted in 2015 for an AD facility at the site, reference 2013/2083. Following a change in the technology to be employed at the plant permission was granted in 2020 to vary the conditions, reference 2017/3147/CNT, to allow for a new site layout. The current application has been made due to a further change in the technology.

4.2 A separate application was submitted, reference SCC/3866/2021, to amend a planning obligation in respect of the timing of highway improvement works required under the previous permission. This is being dealt with by the service manager under the scheme of delegation.

5. The Application

5.1 Documents submitted with the application:

- Application form
- Site location plan
- Drawings, plans and sections showing the proposed changes
- Design and access statement
- Specifications of plant and machinery used in the process
- Odour abatement specification and statement
- Noise impact assessment

6. Environmental Impact Assessment (EIA)

The AD facility falls within schedule 2 11(b) – installations for the disposal of waste. The previous planning permission was assessed under the 2017 EIA Regulations. Since then the 2020 Regulations have come into effect; however it is noted that the current application would be considered the same under either the 2017 or 2020 EIA Regulations. It is clear that the current proposal should be considered under Schedule 2, 13(b) *'Any change to or extension of development of a description listed in paragraphs 1 to 12 of column 1 of this table, where that development is already authorised, executed or in the process of being executed.'* The 2020 EIA Regulations require that the proposal be screened for EIA if *'The development as changed or extended may have significant adverse effects on the environment'*, and so it is considered that the development must be screened.

It is considered that this report demonstrates that the current proposal would generate broadly similar effects to that which was previously permitted under reference 2017/3147/CNT, and it is therefore concluded that the development as changed would not be likely to have significant effects on the environment. Consequently, the proposed development is considered to be Schedule 2 development, but not EIA development. An Environmental Statement is not therefore required.

7. Consultation Responses Received

External Consultees

7.1 Mendip District Council

No objection raised following the submission of additional information.

7.2 Environment Agency

No response received.

Comment: The AD facility will operate under an environmental permit issued by the EA which will regulate the process to minimise any environmental effects.

7.3 Ditcheat Parish Council

No objection raised following the submission of additional information

7.4 Evercreech Parish Council

We support Somerset County Council's original conditions set on this application in 2017, the evidenced conditions were put in place with good reason re close proximity of residential properties and should not be amended/changed. We therefore recommend refusal.

7.5 East Pennard District Council

No response received

Internal Consultees

7.8 None.

Public Consultation

7.10 The application was advertised by means of a site notice and letters to 74 houses and businesses near the site.

7.11 Twenty six representations were received raising concern about the proposal. The matters raised included noise and the need to retain controls over night time noise, dust, air pollution, dust, light pollution, odour, effect on health of local residents, traffic and traffic noise, the height of the flue and lack of monitoring of the facility. The letters raised objection to the removal of controls over these matters.

Comment: The current application seeks to make minor variations to the site layout and associated plant / machinery because of a change in the technology proposed to be used. The application also proposes to remove a requirement for a noise attenuation fence and this is discussed below. In terms of the other matters raised, the environmental permit would regulate the processes involved to minimise effects on the environment, including air pollution. It is proposed that other conditions and mitigation measures that applied to the previous permission be carried over to any new permission granted. Guidance in the NPPF (paragraph 188) and NPPW (paragraph 7) advises that decisions on planning applications should focus on whether a proposal is an acceptable use of land and should work on the assumption that the relevant pollution control regime will be properly applied and enforced.

8. Comments of the Service Manager – Planning Control, Enforcement & Compliance

8.1 The key issues for Members to consider are:-

- The principle of development and policy context
- Does the proposal represent sustainable development
- Impact of the proposal on the highway network
- Impact of the proposal on residential amenity – noise, odour and dust
- Impact of the proposal on landscape character and visual amenity

8.2 The Development Plan

The Somerset Waste Core Strategy Development Plan Document up to 2028. Adopted February 2015.

Mendip Local Plan 2006 to 2029, part 1 adopted December 2014, part 2 adopted December 2021.

8.3 **Material Considerations**

National Planning Policy Framework 2021

National Planning Policy for Waste October 2014

National Planning Policy Guidance

9. **Analysis**

9.1 **The principle of development and policy context**

9.1.1 Permission was granted in 2013 for an AD facility at the site. In 2017 permission was granted for amendments to the facility to facilitate new technology. The Somerset Waste Core Strategy was adopted in February 2013 and has not changed since that permission was granted. The 2017 permission has been lawfully implemented and development could continue under that permission but the current application seeks further amendments to take account of different technology now proposed to be used.

9.1.2 The Mendip District Plan part 1 was adopted in 2014 and the same policies apply as when permission was granted for the AD facility in 2017. Part 2 of the plan was adopted in 2021 and deals with site specific allocations, but policy DP25 continues to support integrity of productivity of Mendip's established employment areas in the towns and rural areas, including at Evercreech Junction.

9.1.3 The National Planning Policy for Waste was published in 2014 and has not changed since the previous permission for an AD facility at the site. The National Planning Policy Framework was last revised in 2021 but continues to support planning decisions in line with the development plan.

9.1.4 In principle, the proposal is in line with the development plan and there is an established fall-back position. The main consideration is the effect of the proposed changes in terms of its impact on the amenity of the surrounding area, particularly with regard to noise.

9.2 **Sustainable development**

9.2.1 Policy SD1 of the Somerset Waste Core Strategy states that planning permission will be granted, without delay, for proposals that improve the economic, social and environmental conditions in the area, unless material considerations indicate otherwise. The Mendip District Local Plan also has sustainability as a central theme that underpins the local policy context.

9.2.2 In this particular case, it is considered that the following assessment demonstrates that the proposal represents sustainable development, by reason that it satisfies the relevant planning policies within the Development Plan. Consequently, it is considered that the proposal accords with Policy SD1 of the Somerset Waste Core Strategy.

9.3 **Impact of the proposal on the highway network**

9.3.1 It is not proposed to increase throughput of waste at the site and the proposed changes do not materially alter the capacity of the AD plant. The vehicle trips associated with the plant were previously assessed to be acceptable and the Highway authority has raised no objection to this application.

9.3.2 The 2017 application was subject to a section 106 agreement that required highway improvement works, including a right turn lane into the business park from the A371. These works will continue to be required as part of the development now proposed. Consequently, a Deed of Variation will need to be prepared by the Council and signed by all parties to ensure that the provisions of the Section 106 agreement apply equally to the development proposed in the event that planning permission is granted.

9.3.3 The impact of the proposal on highway safety and capacity is considered to be acceptable and there is no conflict with SWCS policy DM6, which states that planning permission will be granted where the proposed development would not have a detrimental impact on the local and strategic highway network, suitable access is deliverable and alternatives to road transport have been considered.

9.4 **Impact of the proposal on residential amenity – noise, odour and dust**

Noise

9.4.1 The nearest houses are located at a distance of some 300 metres from the site, which is surrounded by bunds up to 5 metres in height along the northern and western boundaries. In addition, the land rises steeply near the eastern site boundary, so that there is a difference in levels of approximately 3 metres between the site and the land to the immediate east. Nevertheless, a number of objections have been received from residents in Evercreech, Ditchat and from properties along the A371 to the east.

9.4.2 SWCS policy DM3 states that permission will be granted for waste management development provided that it has been demonstrated that it will not generate significant adverse impacts from noise, dust vibration, odour emissions, illumination, visual intrusion or traffic. A noise impact assessment has been provided which has been assessed by Mendip District Council environmental health department. The assessment concludes that an acoustic barrier would not be beneficial given the existing screening from the site's topography and intervening buildings and the height of the CHP exhaust which is presumed to be the dominant noise source. The application, therefore, seeks to remove this requirement of the 2017 permission.

9.4.3 Having regard to the advice received from Mendip District Council and subject to a condition requiring the combined heat and power (CHP) unit to operate unless in accordance with the specifications of the CHP unit and exhaust silencers submitted with this application, it is considered that the proposed change to condition 3 would not result in a significant adverse effect on the amenity of residential properties near the site.

9.4.4 The application originally also sought to change condition 4, which sets a night time noise limit of 25 decibels, on the grounds that that the 25dB limit currently set is more stringent

a condition than is necessary to demonstrate that the plant will not have adverse impacts on residential amenity in line with BS8233:2014 and WHO guidelines. The application proposed a residual noise level of 38dB measured at an exposed bedroom window of any residential property.

9.4.5 However, Mendip District Council objected to this change. A revised dBx Acoustics' report and modelling was submitted by the applicant which concludes that it is possible to meet the 25dB(A) limit with the proposed mitigation in place. There is no longer a requirement to vary Condition 4 and the applicant has withdrawn that part of the proposal.

Odour

9.4.6 An odour mitigation specification has been provided.

9.4.7 In addition to the above, it is noted that the operation of the site will be strictly regulated by the Environment Agency, including the processes that are associated with odour. The National Planning Policy Framework (NPPF) makes clear that local planning authorities should not focus on the control of processes or emissions themselves where these are subject to approval under pollution control regimes and that local planning authorities should assume that these regimes will operate effectively. The environmental permit would ensure that an adverse impact in terms of odour would not be experienced by residential properties and businesses near the site.

9.4.8 A condition attached to the extant planning permission requires an Odour Control Scheme to be submitted to, and approved by, the Waste Planning Authority prior to the receipt of materials for processing. This condition would be carried forward to any new permission granted, with the result that the Waste Planning Authority would retain control in respect of any adverse effects relating to odour.

Dust

9.4.9 A Dust Management Plan dated November 2017 was submitted as part of the 2017 application. The document considered each element of the proposed operation that would potentially generate dust, and sets out the measures that would be used to control these adverse effects. The Dust Management Plan was independently reviewed and found to be satisfactory. a condition would be attached to any new planning permission to require the operation of the site in accordance with a Dust Management Plan

9.4.10 Taking account of the above, it is concluded that any potential dust emissions associated with the proposal could be effectively mitigated.

Illumination

9.4.11 A condition attached to the 2017 permission required details of lighting to be submitted for the approval of the local planning authority and that lighting should be limited to operational hours and the period 30 minutes before and after those hours. This condition would be carried forward to any new permission granted.

The application demonstrates that the potential adverse effects of noise, dust, light pollution and odour can be minimised and effectively mitigated. The proposal would not cause adverse

effects on the amenity of those living or working near the site and is in accord with SWCS policy DM3.

9.5 Impact of the proposal on landscape character and visual amenity

9.5.1 The proposed changes to the approved scheme are outlined at section 3 of this report. A number of changes are proposed but they are considered to be minor and the overall character and appearance of the development would not be materially altered. The changes would not significantly change the scale or massing of the plant previously approved and the proposed plant would not have a greater impact on the landscape or visual amenity than the previously approved scheme.

Conclusion

Having regard to the matters considered above, it is considered that the application has demonstrated that the proposed changes would not have a significantly greater impact on the environment or on the amenity of those living and working near the site than the development previously approved. Any adverse effects can be mitigated to acceptable levels and the proposal is consistent with the relevant policies in the development plan and national planning policy guidance.

10. Recommendation

10.1 It is recommended that planning permission be granted subject to the following conditions

Conditions

1 Completion of Development

The development hereby permitted shall be carried out in strict accordance with the approved plans and specifications [as listed below and as varied by the non-material amendments dated 8 September 2017 and 26 November 2018 and the S73 application reference 2017/3147/CNT], 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.

Application Documents List:

- (i) Planning Application form;
- (ii) 'Design and Access Statement' (GP Planning, September 2013);
- (iii) 'Planning Statement' (GP Planning, September 2013), including,
 - Appendix 3 Anaerobic Digestion Process Diagram;
 - Appendix 4 Feedstock Report;
 - Appendix 5 Grid Connection Information; and
 - Appendix 9 Interpretative report on Ground Investigation.
- (iv) 'Air Quality Assessment for a Proposed AD Facility Near Evercreech, Somerset' (GFE Environmental, September 2013);
- (v) 'Preliminary Ecological Appraisal – Evercreech Junction AD Plant' (Scales Consultancy Ltd, 5 September 2018);

- (vi) 'Flood Risk Assessment for Tamar Energy, Anaerobic Digestion Facility, Evercreech' (Craddy Pitchers Davidson, Ref. 9722w001, September 2013);
- (vii) 'Proposed Anaerobic Digestion Facility, Evercreech - Landscape and Visual Assessment' (Nicholas Pearson Associates, ref. TE/NPA/10678, September 2013);
- (viii) 'Highways and Traffic' (December 2018);
- (ix) Drawings and Illustrations
- Drawing no. 26195/151– Site Location Plan.
 - Drawing No. 26195/606 Rev 0 – 2017 S73 Planning Layout with 2021 S73 Planning Layout Overlay'
 - Drawing No. 26195/640 Rev D – Proposed Site Sections'.
 - Drawing no. 2619/620 rev B Proposed Reception building
 - Drawing no. 26195/640 Odour control filter and stack
 - Drawing no. 26195/610 revA – CHP unit/site layout
 - 'Vehicle Movements' (Qila Energy, ref. 13017_V1, 1:500@A2)
- (x) 'Odour Management Information Note' dated 8 November 2013 and updated November 2017 and December 2018 and odour abatement specification 2021.
Reason: To enable the Waste Planning Authority to deal promptly with any development not in accordance with the approved plans.
- xi) Email from Plandescil dated 6 October 2022 re condition 4.
- xii) Design and access statement December 2021

2 Noise Mitigation

The combined heat and power (CHP) unit hereby approved shall not be operated except in accordance with the detailed specifications of the CHP unit and exhaust silencers provided with the application.

Reason: In the interests of the residential amenities of the area.

3 Noise Limit

Noise emissions from the development hereby permitted shall be limited to a maximum free field level of Leq (15min) 25 dB(A) when measured at the boundary of any residential property.

Reason: In the interests of the residential amenities of the area

4 Dust Control

The development hereby permitted shall be carried out in accordance with the approved Dust Management Plan dated November 2017 for the duration of the development hereby permitted.

Reason: In the interests of the residential and ecological amenities of the area.

5 Deliveries

No deliveries to or from the development hereby permitted shall enter or leave the site except between the following times:-

0700 hours and 1800 hours Mondays to Fridays; and

0800 hours and 1330 hours Saturdays.

No deliveries shall enter or leave the site on Sundays, Bank Holidays or National Holidays.

Reason: To minimise disturbance to neighbours and the surrounding area.

6 Highway Works

The development hereby approved shall not be brought into use until a Travel Plan has been submitted to and approved, in writing, by the Local Planning Authority. The Travel Plan shall include a scheme to measure, on an annual basis in perpetuity, the actual level of traffic generated from the site. It shall also make clear that, in the event of the level of traffic exceeding a defined amount, a right-hand turn lane shall be constructed on the A371 to access the Evercreech Junction Industrial Area, in accordance with the details approved through application 2013/2083 and in accordance with the timescale agreed and set out in the Travel Plan. The development shall thereafter be carried out in accordance with the approved Travel Plan including, if necessary, the construction of the right-hand turn lane.

Reason: In the interests of highway safety.

7 Odour Control

Prior to the receipt of materials for processing within the development hereby permitted, an Odour Control Scheme shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall consider and minimise the release of odours from the site as a result of the delivery, storage and movement of agricultural materials for processing at the site. Thereafter the development shall be undertaken fully in accordance with the scheme so approved.

Reason: In the interests of the residential amenities of the area.

8 Lighting

(i) Prior to their installation details of the external lighting units to be mounted on the reception building shall be submitted to and approved in writing by the Waste Planning Authority. Thereafter the development shall be undertaken fully in accordance with the scheme so approved.

(ii) No external lighting shall be operated at the site except within the permitted operating hours and the 30 minutes immediately before and after those hours.

Reason: To reduce the visual impact of the development and minimise nightglow in the interests of the amenities of the area.

9 Landscaped Bunds

No trees or shrubs on the boundary bunds shall be lopped, topped, or felled without the express written consent of the Waste Planning Authority. Any such trees or shrubs removed without consent, or being severely damaged as a result of the development/operations hereby permitted at the site, shall be replaced with trees/shrubs of similar species (of an appropriate size and suitable species fit for purpose) in the planting season immediately following any such occurrence. For a period of five years following any replacement planting the new trees/shrubs shall be protected and maintained, and any trees/shrubs which die, or become seriously damaged or diseased shall be replaced in the following planting season with other of similar size and species. Only where it is impractical to replace an existing mature tree/shrub that has been lost as a result of the development hereby permitted, or where prevailing conditions indicate replacement planting of like for like would be certain to

fail, shall replacement planting with other species (of an appropriate size and suitable alternative species fit for purpose) be planted in the first planting season following any such loss of planting.

Reason: To minimise the visual impact of the development and to maintain the landscape character and biodiversity of the locality.

11. Relevant Development Plan Policies

1 The following is a summary of the reasons for the County Council's decision to grant planning permission.

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 policies in the development plan particularly relevant to the proposed development are:-

Somerset waste Core Strategy development plan document – adopted February 2013

DM3 – Impacts on the environment and local communities

DM6 – Waste Transport

SD1 – Presumption in favour of sustainable development

Mendip District Local Plan 2006-2029 Part I: Strategy and Policies adopted December 2014

- DP1: Local Identity and Distinctiveness
- DP4: Mendip's Landscapes
- DP7: Design and Amenity of New Development
- DP8: Environmental Protection
- DP9: Transport Impact of New Development

Mendip District Local Plan 2006-2029 Part 2: Sites and Policies adopted December 2021

- DP25 : Employment Land

3 The County Planning Authority has also had regard to all other material considerations.

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

In dealing with this planning application the County 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, Minerals Local Plan 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 County Planning Authority has

sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant/agent as necessary.

Somerset County Council

Regulation Committee – 9th February 2023

Report by Service Manager - Planning & Development, Enforcement & Compliance:

Application Number: SCC/4015/2022

Date Registered: 21 September 2022

Parish: Glastonbury Town Council,

District: Mendip District Council,

Member Division: Glastonbury

Local Member: Nick Cottle and Susannah Hart

Case Officer: Ellie Maxwell

Contact Details:

Description of Application: Proposed new roadside sign.

Grid Reference: Easting - 350385, Northing - 138529

Applicant: South West Heritage Trust

Location: Abbey Farm, Chilkwell Street, Glastonbury, Somerset, BA6 8DB

1. Summary of Key Issues and Recommendation(s)

1.1. The proposed development is for the erection of a signpost outside of a museum. The key issues for Members to consider are:

- Visual amenity

1.2. It is recommended that planning permission be **GRANTED** subject to the imposition of the conditions set out in section 10 of this report, 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, Enforcement & Compliance.

2. Description of the Site

2.1. The Somerset Rural Life Museum is located to the south-eastern side of Glastonbury. The rear of the site is adjacent to private housing, with a public right of way dividing the site in half. It is located adjacent to the junction between Bere Lane and Chilkwell Street.

2.2. The application site is situated within Glastonbury Conservation Area, designated in 1976. Abbey Barn is a Grade I listed building and also a Scheduled Monument.

3. The Proposal

3.1. A steel banner post sign is proposed to be located adjacent to the entrance to the site on Bere Lane. The proposal aims to enhance the site presence within the street scene and aid visitors in finding the museum.

3.2. The proposed sign will be positioned within an existing grass verge and set back from the pavement edge to enable it to be read and also have minimal impact on the street. The sign will be positioned in front of Actis House, a residential property, and will be screened by trees, therefore having no impact on the setting of the Abbey Barn, a Grade I listed building.

3.3. The erection of the sign post will have minimal impact on trees, outlined in the Sign Method Statement. Groundworks will be kept to a minimum and outside of the tree protection zone. The mounting place and base will be positioned outside of the tree protection zone and to avoid tree routes. The installation of the banner pole will avoid impacting significant tree branches, with pruning proposed to be kept to a minimum and no trees will be felled.

3.4. Once the new sign is positioned, the existing ground mounted sign, located on the north side of the entrance will be removed.

4. Background

4.1. 3829/2021 - Proposed new estate rail fencing and gates, and replacement steps within the existing orchard. Approved 2nd September 2021

4.2. 2013/0882 - Repair and minor internal and external alterations to the farmhouse; alteration and redevelopment of the cow sheds to form new galleries and a cafe; demolition and redevelopment of the 1970's reception and shop to provide new stairs, lift and toilets; and the demolition of the 1970's wagon shed and replacement with a new community learning space, store and toilets. Approved 25th July 2013

5. The Application

5.1. Documents submitted with the application:

- Application Form
- Heritage Statement – July 2022
- Photos and photomontages
- Proposed Signage Images
- Signpost Method Statement – 16th June 2022

6. Environmental Impact Assessment (EIA)

6.1. An Environmental Impact Assessment was not necessary for the application.

7. Consultation Responses Received

External Consultees

7.1. Environment Agency – no comments received

7.2. Glastonbury Town Council – no comments received

7.3. Historic England – no objection

“We have no comment to add on the proposed signage”

7.4. Mendip District Council – no objection

7.5. Natural England – no objection

“Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.”

7.6. Somerset Wildlife Trust – no comments received

7.7. South West Heritage – no comments received

Internal Consultees

7.8. Highways – no objection subject to condition

“This application seeks consent for the siting of new roadside sign at Abbey Farm, Glastonbury to advertise parking for Somerset Rural Life Museum. The site is located on the A361 on the corner of Bere Lane and Chickwell Street. Access is derived off Bere Lane within a section which is subject to a 20mph speed limit.

On reviewing the recorded PIC's (Personal Injury Collisions) for the last 5 years there appears to be a number of incidents within 500m of the site, however, they do not appear to be related to the highway safety.

The proposed sign is to be sited on the south west corner of the existing access. The sign would appear to be positioned directly adjacent to the highway boundary and overhanging the footpath. Notwithstanding the information provided, the sign should be positioned further away from the highway.

Taking the above comments into account, whilst the Highways Authority does not object to the proposal in principle, should the Local Planning Authority be minded to grant consent the Highway Authority would request that the following condition is imposed:

- No part of the proposed sign, including any foundations, shall be within 450mm of the highway boundary."

7.9. Public Rights of Way – no objection

7.10. Somerset Ecology Services – no objection

Public Consultation

7.10. Letters received from two residents raising concerns about the visual amenity of the sign. Concern was also raised about the felling of trees, however it has been confirmed with the agent no trees will be felled as part of this application.

8. Comments of the Service Manager – Planning Control, Enforcement & Compliance

8.1. The key issues for Members to consider are:-

- Visual amenity
- Impact on Conservation Area
- Highway Safety

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:

- Mendip District Council Local Plan Part I 2006-2029 (adopted December 2014)
- Mendip District Council Local Plan Part II 2006-2029 (adopted December 2021)

The Secretary of State's powers to make regulations for the control of outdoor advertisements are in sections 200, 221, 223 and 224 of the Town and Country Planning Act 1990. The current regulations are the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Under regulation 3, advertisements are subject to control only in the interests of "amenity" and "public safety".

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

- National Planning Policy Framework (July 2021)
- Planning Practice Guidance

8.4. Visual Amenity

Concern has been raised by residents over the impact of the signage on visual amenity. Mendip District Council Local Plan Part I policy DP 7: Design and Amenity of New

Development is relevant. It is considered that the proposal complies with part (a) which is appropriate for local context and part (b) the amenity of users of neighbouring buildings and land uses. The application is also deemed to be in accordance with DP 1: Local Identity and Distinctiveness. The signpost will be located on the verge where there are existing trees and will not be taller than the treeline.

8.5. Impact on Conservation Area

Mendip District Council Local Plan Part I policy DP 3: Heritage Conservation is relevant to this application as it lies within Mendip Conservation Area and also has a Grade I listed building on the site. The proposal complies with the policy because it does not impact on the significance of the Heritage Asset as it will be screened from the Abbey Barn by trees.

8.6. Highway Safety

Somerset County Council Highways were consulted on the application and raised no objection. Although incidents have occurred within 500m site over the past 5 years, Highways deem they do not appear to be related to highway safety. Therefore, it is deemed the signage will not negatively impact highway safety in accord with DP 9: Transport Impact of New Development.

Conclusion

It is considered that the proposed sign post will not cause detrimental impact to visual amenity, the conservation area or highway safety.

By reason of scale, design, and siting the proposed advert will not detract from the character or appearance of the Conservation Area or its setting, is considered to respect the character of the listed buildings and raise no other public safety or amenity concerns. The proposed signage accords with policies DP1, DP3, DP7 and DP9 of the Mendip Local Plan and the aims and objectives of the NPPF.

9. Recommendation

9.1 It is recommended that planning permission be **GRANTED** subject to the following conditions:

1. a) All advertisements displayed and any land used for the display of advertisements shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

(b) Any hoarding or similar structure or any sign, placard, board or device erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition to the reasonable satisfaction of the Local Planning Authority.

c) Where any advertisement is required under these Regulations to be removed, the removal thereof shall be carried out to the reasonable satisfaction of the Local Planning Authority.

(d) Before any advertisement is displayed on land in accordance with the consent now granted, the permission of the owner of that land, or of a person entitled to grant such permission, shall be obtained.

(e) The consent now granted is limited to a period of five years from the date hereof.

Reason: To accord with The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

2. The development hereby permitted shall be carried out in strict accordance with the approved plans and specifications, and with any scheme, working programme or other details submitted for the approval of the County Planning Authority in pursuance of any condition attached to this permission, unless prior written approval is obtained from the County Planning Authority to any variation:

- Application Form
- Heritage Statement – July 2022
- Photos and photomontages
- Proposed Signage Images
- Signpost Method Statement – 16th June 2022

Reason: For the avoidance of doubt as to the extent of the permission.

3. No part of the proposed sign, including any foundations, shall be within 450mm of the highway boundary.

Reason: In accord with DP 9 of the Mendip Local Plan Part I

INFORMATIVES

If any part of the flags overhang any part of the public highway including the footway, a license will be required from SCC Highways

10. Relevant Development Plan Policies

1. The following is a summary of the reasons for the County Council's decision to grant planning permission.

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:-

Mendip District Local Plan 2006-2029 Part I (2014):

- DP 1
- DP 3
- DP 7
- DP 9

3. The County Planning Authority has also had regard to all other material considerations.

4. Statement of Compliance with Article 35 of the Town and Country Development Management Procedure Order 2015

In dealing with this planning application the County 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, Minerals Local Plan 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 County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant/agent as necessary.

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CONSULTATION ON AMENDMENTS TO THE
RIGHTS OF WAY DIVERSION POLICY

Author: Pete Hoble, Rights of Way Service Manager

Date: February 2023

This document is also available in Braille, large print, on tape and on disc and we can translate it into different languages. We can provide a member of staff to discuss the



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details.

1. Summary of Key Issues and Recommendation

1.1. The County Council has powers under the Highways Act (HA) 1980 and the Town & Country Planning Act (TCPA) 1990 to make and confirm orders to stop up or divert public rights of way. The statutory tests are slightly different under the respective Acts. Orders made under the latter Act must be related to a planning consent. Diversion orders made under the TCPA are therefore made by the council who granted the consent (i.e. the Local Planning Authority (LPA)).

1.2. A HA diversion policy (appendix 1) has been in existence since 2007 at the County Council, and the working practice has been to apply the general principles of it to County Council TCPA order making as well as how the Council responds to TCPA draft order consultations from the District Councils. There is no policy in existence for TCPA diversions at the County Council nor at any of the District Councils.

1.3. As part of the Local Government Reorganisation there has been agreement from relevant officers at the 5 Councils that the powers to amend the network under HA and TCPA would be best administered by the County Council's current Rights of Way Service.

1.4. In readiness for vesting day, one of the required actions is to have an updated diversion policy that is reflective of the unitary Council's powers along with accompanying guidance notes and application form. This is crucial to ensure that there is a clear policy and process available to any prospective applicant.

1.5. It is recommended that the Regulation Committee give their support for the proposed changes which will be the subject of a decision made by the Lead Member for the Environment & Climate Change.

2. Background

2.1. The production of the first Rights of Way Improvement Plan (RoWIP) in 2006 identified a need for a clear approach to diversions. At the time there were a couple of District Councils who were processing HA diversions in addition to all of them processing relevant TCPA diversions in their LPA capacity. With no policy or guidelines in place there were inconsistencies in the application of the statutory powers.

2.2. The production of the current Diversion Policy and Guidance Notes (appendix 4) was one of the first RoWIP Actions to be implemented. While not entirely inclusive of all powers to stop up or divert, the policy has proven to be effective for the last 15

years and has enabled a high degree of consistency when accepting, processing and responding to applications/ proposals to stop up or divert public rights of way.

2.3. The following paragraphs summarise the main changes to the policy and why. The documents can be found at appendices 2 (tracked changes) and 3 ('clean' copy).

2.4. The title of the document is amended to Public Path Order Policy to ensure the title is more accurate as to what it relates to. Whilst rarely used, some orders do include stopping up of paths, not just diverting them. In that respect Public Path Order is the accepted term that covers stopping up and diversion orders. The sections of Acts has also been expanded to cover all the sections the new unitary Council will have powers for.

2.5. There was a degree of confusion/ repetition between the content of the policy document and the guidance document. Therefore a number of changes have been made to streamline both documents and reduce any repetition.

2.6. Additional paragraphs have been included in relation to TCPA order making powers. These echo and support in policy terms what is included in DEFRA Rights of Way Circular 1/09 (Guidance for Local Authorities).

2.7. There have been occasions where a diverted route has subsequently been enclosed, which has resulted in maintenance and usability issues. Additional text recognises that these issues should be addressed when considering a proposal to corridor a path or place it on the headland of a field.

2.8. Policy around highway junctions has been modified so as not to be overly constraining and provide greater flexibility.

2.9. An additional paragraph relating to shared bridges clarifies the Council's position and the potential need for a legal agreement to clarify maintenance responsibility.

2.10. Additional text is included in relation to development related orders to highlight that the interface of any diverted path with newly constructed roads will be the subject of development management processes such as safety audit, technical approval and supervision.

2.11. Policy regarding compliance with the criteria, and proposals that are opposed at draft stage are amended to better reflect the current governance situation and be compliant with any future constitution.

2.12. A new section has been introduced to provide clarity on the priority order for applications. The resource position for processing diversions for the new Somerset

Council is not clear yet. There is already a small backlog of applications. With the Service potentially overseeing all Public Path Order applications for the Council it would be appropriate to have clarity for officers and applicants as to the order of processing.

2.13. The section that defrays a percentage of the costs of an order has been reviewed and amended in light of certain cases over the last 15 years. There are a number of situations whereby landowners inherit a situation that ostensibly has been through no fault of their own and in some cases could be argued to be the fault of one of the Councils (historic or current) in their capacity as LPA, Housing Authority, landowner, or Surveying Authority. Rarely are two situations alike with each one having its own nuances, thus the amendment affords greater flexibility to apply judgement as to the percentage defrayment that should be applied in each case. It is felt that the defrayment in relation to fewer structures is unnecessary and is already controlled by other parts of the policy.

3. Consultation

3.1. The Somerset Local Access Forum were consulted on amending the Diversion Policy on 13 October 2022. They were supportive of the changes being proposed. One of the members commented that the policy on avoiding shared (with private vehicular use) bridges should be more assertive. While this would be desirable, there are certain scenarios where diverting onto an existing private vehicular structure is the only pragmatic way forward. There was also comment that weight restrictions should be considered on bridges that are the subject of a diverted route as modern agricultural machinery often exceeds the load that historic structures were designed to take. Whilst a very valid point, the feasibility of placing such restrictions would need to be considered and reviewed on a case by case basis and thus probably best not to include it within the policy. It could be an aspect that would be addressed through the maintenance (legal) agreement to which the policy refers.

3.2 The District Councils have also been consulted on the policy and to date have either been in agreement or not made any comment.

4. Conclusion

4.1. Given the new Somerset Council will assume all public path order making powers and in time these will all be processed by the one Service area, it is prudent that the current policy is updated to be reflective of that circumstance in readiness for vesting day.

4.2. The review of the policy also affords the opportunity to make some minor adjustments in light of the past 15 years' experience of applying the policy to a number of applications.

4.3. The Committee are asked for their views on the proposed amendments. The decision as to whether or not to adopt any amendments to the current policy will be made by the Lead Member for the Environment & Climate Change.

5. Recommendation

5.1. It is recommended that the Regulation Committee provide their support for the proposed changes to the Diversion Policy.

List of Appendices

1. Rights of Way Diversion Policy 2007
2. Public Path Order Policy 2022 (tracked changes)
3. Public Path Order Policy 2022 ('clean' copy)
4. Diversion Application Guidance Notes (2019)
5. Diversion Application Guidance Notes (tracked changes)
6. Diversion Application Guidance Notes ('clean' copy)

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SOMERSET COUNTY COUNCIL

DIVERSION ORDER POLICY

SECTIONS 116 & 119 HIGHWAYS ACT 1980

This policy will be reviewed as necessary if and when the 'right to apply' regulations under the Countryside & Rights of Way Act 2000 commence.

1 INTRODUCTION

- 1.1 In accordance with the provisions of Section 119 of the Highways Act 1980, any person may make application to the Highway Authority to divert a footpath, bridleway or restricted byway. Byways open to all traffic are dealt with by application to Magistrates' Court under Section 116 of the Highways Act 1980. The Highway Authority may also consider on occasions to apply to the Magistrates' Court for a diversion under Section 116.
- 1.2 It should be noted that this is a power of the Highway Authority and not a statutory duty. If the Authority refuses to make an order, the applicant may ask the Secretary of State for the Environment, Food & Rural Affairs to use his powers under Section 120 (3) of the Highways Act 1980 to make a diversion order.
- 1.3 Any attempt to change a right of way where it and adjoining paths cannot be easily used, or where the public right to use a path is being challenged by the owner/lessee/occupier is likely to result in objection being made to the proposal. Similarly, any proposal that does not demonstrate a positive benefit to the public or the owner/lessee/occupier may not succeed.
- 1.4 It is essential that any application is carefully thought out and discussed with the Area Rights of Way Officer and meets the legislative/application criteria prior to being submitted. It is essential to identify as far as possible the interests of the different user groups entitled to use the route as well as the requirements of the landowner/occupier. This will help to develop proposals that satisfy the legal tests to be applied and the needs of all the interested parties.
- 1.5 This Policy only refers to applications submitted under the Highways Act 1980 and does not refer to applications for an order to allow development to take place under the provisions of the Town & Country Planning Act 1990.

Guidance for applications to change the rights of way network as a result of the granting of planning permission needs to be obtained from the relevant Local Planning Authority. The Highway Authority will critically examine each planning application (where rights of way are affected) where it directly manages the rights of way network to ensure any new route is acceptable to the public.

2 GENERAL GUIDANCE

- 2.1 An application will only be accepted if
- it complies with s119 Highways Act 1980,
 - it complies with the application criteria set out below,
 - it is submitted on the approved form with all relevant sections accurately completed and accompanied by a map of a suitable scale showing the proposed changes,
 - the applicant agrees to pay the relevant costs of the proposal, and
 - the applicant indemnifies the order-making authority against claims for compensation arising.
- 2.2 The County Council is the Highway Authority for Somerset and can make Diversion Orders under the Highways Act 1980. The County Council will only determine an application if it demonstrates a benefit to the public and/or the landowner, occupier or lessee, e.g.: better surface, better views, less stiles and gates, etc and meets the criteria below. A District Council also has the power to make orders under the Act. Orders processed by the District Councils that do not meet the criteria will be subject to objection by the County Council unless sufficient evidence can be produced to justify variance from the County Council's policy. The County and District Councils where appropriate are the Order Making Authority.
- 2.3 In cases where the County Council supports the application and makes an order, it may defend the order at any subsequent public inquiry, by hearing or written representations if objections have been made and not subsequently withdrawn.
- 2.4 No authority for the closure of a public right of way is conferred unless and until the diversion order has been confirmed and notice of its confirmation has been published. Any alternative route must also be satisfactorily constructed and the appropriate certificate issued before the old route is closed.
- 2.5 The County Council will recover the costs of making, advertising and confirming a diversion order. However, the County Council reserves the right to waive costs at its discretion.

- 2.6 The Highways Act 1980 provides that compensation may be payable in respect of depreciation of the value of an interest in land, or by damage by disturbance in the enjoyment of land as a result of the coming into operation of a diversion order made under the Act. Applicants are asked to sign the undertaking on the application form to indicate that they are prepared to defray any such compensation which may become payable. Claims for compensation are seldom made but could arise where for example a neighbour loses access to land as a result of an order or the alternative route passes over land not owned by the applicant.

3 APPLICATION CRITERIA

- 3.1 The new route will be agreed with the Area Rights of Way Maintenance Officer.
- 3.2 The existing route must be clear of obstructions prior to any application being submitted, and clear of obstructions until the order is confirmed and the new route is available for use (this requirement may be waived in circumstances when a route is obstructed by a significant or historic obstruction, eg: a building or expanse of water).
- 3.3 Written consent must be obtained from all landowners who will be affected by the alternative route and submitted with the application.
- 3.4 Where the new route is to be enclosed, a diversion order will, wherever it is possible, cite a width for a footpath of 2m (minimum) and for a bridleway of 4m. For unrestricted widths the alternative route minimum widths will be 2m for a footpath, 3m for a bridleway and 5m for a restricted byway except at locations of gates, bridges, etc. and where not physically possible.
- 3.5 Where the alternative route crosses boundaries, gaps are the preferred option. If a gap is not feasible then a gate will be considered. Any gates must be of an equal or less restrictive nature compared with the existing route. Whilst the need for stock control is recognised, stiles will not necessarily be considered as an option on the alternative route. Applicants are encouraged to consider the least restrictive option at all other boundary points on the remainder of the path (subject to the diversion proposal) on their/their neighbours' land.
- 3.6 Where the alternative route results in a new highway junction this must not be any further away from another off-road highway than the existing route (this requirement may be waived where the new highway is of a lower class and/or following consultation is shown to provide greater connectivity/safety for the public). It must also not result in a highway junction/crossing that is believed to be of greater danger to the public than the existing route.

- 3.7 The alternative route must not result in the need for a greater number of structures (e.g.: gates) than are present along the existing route. This requirement may be waived where i) the alternative route is considerably longer and the benefits gained outweigh the inconvenience of extra gates and ii) the additional gates are of a less restrictive nature than the existing route. Exceptions will be considered on a case-by-case basis.
- 3.8 The alternative route surface and drainage must be of an equal or superior standard and is not likely to incur considerably higher maintenance costs than the existing route. This requirement may be waived in exceptional circumstances where it is considered it will not be of detriment to users of the route.
- 3.9 Where the alternative route is felt to be best placed in an enclosed corridor, every consideration should be given as to how to reduce possible future vegetation clearance or drainage works prior to the consultation and order making process, e.g: hedge laying, drain clearance/improvement.
- 3.10 Where there is doubt that the criteria have been met, the Team Leader will have the final say as to whether an application is accepted or refused.
- 3.11 Where objections are received at the consultation phase of processing an application, and cannot be resolved, then a decision will be made by the Team Leader as to whether to proceed to the order making stage.
- 3.12 Where an application is refused in line with this policy and Highways Act 1980, the applicant will have the right to approach their District Council or the Secretary of State to consider the application.

4 CHARGES

- 4.1 In accordance with the Local Authorities (Recovery of Costs of Public Path Orders) Regulations 1993, local authorities are empowered to recover their administrative/advertising costs and expenses in respect of making Public Path Orders. Applicants will have to agree to pay the full costs incurred for the officer's time spent in processing an application. This may include the officer working outside normal working hours. The costs involved may include the following:-
- consulting with prescribed bodies and organisations,
 - preparing committee reports where necessary,
 - attending site meetings with regard to the application,
 - in the case where objections are received, meeting with and negotiating with the objectors and consulting with the applicant,
 - making and confirming the order,
 - travel expenses,
 - posting notices on site,

- ensuring that the necessary works (signposting, waymarking, surfacing, stiles and gates, etc) required to bring the proposed route into a usable condition by the public have been carried out prior to signing a certificate,
- photocopying,
- paying the advertising costs.

4.2 Applicants will be charged in two stages. The first payment will be for the consultations and making of the order and the second for dealing with any objections and confirmation of the order. Applicants will be charged if a diversion order is not confirmed or the applicant abandons the application. Where diversion orders are promoted by the Council and attract objections, the County Council will bear the costs involved in defending the order at any subsequent hearings, public inquiries and appeals.

4.3 The following are examples (not exhaustive) where the above costs charged to the applicant may be defrayed in part or in full where the application (figure in brackets is the % amount that would be defrayed):

- will address a known vulnerable road user accident location (50%),
- will fulfil a RoWIP proposal; either through diversion or diversion and creation – (percentage of cost defrayed dependent upon assessment of proposal)
- improves the safety and/or scenic value of a regionally/nationally promoted route (50-100%),
- resolves a definitive map anomaly including where development has taken place in error/by previous landowner (where the development is granted by a local planning authority then that authority will be asked to defray the costs) (50%),
- resolves natural obstructions, e.g: erosion/issues of public safety (100%, 50% where landowner stands to benefit),
- will enable access to an 'island site' of CroW Act 2000 Part I land (20%),
- will negate the need for the public to use the road network between two off-road highways (proportion of costs defrayed will depend on length and class of road avoided) (30% minimum), and
- will result in a proposed route with fewer structures along it's length (or none at all) than the existing route (does not apply where existing route is free of structures) (20%).

Where the Council instigates a diversion order, the relevant department will meet the costs of processing the application. Applications that fulfil more than one of the above will be defrayed for the sum of the percentages up to a maximum of 100%.

The Council reserves the right to amend the proportion of costs defrayed where it sees fit.

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SOMERSET COUNCIL

PUBLIC PATH ORDER POLICY

SECTIONS 116, 117, 118, 118A, 118B, 119, 119A & 119B HIGHWAYS ACT 1980 AND SECTION 257, 258, 259 & 261 TOWN AND COUNTRY PLANNING ACT 1990

This policy will be reviewed as necessary if and when the 'right to apply' regulations under the Countryside & Rights of Way Act 2000 commence.

1

GENERAL

1.1 An application must:

- comply with the relevant Act,
- comply with the application criteria set out below,
- be submitted on the approved form with all relevant sections accurately completed and accompanied by a map of a suitable scale showing the proposed changes,
- confirm the applicant agrees to pay the relevant costs of the proposal, and
- confirm the applicant indemnifies the order-making authority against claims for compensation arising.

1.2

No authority for the closure of a public right of way is conferred unless and until the diversion order has been confirmed and notice of its confirmation has been published. Any alternative route must also be satisfactorily constructed, and the appropriate certificate issued before the old route is closed.

1.3

The Highways Act 1980 (HA 1980) provides that compensation may be payable in respect of depreciation of the value of an interest in land, or by damage by disturbance in the enjoyment of land as a result of the coming into operation of a diversion order made under the Act. Applicants are asked to sign the undertaking on the application form to indicate that they are prepared to defray any such compensation which may become payable. Claims for compensation are seldom made but could arise where for example a neighbour loses access to land as a result of an order or the alternative route passes over land not owned by the applicant.

2 APPLICATION CRITERIA

- 2.1 Written consent must be obtained from all owners of land crossed by the alternative route, who can be reasonably identified, and submitted with the application.
- 2.2 The existing route must be clear of obstructions prior to any application being submitted, and clear of obstructions until the order is confirmed and the new route is available for use (this requirement may be waived in circumstances when a route is obstructed by a significant or historic obstruction, e.g.: a building or expanse of water).
- 2.3 The granting of planning permission does not allow developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under Section 257 of the Town and Country Planning Act 1990 (TCPA 1990) for the diversion or stopping up of a route, will invariably be made or confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect. The requirement on local authorities to keep a public right of way open for public use will preclude a developer from using the existing way as a vehicular access to the site unless there are existing additional private rights.
- 2.4 Any proposed alternative alignment of paths under Section 257 of the TCPA1990 that is necessary as part of the construction of a new housing development, should avoid the use of estate roads wherever possible and preference should be given to the use of made-up estate paths through landscaped or open space areas away from vehicular traffic. Where alternative routes need to follow estate roads/ footways, these should comply with the design standards set out in the government and local guidance documents.
- 2.5 Minimum widths for alternative routes will be 2m for a footpath, 3m for a bridleway and 5m for a restricted byway except at locations of gates, bridges, etc. and where not physically possible.
- 2.6 Where the alternative route is likely to become an enclosed corridor or headland route, every consideration should be given as to how to reduce possible future vegetation clearance or drainage works prior to the consultation and order making process, e.g.: increased width, hedge laying, drain clearance/improvement. This requirement may be waived in exceptional circumstances.
- 2.7 Where the alternative route crosses boundaries, gaps are the preferred option. If a gap is not feasible then a gate will be considered. Any gates

must be of an equal or less restrictive nature compared with the existing route. This should also be considered where any bridges are required, including access onto these structures i.e., providing a slope instead of steps. Whilst the need for stock control is recognised, stiles will not necessarily be considered as an option on the alternative route. Applicants are encouraged to consider the least restrictive option at all other boundary points on the remainder of the path (subject to the diversion proposal) on their/their neighbours' land. Note: limitations cannot be included in Section 257 TCPA 1990 orders and therefore a separate gate authorisation application may be required).

- 2.8 The alternative route must not result in the need for a greater number of structures (e.g.: gates) than are present along the existing route. This requirement may be waived where i) the alternative route is considerably longer and the benefits gained outweigh the inconvenience of extra gates or ii) the additional gates are of a less restrictive nature than the existing route. Exceptions will be considered on a case-by-case basis.
- 2.9 Where possible, diverting over bridges with private rights should be avoided. If a diverted route must go over a bridge with private vehicular rights, then the Council will only be responsible for maintaining the bridge to a standard suitable for the lawful public use and the landowner should retain some responsibility. In some circumstances an agreement setting out this responsibility may be required. Where new bridges are to be installed (whether there was an existing structure or not) consent to undertake such work under Section 23 of the Land Drainage Act 1991 is required. All bridges should be constructed and installed to the Council's standard design and quality or designed to meet current Highways, Rights of Way and accessibility standards.
- 2.10 The alternative route must not result in a highway junction/crossing that is believed to be of greater danger to the public than the existing route.

Where the alternative route results in the crossing of a new estate road, safety for public use and appropriate construction should be checked through the technical approval process as part of any legal agreement for the construction of the road. Road crossings should have dropped kerbs and tactile paving.

- 2.11 The alternative route surface and drainage must be of an equal or superior standard and not likely to incur considerably higher maintenance costs than the existing route. This requirement may be waived in exceptional circumstances where it is considered it will not be of detriment to users of the route. Where alternative routes follow surfaced paths for applications to enable development, the construction process should be managed through a Section 38 or Section 278 legal agreement, with any possible future maintenance requirements being secured through a s106 legal agreement.

2.12 Where there is doubt that the criteria have been met, the decision maker as per the Council's constitution will have the final say as to whether an application is accepted or refused.

2.13 Where objections are received at the consultation phase of processing an application, and cannot be resolved, then a decision will be made by the relevant officer/ committee as to whether an order should be made or not.

3 APPLICATION PRIORITISATION

3.1 Applications will be prioritised in the following order:

1. Rail crossing diversion and extinguishment applications – under Section 119a and Section 118a HA1980, and any other applications where they may address issues of endangerment to life or harm.
2. Applications to divert and stop up rights of way to enable development, made under Section 257 TCPA 1990. Where planning permission may be granted or a planning application has been made. (Note: an order made under Section 257 TCPA 1990 cannot be confirmed until planning permission is granted).
3. All other Public Path Order applications, including those made under Section 118 and Section 119 HA 1980. Priority will be given to those that resolve significant obstructions or S130 notices; those that resolve issues causing significant inconvenience and those that are linked to the modification order process. Those applications which have regular, useable alternative routes will be of a lower priority

4 CHARGES

4.1 In accordance with the Local Authorities (Recovery of Costs of Public Path Orders) Regulations 1993, local authorities are empowered to recover their administrative/advertising costs and expenses in respect of making Public Path Orders. Applicants will have to agree to pay the full costs incurred for the officer's time spent in processing an application. This may include the officer working outside normal working hours. The costs involved may include the following:-

- consulting with prescribed bodies and organisations,
- preparing committee reports where necessary,
- attending site meetings with regard to the application,
- in the case where objections are received, meeting with and negotiating with the objectors and consulting with the applicant,
- making and confirming the order,
- travel expenses,
- posting notices on site,

- drawing up specifications and plans of the works where required,
- survey and inspection costs,
- ensuring that the necessary works (signposting, waymarking, surfacing, stiles and gates, etc.) required to bring the proposed route into a fit condition for use by the public have been carried out prior to signing a certificate,
- photocopying,
- paying the advertising costs.

4.2 Applicants will be charged in two stages. The first payment will be for the consultations and making of the order and the second for dealing with any objections and confirmation of the order. Applicants will be charged if a diversion order is not confirmed, or the applicant abandons the application. Where diversion orders are promoted by the Council and attract objections, the County Council will bear its own costs involved in defending the order at any subsequent hearings, public inquiries and appeals.

4.3 The following are examples (not exhaustive) where the above costs charged to the applicant may be defrayed in part or in full where the application (figure in brackets is the percentage amount that would be defrayed):

- will address a known vulnerable road user accident location (50%),
- will fulfil a RoWIP proposal; either through diversion or diversion and creation – (percentage of cost defrayed dependent upon assessment of proposal)
- improves the safety and/or scenic value of a regionally/nationally promoted route (50-100%),
- resolves a definitive map anomaly, including where development has taken place by previous landowner (50-100%),
- resolves natural obstructions, e.g.: erosion/issues of public safety (100%, 50% where landowner stands to benefit),
- will enable access to an 'island site' of CROW Act 2000 Part I land (20%),
- will negate the need for the public to use the road network between two off-road highways (proportion of costs defrayed will depend on length and class of road avoided) (30% minimum), and

4.4 Where the Council instigates a diversion order, the relevant department will meet the costs of processing the application. Applications that fulfil more than one of the above will be defrayed for the sum of the percentages up to a maximum of 100%.

4.5 The Council reserves the right to amend the proportion of costs defrayed where it sees fit.

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SOMERSET COUNCIL

PUBLIC PATH ORDER POLICY

**SECTIONS 116,117, 118, 118A, 118B, 119, 119A & 119B HIGHWAYS ACT 1980
AND
SECTIONS 257, 258, 259 & 261 TOWN AND COUNTRY PLANNING ACT 1990**

This policy will be reviewed as necessary if and when the 'right to apply' regulations under the Countryside & Rights of Way Act 2000 commence.

1 GENERAL

1.1 An application must:

- comply with the relevant Act,
- comply with the application criteria set out below,
- be submitted on the approved form with all relevant sections accurately completed and accompanied by a map of a suitable scale showing the proposed changes,
- confirm the applicant agrees to pay the relevant costs of the proposal, and
- confirm the applicant indemnifies the order-making authority against claims for compensation arising.

1.2 No authority for the closure of a public right of way is conferred unless and until the diversion order has been confirmed and notice of its confirmation has been published. Any alternative route must also be satisfactorily constructed, and the appropriate certificate issued before the old route is closed.

1.3 The Highways Act 1980 (HA 1980) provides that compensation may be payable in respect of depreciation of the value of an interest in land, or by damage by disturbance in the enjoyment of land as a result of the coming into operation of a diversion order made under the Act. Applicants are asked to sign the undertaking on the application form to indicate that they are prepared to defray any such compensation which may become payable. Claims for compensation are seldom made but could arise where for example a neighbour loses access to land as a result of an order or the alternative route passes over land not owned by the applicant.

2 APPLICATION CRITERIA

- 2.1 Written consent must be obtained from all owners of land crossed by the alternative route, who can be reasonably identified, and submitted with the application.
- 2.2 The existing route must be clear of obstructions prior to any application being submitted, and clear of obstructions until the order is confirmed and the new route is available for use (this requirement may be waived in circumstances when a route is obstructed by a significant or historic obstruction, e.g.: a building or expanse of water).
- 2.3 The granting of planning permission does not allow developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under Section 257 of the Town and Country Planning Act 1990 (TCPA 1990) for the diversion or stopping up of a route, will invariably be made or confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect. The requirement on local authorities to keep a public right of way open for public use will preclude a developer from using the existing way as a vehicular access to the site unless there are existing additional private rights.
- 2.4 Any proposed alternative alignment of paths under Section 257 of the TCPA1990 that is necessary as part of the construction of a new housing development, should avoid the use of estate roads wherever possible and preference should be given to the use of made-up estate paths through landscaped or open space areas away from vehicular traffic. Where alternative routes need to follow estate roads/ footways, these should comply with the design standards set out in the government and local guidance documents.
- 2.5 Minimum widths for alternative routes will be 2m for a footpath, 3m for a bridleway and 5m for a restricted byway except at locations of gates, bridges, etc. and where not physically possible.
- 2.6 Where the alternative route is likely to become an enclosed corridor or headland route, every consideration should be given as to how to reduce possible future vegetation clearance or drainage works prior to the consultation and order making process, e.g.: increased width, hedge laying, drain clearance/improvement. This requirement may be waived in exceptional circumstances.
- 2.7 Where the alternative route crosses boundaries, gaps are the preferred option. If a gap is not feasible then a gate will be considered. Any gates must be of an equal or less restrictive nature compared with the existing route. This should also be considered where any bridges are required,

including access onto these structures i.e., providing a slope instead of steps. Whilst the need for stock control is recognised, stiles will not necessarily be considered as an option on the alternative route. Applicants are encouraged to consider the least restrictive option at all other boundary points on the remainder of the path (subject to the diversion proposal) on their/their neighbours' land. Note: limitations cannot be included in Section 257 TCPA 1990 orders and therefore a separate gate authorisation application may be required).

- 2.8 The alternative route must not result in the need for a greater number of structures (e.g.: gates) than are present along the existing route. This requirement may be waived where i) the alternative route is considerably longer and the benefits gained outweigh the inconvenience of extra gates or ii) the additional gates are of a less restrictive nature than the existing route. Exceptions will be considered on a case-by-case basis.
- 2.9 Where possible, diverting over bridges with private rights should be avoided. If a diverted route must go over a bridge with private vehicular rights, then the Council will only be responsible for maintaining the bridge to a standard suitable for the lawful public use and the landowner should retain some responsibility. In some circumstances an agreement setting out this responsibility may be required. Where new bridges are to be installed (whether there was an existing structure or not) consent to undertake such work under Section 23 of the Land Drainage Act 1991 is required. All bridges should be constructed and installed to the Council's standard design and quality or designed to meet current Highways, Rights of Way and accessibility standards.
- 2.10 The alternative route must not result in a highway junction/crossing that is believed to be of greater danger to the public than the existing route.

Where the alternative route results in the crossing of a new estate road, safety for public use and appropriate construction should be checked through the technical approval process as part of any legal agreement for the construction of the road. Road crossings should have dropped kerbs and tactile paving.

- 2.11 The alternative route surface and drainage must be of an equal or superior standard and not likely to incur considerably higher maintenance costs than the existing route. This requirement may be waived in exceptional circumstances where it is considered it will not be of detriment to users of the route. Where alternative routes follow surfaced paths for applications to enable development, the construction process should be managed through a Section 38 or Section 278 legal agreement, with any possible future maintenance requirements being secured through a s106 legal agreement.

- 2.12 Where there is doubt that the criteria have been met, the decision maker as per the Council's constitution will have the final say as to whether an application is accepted or refused.
- 2.13 Where objections are received at the consultation phase of processing an application, and cannot be resolved, then a decision will be made by the relevant officer/ committee as to whether an order should be made or not.

3 APPLICATION PRIORITISATION

- 3.1 Applications will be prioritised in the following order:
1. Rail crossing diversion and extinguishment applications – under Section 119a and Section 118a HA1980, and any other applications where they may address issues of endangerment to life or harm.
 2. Applications to divert and stop up rights of way to enable development, made under Section 257 TCPA 1990. Where planning permission may be granted or a planning application has been made. (Note: an order made under Section 257 TCPA 1990 cannot be confirmed until planning permission is granted).
 3. All other Public Path Order applications, including those made under Section 118 and Section 119 HA 1980. Priority will be given to those that resolve significant obstructions or S130 notices; those that resolve issues causing significant inconvenience and those that are linked to the modification order process. Those applications which have regular, useable alternative routes will be of a lower priority

4 CHARGES

- 4.1 In accordance with the Local Authorities (Recovery of Costs of Public Path Orders) Regulations 1993, local authorities are empowered to recover their administrative/advertising costs and expenses in respect of making Public Path Orders. Applicants will have to agree to pay the full costs incurred for the officer's time spent in processing an application. This may include the officer working outside normal working hours. The costs involved may include the following:-
- consulting with prescribed bodies and organisations,
 - preparing committee reports where necessary,
 - attending site meetings with regard to the application,
 - in the case where objections are received, meeting with and negotiating with the objectors and consulting with the applicant,
 - making and confirming the order,
 - travel expenses,
 - posting notices on site,
 - drawing up specifications and plans of the works where required,

- survey and inspection costs,
- ensuring that the necessary works (signposting, waymarking, surfacing, stiles and gates, etc.) required to bring the proposed route into a fit condition for use by the public have been carried out prior to signing a certificate,
- photocopying,
- paying the advertising costs.

4.2 Applicants will be charged in two stages. The first payment will be for the consultations and making of the order and the second for dealing with any objections and confirmation of the order. Applicants will be charged if a diversion order is not confirmed, or the applicant abandons the application. Where diversion orders are promoted by the Council and attract objections, the County Council will bear its own costs involved in defending the order at any subsequent hearings, public inquiries and appeals.

4.3 The following are examples (not exhaustive) where the above costs charged to the applicant may be defrayed in part or in full where the application (figure in brackets is the percentage amount that would be defrayed):

- will address a known vulnerable road user accident location (50%),
- will fulfil a RoWIP proposal; either through diversion or diversion and creation – (percentage of cost defrayed dependent upon assessment of proposal)
- improves the safety and/or scenic value of a regionally/nationally promoted route (50-100%),
- resolves a definitive map anomaly, including where development has taken place by previous landowner (50-100%),
- resolves natural obstructions, e.g.: erosion/issues of public safety (100%, 50% where landowner stands to benefit),
- will enable access to an 'island site' of CROW Act 2000 Part I land (20%),
- will negate the need for the public to use the road network between two off-road highways (proportion of costs defrayed will depend on length and class of road avoided) (30% minimum), and

4.4 Where the Council instigates a diversion order, the relevant department will meet the costs of processing the application. Applications that fulfil more than one of the above will be defrayed for the sum of the percentages up to a maximum of 100%.

4.5 The Council reserves the right to amend the proportion of costs defrayed where it sees fit.

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SOMERSET COUNTY COUNCIL

DIVERSION OR STOPPING UP OF PUBLIC RIGHTS OF WAY

Highways Act 1980 – Sections 116, 117, 118 and 119 (as amended by the Countryside and Rights of Way Act 2000)

Town and Country Planning Act – Sections 257, 258, 259 and 261

- In accordance with the provisions of Section 119 of the Highways Act 1980, any person may make application to the Highway Authority to divert a footpath, bridleway or restricted byway. Byways open to all traffic are dealt with by application to Magistrates' Court under Section 116 of the Highways Act 1980. The Highway Authority may also consider on occasions to apply to the Magistrates' Court for a diversion under Section 116.
- The Somerset County Council Diversion Policy is available for viewing at <http://www.somerset.gov.uk/environment-and-planning/rights-of-way/apply-to-divert-a-public-right-of-way/> or at Somerset County Council, please contact 0300 123 2224 to make an appointment.
- Generally proposals will only be acceptable where they maintain existing links to connecting paths and offer at least a comparable alternative path or provide new links to other paths. Consideration should be given to whether there is an alternative to altering the public right of way.
- The Council does not generally support applications for extinguishment orders unless they are part of a wider package with compensating public benefit. The Council accept stand-alone applications for extinguishments only in exceptional circumstances.
- The Council has developed its procedure for dealing with Public Path Order applications in accordance with government guidance and best practice. Further guidance on the alteration of public paths is contained within the booklet 'NE112 – A guide to Definitive Maps and changes to public rights of way, available on the Natural England website
<http://naturalengland.etraderstores.com/NaturalEnglandShop/product.aspx?ProductID=8f4433c1-0c14-488e-96b6-b7d67bacbfd4>
- It should be noted that this is a power of the Highway Authority and not a statutory duty.
- It is essential that any application is carefully thought out and discussed with the Area Rights of Way Officer and / or Rights of Way Diversion Officer and meets the legislative/application criteria prior to being submitted. It is essential to identify as far as possible the interests of the different user groups entitled to use the route as well as the requirements of the landowner/occupier. This will help to develop proposals that satisfy the legal tests to be applied and the needs of all the interested parties.

Any new path furniture should comply to British Standards where appropriate*. The Area Rights of Way Warden will be able to advise you on this.

- An application will only be accepted if
 - it complies with s118/9 Highways Act 1980,
 - it complies with the application criteria set out below,

*some exceptions may apply

- it is submitted on the approved form with all relevant sections accurately completed and accompanied by a map of a suitable scale showing the proposed changes,
 - the applicant agrees to pay the relevant costs of the proposal, and
 - the applicant indemnifies the order-making authority against claims for compensation arising.
- Any attempt to change a right of way where it and adjoining paths cannot be easily used, or where the public right to use a path is being challenged by the owner/lessee/occupier is likely to result in objection being made to the proposal. Similarly, any proposal that does not demonstrate a positive benefit to the public or the owner/lessee/occupier may not succeed.
 - The County Council is the Highway Authority for Somerset and can make Diversion Orders under the Highways Act 1980. The County Council will only determine an application if it demonstrates a benefit to the public and/or the landowner, occupier or lessee, e.g.: better surface, better views, less stiles and gates, etc and meets the criteria below. A District Council also has the power to make orders under the Act. Orders processed by the District Councils that do not meet the criteria will be subject to objection by the County Council unless sufficient evidence can be produced to justify variance from the County Council's policy. The County and District Councils where appropriate are the Order Making Authority.
 - The statutory procedure, which has to be followed for the making of diversion or stopping-up orders, involves advertising the proposal in a local newspaper to enable persons to object if they so wish, and again when the Order is confirmed.
 - Authorities are empowered to charge applicants the actual costs of making and advertising orders, including the costs of consultation prior to making an order. These costs, together with the advertising costs, usually amount to between £1,500 and £2,000 (although the final total could be higher in some cases). Applicants are asked to sign the undertaking on the application form agreeing to pay in full the Council's reasonable costs and expenses incurred.
 - Where there is doubt that the criteria have been met, the Team Leader will have the final say as to whether an application is accepted or refused. Where objections are received at the consultation phase of processing an application, and cannot be resolved, then a decision will be made by the Team Leader as to whether to proceed to the order making stage.
 - Section 28 of the Highways Act 1980, as applied by Section 121 (2) of the Act, provides that compensation may be payable in respect of depreciation of the value of an interest in land, or by damage by disturbance in the enjoyment of land as a result of the coming into operation of an Order which the Council may decide to make under that Act. Applicants are asked to sign the undertaking on the application form to indicate that they will be prepared to defray any such compensation which may become payable if it proves necessary to arrange the extinguishment or diversion by means of an Order under the Highways Act 1980. (Claims for compensation are seldom made but could arise where for example a neighbour loses access to land as a result of the Order).
 - No authority for the closure of a public right of way is conferred unless and until the

Order has been confirmed and notice of its confirmation has been published, (or under Section 116 of the Highways Act 1980, without a final certificate issued by the Magistrates except in special circumstances). Any alternative route must also be satisfactorily constructed and the appropriate certificate issued before the old route is closed. Prior obstruction of or interference with a public right of way is an offence and it may make it impossible to proceed with the application.

- Where the new route is to be enclosed, a diversion order will, wherever it is possible, cite a width for a footpath of 2m (minimum) and for a bridleway of 4m. For unrestricted widths the alternative route minimum widths will be 2m for a footpath, 3m for a bridleway and 5m for a restricted byway except at locations of gates, bridges, etc. and where not physically possible.
- Where a right of way is diverted to a field boundary or headland, the diverted route must not be ploughed at all, as under the Highways Act 1980, Section 134 (2) footpaths and bridleways which follow the headland or sides of a field or enclosure are not given the right to be ploughed.
- Proposals to stop-up or divert public rights of way tend to arouse local feeling; the statutory procedure for an Order may take some time to complete, especially if objections to an Order are not subsequently withdrawn, this is because the proposal has then got to be referred to the Secretary of State for him to determine, possibly after a public inquiry has been held. Considerable work is involved and applicants are asked to realise that matters of this sort, whilst dealt with as expeditiously as possible, may take some time. The County Council reserves the right to abandon any Order and refund any charges as appropriate.
- To reiterate, the diversion process (Section 119 Highways Act 1980) is subject to public consultation. Somerset County Council can make diversion orders, but if there are objections we cannot confirm the orders. It is the confirmation of the order that brings the diversion into effect and therefore **there is no guarantee that the application will be successful**. However, the Planning Inspectorate has the power to confirm orders to which there are objections if there is a case to be made.

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SOMERSET COUNCIL

DIVERSION OR STOPPING UP OF PUBLIC RIGHTS OF WAY

Highways Act 1980 – Sections 116, 117, 118, 118A, 119, 119A & 119B
Town and Country Planning Act – Sections 257, 258, 259 and 261

- The Somerset Council is the Local Highway and Local Planning Authority for Somerset and therefore the Order Making Authority. The Council can make Orders to extinguish or divert footpath, bridleways or restricted byways under the following provisions:
 - Section 118 HA1980 – where a right of way should be stopped up on the grounds that it is not needed for public use.
 - Section 119 HA1980 - where it is expedient to divert a right of way in the interests of the landowner or public.
 - Section 118a / S119a HA1980 – where it is expedient to stop up / divert a right of way in the interests of public safety when using the right of way which crosses a railway (other than by tunnel or bridge) and there is no reasonably practicable way to make the crossing safer.
 - Section 118b / S119b HA1980 – where it is expedient to stop up / divert a right of way for the purposes of preventing or reducing crime, where the right of way is facilitating the issue for adjoining or adjacent land (including schools). Police evidence / incident numbers will be required.
 - Section 257 TCPA1990 – where it is necessary to stop up / divert a right of way to allow development to be carried out. An application of this type should only be submitted if the diversion or stopping up of the path is necessary as a result of the proposed development physically affecting the current route of the path. An order may provide for the creation of an alternative highway for use as a replacement for the one authorized by the order to be stopped up or diverted, or for the improvement of an existing highway for such use. Therefore if it is only desirable to move a path due to nearby development that would not actually have the effect of obstructing the path, then you should make an application under the Highways Act 1980 instead.
- Byways open to all traffic are dealt with by application to Magistrates' Court under Section 116 of the Highways Act 1980. The Highway Authority may also consider on occasions to apply to the Magistrates' Court for a diversion under Section 116.
 - An application must:
 - comply with the relevant Act,
 - comply with the application criteria set out in the Council's Public Path Order Policy
 - be submitted on the approved form with all relevant sections accurately completed and accompanied by a map of a suitable scale showing the proposed changes,
 - confirm the applicant agrees to pay the relevant costs of the proposal, and
 - confirm the applicant indemnifies the order-making authority against claims for compensation arising.

- The Somerset Council Public Path Order Policy is available for viewing on our website or please contact 0300 123 2224 to make an appointment.
- Generally proposals will only be acceptable where they maintain existing links to connecting paths and offer at least a comparable alternative path or provide new links to other paths. Consideration should be given to whether there is an alternative to altering the public right of way.
- The Council does not generally support applications for extinguishment orders unless they are part of a wider package with compensating public benefit. The Council accept stand-alone applications for extinguishments only in exceptional circumstances.
- The Council has developed its procedure for dealing with Public Path Order applications in accordance with government guidance and best practice. Further guidance on the alteration of public paths is contained within the booklet 'NE112 – A guide to Definitive Maps and changes to public rights of way, available on the Natural England website
<http://naturalengland.etraderstores.com/NaturalEnglandShop/product.aspx?ProductID=8f4433c1-0c14-488e-96b6-b7d67bacbfd4>
- It should be noted that these are powers of the Highway Authority and Local Planning Authority and not statutory duties. The granting of planning permission for development of land over which there is a public right of way does not in itself constitute authority for interference with the right of way or for its closure or diversion. If the Authority refuses to make an order, the applicant may ask the Secretary of State to use his powers under the respective acts to make a diversion or stopping up order.
- Any attempt to change a right of way where it and adjoining paths cannot be easily used, or where the public right to use a path is being challenged by the owner/lessee/occupier is likely to result in objection being made to the proposal. Similarly, any proposal that does not demonstrate a positive benefit to the public or the owner/lessee/occupier may not succeed.
- It is essential that any application is carefully thought out and discussed with the Area Rights of Way Officer and / or Rights of Way Diversion Officer and meets the legislative/application criteria prior to being submitted. It is essential to identify as far as possible the interests of the different user groups entitled to use the route as well as the requirements of the landowner/occupier. This will help to develop proposals that satisfy the legal tests to be applied and the needs of all the interested parties.
- Any new path furniture should comply to British Standards where appropriate (some exceptions may apply). Advice should be sought from the Area Rights of Way Warden.
- Minimum widths for alternative route will be 2m for a footpath, 3m for a bridleway and 5m for a restricted byway except at locations of gates, bridges etc and where not physically possible. Where the alternative route is likely to become an enclosed corridor or headland route, every consideration should be given as to how to reduce possible future vegetation clearance or drainage works prior to the consultation and

order making process e.g. increased width, hedge laying, drain clearance/improvement. This requirement may be waived in exceptional circumstances.

- Where a right of way is diverted to a field boundary or headland, the diverted route must not be ploughed at all, as under the Highways Act 1980, Section 134 (2) footpaths and bridleways which follow the headland or sides of a field or enclosure are not given the right to be ploughed.
- Where there is doubt that the criteria have been met, the decision maker as per the Council's constitution will have the final say as to whether an application is accepted or refused. Where objections are received at the consultation phase of processing an application, and cannot be resolved, then a decision will be made by the relevant officer/ committee as to whether to proceed to the order making stage.
- The statutory procedure, which must be followed for the making of diversion or stopping-up orders, involves advertising the proposal in a local newspaper to enable persons to object if they so wish, and again when the Order is confirmed.
- Authorities are empowered to charge applicants the actual costs of making, advertising and confirming orders, including the costs of consultation prior to making an order. These costs, together with the advertising costs, usually amount to between £1,500 and £2,000 (although the final total could be higher in some cases). Applicants are asked to sign the undertaking on the application form agreeing to pay in full the Council's reasonable costs and expenses incurred. However, the Council reserves the right to waive costs at its discretion. The applicant will be responsible for the costs relating to the physical works associated with any order.
- Section 28 of the Highways Act 1980, as applied by Section 121 (2) of the Act, provides that compensation may be payable in respect of depreciation of the value of an interest in land, or by damage by disturbance in the enjoyment of land as a result of the coming into operation of an Order which the Council may decide to make under that Act. Applicants are asked to sign the undertaking on the application form to indicate that they will be prepared to defray any such compensation which may become payable if it proves necessary to arrange the extinguishment or diversion by means of an Order under the Highways Act 1980. (Claims for compensation are seldom made but could arise where for example a neighbour loses access to land as a result of the Order).
- No authority for the closure of a public right of way is conferred unless and until the Order has been confirmed and notice of its confirmation has been published, (or under Section 116 of the Highways Act 1980, without a final certificate issued by the Magistrates except in special circumstances). Any alternative route must also be satisfactorily constructed and the appropriate certificate issued before the old route is closed. Prior obstruction of or interference with a public right of way is an offence and it may make it impossible to proceed with the application.
- Proposals to stop-up or divert public rights of way tend to arouse local feeling; the statutory procedure for an Order may take some time to complete, especially if objections to an Order are not subsequently withdrawn, this is because the proposal

has then got to be referred to the Secretary of State for him to determine, possibly after a public inquiry has been held. Considerable work is involved and applicants are asked to realise that matters of this sort, whilst dealt with as expeditiously as possible, may take some time. The Council reserves the right to abandon any Order and refund any charges as appropriate.

- To reiterate, the diversion process is subject to public consultation. Somerset Council can make diversion orders, but if there are objections we cannot confirm the orders. It is the confirmation of the order that brings the diversion into effect and therefore **there is no guarantee that the application will be successful.** However, the Planning Inspectorate has the power to confirm orders to which there are objections if there is a case to be made.

SOMERSET COUNCIL**DIVERSION OR STOPPING UP OF PUBLIC RIGHTS OF WAY**

Highways Act 1980 – Sections 116, 117, 118, 118A, 119, 119A & 119B
Town and Country Planning Act – Sections 257, 258, 259 and 261

- The Somerset Council is the Local Highway and Local Planning Authority for Somerset and therefore the Order Making Authority. The Council can make Orders to extinguish or divert footpath, bridleways or restricted byways under the following provisions will only determine an application if it demonstrates the following:
 - Section 118 HA1980 – where a right of way should be stopped up on the grounds that it is not needed for public use.
 - Section 119 HA1980 - where it is expedient to divert a right of way in the interests of the landowner or public.
 - Section 118a / S119a HA1980 – where it is expedient to stop up / divert a right of way in the interests of public safety when using the right of way which crosses a railway (other than by tunnel or bridge) and there is no reasonably practicable way to make the crossing safer.
 - Section 118b / S119b HA1980 – where it is expedient to stop up / divert a right of way for the purposes of preventing or reducing crime, where the right of way is facilitating the issue for adjoining or adjacent land (including schools). Police evidence / incident numbers will be required.
 - Section 257 TCPA1990 – where it is necessary to stop up / divert a right of way to allow development to be carried out. An application of this type should only be submitted if the diversion or stopping up of the path is necessary as a result of the proposed development physically affecting the current route of the path. An order may provide for the creation of an alternative highway for use as a replacement for the one authorized by the order to be stopped up or diverted, or for the improvement of an existing highway for such use. Therefore, if it is only desirable to move a path due to nearby development that would not actually have the effect of obstructing the path, then you should make an application under the Highways Act 1980 instead.
- Byways open to all traffic are dealt with by application to Magistrates' Court under Section 116 of the Highways Act 1980. The Highway Authority may also consider on occasions to apply to the Magistrates' Court for a diversion under Section 116.
- An application must:
 - comply with the relevant Act,
 - comply with the application criteria set out in the Council's Public Path Order Policy
 - be submitted on the approved form with all relevant sections accurately completed and accompanied by a map of a suitable scale showing the proposed changes,
 - confirm the applicant agrees to pay the relevant costs of the proposal, and
 - confirm the applicant indemnifies the order-making authority against claims for compensation arising.

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- Generally, proposals will only be acceptable where they maintain existing links to connecting paths and offer at least a comparable alternative path or provide new links to other paths. Consideration should be given to whether there is an alternative to altering the public right of way.
- The Council does not generally support applications for extinguishment orders unless they are part of a wider package with compensating public benefit. The Council accept stand-alone applications for extinguishments only in exceptional circumstances.
- The Council has developed its procedure for dealing with Public Path Order applications in accordance with government guidance and best practice. Further guidance on the alteration of public paths is contained within the booklet ' NE112 – A guide to Definitive Maps and changes to public rights of way, available on the Natural England website
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- It should be noted that these are powers of the Highway Authority and Local Planning Authority and not statutory duties. The granting of planning permission for development of land over which there is a public right of way does not in itself constitute authority for interference with the right of way or for its closure or diversion. If the Authority refuses to make an order, the applicant may ask the Secretary of State to use his powers under the respective acts to make a diversion or stopping up order.
- Any attempt to change a right of way where it and adjoining paths cannot be easily used, or where the public right to use a path is being challenged by the owner/lessee/occupier is likely to result in objection being made to the proposal. Similarly, any proposal that does not demonstrate a positive benefit to the public or the owner/lessee/occupier may not succeed.
- It is essential that any application is carefully thought out and discussed with the Area Rights of Way Officer and / or Rights of Way Diversion Officer and meets the legislative/application criteria prior to being submitted. It is essential to identify as far as possible the interests of the different user groups entitled to use the route as well as the requirements of the landowner/occupier. This will help to develop proposals that satisfy the legal tests to be applied and the needs of all the interested parties.
- Any new path furniture should comply to British Standards where appropriate (some exceptions may apply). Advice should be sought from the Area Rights of Way Warden.
- Minimum widths for alternative route will be 2m for a footpath, 3m for a bridleway and 5m for a restricted byway except at locations of gates, bridges etc and where not physically possible. Where the alternative route is likely to become an enclosed corridor or headland route, every consideration should be given as to how to reduce

possible future vegetation clearance or drainage works prior to the consultation and order making process e.g., increased width, hedge laying, drain clearance/improvement. This requirement may be waived in exceptional circumstances.

- Where a right of way is diverted to a field boundary or headland, the diverted route must not be ploughed at all, as under the Highways Act 1980, Section 134 (2) footpaths and bridleways which follow the headland or sides of a field or enclosure are not given the right to be ploughed.
- Where there is doubt that the criteria have been met, the decisionmaker as per the Council's constitution will have the final say as to whether an application is accepted or refused. Where objections are received at the consultation phase of processing an application, and cannot be resolved, then a decision will be made by the relevant officer/ committee as to whether to proceed to the order making stage.
- The statutory procedure, which must be followed for the making of diversion or stopping-up orders, involves advertising the proposal in a local newspaper to enable persons to object if they so wish, and again when the Order is confirmed.
- Authorities are empowered to charge applicants the actual costs of making, advertising and confirming orders, including the costs of consultation prior to making an order. These costs, together with the advertising costs, usually amount to between £1,500 and £2,000 (although the final total could be higher in some cases). Applicants are asked to sign the undertaking on the application form agreeing to pay in full the Council's reasonable costs and expenses incurred. However, the Council reserves the right to waive costs at its discretion. The applicant will be responsible for the costs relating to the physical works associated with any order
- Section 28 of the Highways Act 1980, as applied by Section 121 (2) of the Act, provides that compensation may be payable in respect of depreciation of the value of an interest in land, or by damage by disturbance in the enjoyment of land as a result of the coming into operation of an Order which the Council may decide to make under that Act. Applicants are asked to sign the undertaking on the application form to indicate that they will be prepared to defray any such compensation which may become payable if it proves necessary to arrange the extinguishment or diversion by means of an Order under the Highways Act 1980. (Claims for compensation are seldom made but could arise where for example a neighbour loses access to land as a result of the Order).
- No authority for the closure of a public right of way is conferred unless and until the Order has been confirmed and notice of its confirmation has been published, (or under Section 116 of the Highways Act 1980, without a final certificate issued by the Magistrates except in special circumstances). Any alternative route must also be satisfactorily constructed and the appropriate certificate issued before the old route is closed. Prior obstruction of or interference with a public right of way is an offence and it may make it impossible to proceed with the application.
- Proposals to stop-up or divert public rights of way tend to arouse local feeling; the statutory procedure for an Order may take some time to complete, especially if objections to an Order are not subsequently withdrawn, this is because the proposal

has then got to be referred to the Secretary of State for him to determine, possibly after a public inquiry has been held. Considerable work is involved and applicants are asked to realise that matters of this sort, whilst dealt with as expeditiously as possible, may take some time. The Council reserves the right to abandon any Order and refund any charges as appropriate.

- To reiterate, the diversion process is subject to public consultation. Somerset Council can make diversion orders, but if there are objections we cannot confirm the orders. It is the confirmation of the order that brings the diversion into effect and therefore **there is no guarantee that the application will be successful.** However, the Planning Inspectorate has the power to confirm orders to which there are objections if there is a case to be made.

Briefing to Somerset Planning Committees - Somerset Statement of Community Involvement Consultation

February 2023

1. Introduction

Between 1st February and 16th March 2023 the Somerset Councils will be consulting on a draft Statement of Community Involvement (SCI) for the new Somerset Council. Following public consultation, the intention is to then finalise the document to be formally adopted as soon as possible following vesting day. The draft SCI is appended to this document at **Appendix A.**

2. What is the Statement of Community Involvement

The SCI sets out how the Local Planning Authority will engage and consult with the community and stakeholders on planning matters. This includes consultation on planning policy (e.g. Local Plans, Neighbourhood Plans) and the Development Management (e.g. determination of planning applications). The SCI therefore includes who we will consult through the various stages of Local Plan preparation, and what consultation methods we will use. In relation to Development Management, it includes details of consultees and neighbours who will be notified of planning applications and expectations for developers and agents in terms of pre-application engagement.

Many members of committee will already be aware of existing separate SCIs that are already in place within their separate Councils. These have been prepared at different times and reflect the specific planning functions of the different Councils under the two-tier system. With the formation of the new Somerset Unitary there is therefore a need to prepare a new single SCI for Somerset as a whole. This will ensure a consistent approach to how we engage with our communities on planning matters after vesting day.

3. How to feedback

As part of the consultation we are keen to hear the views of members of existing planning committees, so these can be taken into account in taking the document forward. Please therefore provide any feedback you have through discussion at committee. Alternatively members can email any comments to their respective planning policy contacts, or comment directly via the online consultation portal.

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Appendix A to Report to Executive on 18 January 2023

Statement of Community Involvement – Draft for public consultation

Draft Statement of Community Involvement in Planning Somerset Council

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1. Introduction

This Statement of Community Involvement (SCI) sets out how and when the new Somerset Council will engage the community and stakeholders in planning policy documents and planning proposals. It outlines how and at what stages consultation will be carried out.

Somerset Council is responsible for determining and consulting on planning matters within the authority area, including applications for new development, prior approvals, works to listed buildings and trees, mineral and waste development, and planning enforcement.

This is the first SCI for Somerset Council. It replaces the SCIs for the former districts of Mendip, Sedgemoor, Somerset West and Taunton and South Somerset, and for Somerset County Council. Part of Exmoor National Park lies within the Council's area but Exmoor National Park Authority is responsible for planning matters within their area and so they produce their own separate SCI.

There are two main areas of planning that you can be involved in:

- **Planning Policy** (including Local Plan and Minerals and Waste Plan preparation and preparation of other planning policy documents) – these documents set out the policies or guidance that development proposals will be assessed against.
- **Planning Proposals** (Development Management) – some types of development require a planning application to be submitted and approved. Planning applications can be commented on by the public. Some applications are 'permitted development' and are not required to be advertised.

Consultation will occur in the preparation of policy documents and when planning applications are validated (the process undertaken by the Council to check that new planning applications are complete and include all relevant supporting information). The Council aims to give consultees, stakeholders, and the general public the opportunity to respond to consultations and influence decisions within their area.

The intention of the guidelines set out in this document is to ensure that the process for responding to consultations or influencing decisions is understood and accessible so everyone will be able to give their views on proposals quickly and easily.

Local communities often have a good understanding and detailed knowledge of the issues in their area. The views of both local communities and stakeholders should be considered through plan-making and the planning application processes to ensure the best decisions for the community.

2. Legislative Requirements

Regulation 18(1) of the Planning and Compulsory Purchase Act 2004¹ requires authorities to produce a Statement of Community Involvement (SCI).

The Council has a legal duty to consult in the preparation of Local Plans and on relevant planning applications. These requirements are set out in several pieces of legislation set out below:

- Town and Country Planning Act (1990)² (as amended)
- Planning and Compulsory Purchase Act (2004)³ (as amended)
- Town and Country Planning (Development Management Procedure) (England) Order (2010)⁴ (as amended)
- Localism Act (2011)⁵ (as amended)
- Neighbourhood Planning (General) Regulations (2012)⁶ (as amended)
- Town and Country Planning (Local Planning) (England) Regulations 2012⁷ (as amended)
- Levelling Up and Regeneration Bill (emerging)⁸

3. Equalities and Diversity

This SCI has been prepared in line with equalities legislation and has been completed with an Equalities Impact Assessment.

The Equality Act (2010)⁹ defines nine “protected characteristics”: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Council will work to ensure that these characteristics do not affect people’s ability to respond to our consultation or have their views heard, and impact on these characteristics will be considered in the determination and adoption processes.

Some groups are harder to engage than others and traditional consultation methods may not be effective and, in some cases, further support may be necessary. The Council will endeavour to take account of barriers faced by groups or individuals.

All plan making documents are proposed to be written clearly and concisely with any technical terms or language explained. A translation facilities box will be included on

¹ <https://www.legislation.gov.uk/ukpga/2004/5/contents>

² <https://www.legislation.gov.uk/ukpga/1990/8/contents>

³ <https://www.legislation.gov.uk/ukpga/2004/5/contents>

⁴ <https://www.legislation.gov.uk/uksi/2010/2184/contents/made>

⁵ <https://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

⁶ <https://www.legislation.gov.uk/uksi/2012/637/contents/made>

⁷ <https://www.legislation.gov.uk/uksi/2012/767/contents/made>

⁸ <https://bills.parliament.uk/bills/3155>

⁹ <https://www.gov.uk/guidance/equality-act-2010-guidance>

all consultation and adopted DPDs and SPDs, and follow accessibility guidelines. We will also offer a clear and appropriate timescale for comments to be received to allow everyone the opportunity to participate.

As part of the Public Sector Equality Duty¹⁰ the Council will consider all individuals when carrying out day-to-day work. We will have due regard to:

- Eliminating discrimination
- Advancing equality of opportunity

For those who are unable to access information digitally, alternative arrangements can be made such as supported digital viewing, paper copies which could be made available on request or telephone support. Letters of comment can be received online, by email or by post and can be made on behalf of other individuals. They may also be signposted to suitable support such as Planning Aid.

4. Planning Policy

4.1 The Local Plan and Minerals and Waste Plans (“Local Plans”)

This section sets out how the Council will engage the public in any review of policies and future policy making. The minimum requirements for public engagement in planning policy making is set out in various legislation and regulations including the Town and Country Planning Act, the Planning and Compulsory Purchase Act, The Environmental Assessment of Plans and Programmes Regulations 2004, the Conservation of Habitats and Species Regulations, as well as relevant requirements set out under EU Directives. The Council will always meet these requirements and seek to go beyond them where appropriate.

Alongside the National Planning Policy Framework, Local Plans and any made Neighbourhood Plans form the statutory policy framework within which all decisions on planning applications are made. Development Consent Orders follow a different process as set out in Section 5 below.

Within Somerset, the former district level Local Plans will apply to their specific district geographical areas until superseded by a Somerset-wide Local Plan. Somerset Council are required to adopt a new Local Plan by 1 April 2028. Exmoor National Park Authority is the planning authority for the National Park area and has its own Local Plan.

The Local Plans set out the principal policies and proposals for land use and development, contains overall vision and objectives, the development strategy, allocate sites for development and present a suite of policies used in decisions on planning applications. Once a Local Plan is adopted, it must be reviewed every five years to establish whether it requires updating.

¹⁰ <https://www.gov.uk/government/publications/public-sector-equality-duty>

Supplementary Planning Documents (SPDs) that provide guidance based on the Local Plan policies may be produced from time to time. The arrangements for consultation on SPDs are set out in paragraph 4.2 below.

Who we will notify, consult and involve in plan making

In respect of plan making, the Council is required to engage with some groups to meet the regulations. These are set out below:

Duty to Co-operate Bodies - The Localism Act 2011 places a 'duty to co-operate' on local planning authorities and neighbouring authorities and various public bodies for any strategic cross boundary issues. These bodies play a key role in delivering local aspirations, and cooperation between them and local planning authorities is vital in order to make Plans as effective as possible. These bodies include:

- The Environment Agency
- Historic England
- Natural England
- Civil Aviation Authority
- Homes England
- NHS Somerset Integrated Care Board
- National Health Service
- Office of Rail Regulation
- National Highways
- Marine Management Organisation
- Adjoining Principal Authorities
- Local Enterprise Partnership
- Local Nature Partnership

Specific consultation bodies – are agencies that must be consulted if they are affected by the proposals because they have an interest in the matter. These include organisations such as the Environment Agency and Wessex Water. The full list is at **Appendix 1**.

General consultation bodies – these include local community or amenity groups, residents' associations, businesses, developers, landowners, and other agencies. In particular, the Council will seek to engage with hard-to-reach groups and vulnerable groups. The types of groups are at **Appendix 1**.

Residents and others with an interest – those who live in, or carry out business in, the area.

The Duty to Co-operate bodies, specific and general consultation bodies are contacted formally by letter or email. Members of the public and/or other interested parties who have registered to be on the online Consultation Portal are also notified of any consultation. Members of the public are informed through general publicity, including the local newspaper, social media, and the Council website.

When and how we will notify, consult, and involve people in plan making

Plan making is undertaken in stages with the opportunity for the community and relevant stakeholders to engage during the process. This includes the partial update of a plan following the required five yearly review. Whilst engagement is an ongoing process throughout plan making, there are specific periods of consultation that are held.

The Council updates its Local Development Scheme, which is the programme for Plan production and review, from time to time. It will be published on the Council's website.

Evidence gathering and identification of issues for the Local Plans:

- The Council researches and gathers evidence to guide the content of the Local Plan. In this early stage of plan production, informal engagement can continue throughout this period and using a variety of formats.
- The Council may use methods such as workshops or surveys to ensure that the Council receives the relevant specialist and local opinions at an early stage. Where appropriate, individuals and parties on the Council's consultee database will be notified.
- It may also involve activities such as the 'Call for Sites' in which interested landowners and their agents are invited to identify their land for future development.
- Dedicated briefings and workshops may be held for specific evidence base studies. Invitations to attend will depend upon the subject matter and targeted consultation may be undertaken with specific interest groups to check the findings or look at information in more detail.

The evidence gathering stage is informed by the findings of studies that can give rise to the need for further investigation. When a degree of understanding has been reached regarding the issues that the Plan should address, the work proceeds to the next stage.

Production of the Draft Local Plan (Regulation 18):

- The Council develops a draft Local Plan (or partial review of the plan) containing proposed policy approaches. The Draft Local Plan undergoes a formal consultation period under Regulation 18 of the Town and County Planning (Local Planning) (England) Regulations 2012. This will last for a minimum of 6 weeks.
- At this stage the Council will make people aware of the consultation primarily through the website, social media coverage, the consultation portal, and the press.
- Other methods that may be used to involve people in the consultation include videos, quick polls, workshops, presentations, surveys, newsletters, forums, or drop-in events.
- The Draft Local Plan will be made available in a range of formats including electronic and hard copies placed at inspection points which may include some libraries and Council offices.
- Due to the large number of responses that we receive, we do not provide individual responses to comments received.

The methods for making comments and the deadline for submission will be set out clearly as part of the consultation to ensure that people who want to comment can do so.

It is recognised that some methods may not suit everybody. However, a variety of methods will be used to enable a greater range of people to be involved in the consultation. The Council will make every reasonable effort to encourage under-represented groups to participate.

Planning policy often includes acronyms and technical language so the Council will do its best to simplify language where possible and may provide 'easy read' summaries. Council officers are always willing to offer advice and explanations if required and can provide documents in a variety of formats, such as Braille or in foreign languages, on request. Further information can be found in the Equalities section of this document.

Following the consultation on the draft Local Plan, the Council will process the comments received. A statement of consultation will be produced containing an overview of the consultation activities undertaken, summary of comments received and how or what the Council will do to take these into account as part of the Local Plan.

The Council will consider the issues raised, and may undertake further work on the Local Plan, which may include further evidence gathering, before it finalises the Local Plan for the 'publication' stage under Regulation 19.

Publication of the Submission Local Plan (Regulation 19):

- Having considered issues raised during the Regulation 18 stage, the Council publishes the Submission Local Plan (or partial review of the plan). This is the version of the Local Plan that it intends to submit to the Secretary of State for examination.
- The Council publicises the Submission Local Plan for formal representations (comments) under Regulation 19 of the Town and County Planning (Local Planning) (England) Regulations 2012. This will last for a minimum of 6 weeks.
- This allows respondents to make representations to explain in writing on a specific electronic form (available in a paper format if required) why they consider that the plan meets (or does not meet) the governments requirements for Local Plans and whether they seek to appear at an examination public hearing session. There will be a guidance note to help fill in the form.
- Any representations (comments) made at this stage cannot remain confidential as the examination is a public process.
- The Submission Local Plan will be made available in a range of formats including electronic and hard copies places at inspection points which may include some libraries and Council offices.

Following the Regulation 19 publication (consultation) period, the Council will process the representations received. Each response is logged and given a unique reference number.

Each response will be posted on the Council's website. Comments and the name of the respondent will be published but any further personal details redacted in line with the General Data Protection Regulation (GDPR). This is to ensure an open and fair examination process as required by the Planning Inspectorate¹¹. A Consultation Statement including a summary of the main issues raised in the responses, and who was informed, will be submitted to the examiner as part of the process.

¹¹ Paragraph 1.21 <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice/procedure-guide-for-local-plan-examinations>

Examination of the Local Plan:

- The Council is required to submit the Submission Local Plan and all of the evidence upon which it is based for examination. This also includes the representations made on the Regulation 19 Plan. All of these documents will be included and updated on the Council's website.
- The government requires that the Submission Local Plan (or partial review) will be examined to assess whether it has been prepared in accordance with legal and procedural requirements set down by Government and whether it is 'sound'. The tests of soundness are set out in the National Planning Policy Framework paragraph 35 (or as updated).
- The examination of the Local Plan involves an Inspector(s) considering all of the written material submitted and holding public hearing sessions.
- The Council will dedicate a section of the website to the Local Plan Examination where all the material and information about the examination will be posted.
- As soon as the Council knows when the public hearing sessions will be held it will publicise these on the website and via social media.
- Those who have indicated a wish to be heard at the public hearing sessions will be contacted by the independent Programme Officer responsible for the administration of the examination.

The Council will publicise the outcome of the examination on the website, social media and in the local press.

Register online to ensure that you are consulted

The Council has an online consultation portal enabling individuals and organisations to register an interest in Council consultations, including planning policy consultations.

The online consultation portal is the council's preferred method for consultation as it enables interested people to manage their own involvement, keep their contact details up-to-date and withdraw consent if they no longer wish to be contacted.

Groups are often under-represented in the consultation process and are therefore encouraged to sign up to the consultation portal so that views can be gathered through the consultation process to appropriately reflect people within our society.

The Council will maintain a database of postal addresses of individuals and organisations who are not able to use or access the online consultation portal to ensure that they can still be involved with the development of local plans and other policy documents. Anyone on a Local Plans postal database with one of the former District or County Councils in Somerset will need to re-provide us with postal details due to the General Data Protection Regulation (GDPR).

GDPR requirements will be followed to ensure that personal data is only required and retained where proportionate and necessary, is only gathered where explicit consent has been provided, is kept securely, and is not disclosed to others.

Evidence base documents

As part of the plan making process, the Council produces (or will commission external consultants on their behalf) an evidence base of documents that inform the Local Plans. Where appropriate, the Council will consult relevant “specific” or “general” consultation bodies on the contents (see Appendix 1).

Strategic Environmental Assessment and Sustainability Appraisal

A Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA) Scoping Report is produced when starting the process of Local Plan preparation. This provides a basis for assessing the economic, environmental, and social impact of policies and proposals. In accordance with government guidelines, the Council will ensure that any sustainability appraisal developed is compliant with the Strategic Environmental Assessment Regulations.

A SA/SEA is an iterative process undertaken when preparing each stage of the Local Plan. It informs decisions taken on policy options in relation to strategies, policies, and allocations. The report is consulted on at key points throughout the plan-making process, at the same time as the Local Plan.

4.2 Supplementary Planning Documents

Supplementary Planning Documents (SPD) are non-statutory planning policy documents. They provide additional information or detail on how particular policies in the Local Plan should be applied. The process for the preparation of SPDs is simpler than the more formal requirements of a Local Plan. There is no requirement to undergo independent examination prior to adoption.

Legislation¹² requires the following with respect of public participation when preparing an SPD.

¹² <https://www.legislation.gov.uk/ukxi/2012/767/contents/made>

- Depending upon the subject of the Supplementary Planning Document the Council may invite specific groups or organisations with specialist interest in the subject matter to engage in workshops or provide specific evidence to support production of the Supplementary Planning Document or Guidance.
- When the Council has produced its draft Supplementary Planning Document it will undertake press, Council website and social media coverage of the draft and contact those on its consultation portal inviting comments on the draft. There will be a minimum period of 4 weeks to make representations.
- The comments on the Supplementary Planning Document will all be published on the Council website (with personal contact details redacted).
- A summary of the issues raised and how they are addressed will also be posted on the website.
- The Council will publicise the adoption of the Supplementary Planning Document in the local press, social media and on the Council website. It will inform those who have requested notification of adoption.

From time to time other guidance may be produced that is agreed by the Council to be a material planning consideration in making decisions on planning proposals or documents. The arrangements for consultation will broadly follow that for Supplementary Planning Documents but may vary according to the guidance.

4.3 Neighbourhood Development Plans

Neighbourhood Planning was introduced by the Localism Act 2011. Legislation¹³ sets out the regulatory requirements for making a Neighbourhood Plan.

A Neighbourhood Plan is a community led and prepared document. It guides the future development, regeneration and conservation of the parish or neighbourhood area it covers. The Plan may contain a vision, aims, planning policies, proposals for improving the area or new facilities and site allocations. It can deal with a range of social, economic, and environmental issues, for example housing, employment, heritage, transport.

The production of a Neighbourhood Development Plan is the responsibility of a Parish, Town Council or Neighbourhood Forum. However, the Council has some responsibilities with respect to the process.

The Council has a responsibility to advise and assist groups undertaking all forms of Neighbourhood Planning. The Council's policy in this respect is set out below:

¹³ <https://www.legislation.gov.uk/ukxi/2012/637/contents/made>

In line with its statutory duties the Council will publish on its website:

- The designation of a neighbourhood area including a map showing the extent.
- Draft proposals and supporting documents produced by the Parish, Town Council or Neighbourhood Forum provided they comply with the regulatory requirements and representations will be invited including details of how to respond (under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012). Comments and the name of the respondent will be published but any further personal details redacted in line with the General Data Protection Regulation (GDPR).
- Details of the examination of the Neighbourhood Plan.
- The results of the examination of the Neighbourhood Plan.
- Details of a referendum on a Neighbourhood Plan and the result.
- The making of a Neighbourhood Plan which is the point at which it becomes part of the Development Plan for the Council.

Legislation requires the Parish Council, Town Council or Neighbourhood Forum preparing the Plan to consult with stakeholders during the Neighbourhood Planning process and outlines at which stage consultation should happen. Due to the individual nature of each Neighbourhood Plan, the scope and form of consultation necessary will vary. The Council expects the relevant qualifying body to undertake appropriate and effective consultation with the community and stakeholders. This will identify issues that will shape the form and content of the Neighbourhood Plan.

The Council expects the Parish Council, Town Council or Neighbourhood Forum preparing the Plan to provide details of the engagement undertaken through their consultation statement. This should include a list of organisations, associations and bodies who were consulted, a summary of their input, how any relevant issues have been taken into account and how the draft Neighbourhood Plan has been shaped to take account of them.

The adoption of a Neighbourhood Plan requires a referendum which is organised by Somerset Council, the rules for which can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2013 and 2014) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012. In order to progress to this stage, the Plan must meet basic conditions concerning accordance with national planning policies, general conformity to the adopted Local Plan(s) for the area and contribution to the achievement of sustainable development.

Once the Plan is “made”, it becomes part of the development plan for the area, carrying statutory weight and policy consideration along with the Local Plan for the area when determining planning applications.

Advising and Assisting Neighbourhood Plan Groups

In line with its statutory duties to advise and assist in neighbourhood planning the Council will either undertake these duties itself, or use the services of another organisation, to:

- Maintain the neighbourhood planning pages of the Council website, providing updates on the progress of designated neighbourhood planning areas and the production of any subsequent draft plans or orders.
- Signpost to useful information and sources of funding provided by other organisations.
- Share information on planning issues including information and published evidence relating to the Council's Local Plan.
- Provide advice on key assessments such as the Strategic Environmental Assessment (SEA) and other supporting evidence.
- Advise on national and local plan policy which any Neighbourhood Development Plan or Order produced would need to have regard to.
- Advise Neighbourhood Planning groups on the process, providing advice on the drafting of a project plan in understanding the milestones and work involved.

4.4 Neighbourhood Development Orders and Community Right to Build (NDO and CRtBO)

NDOs and CRtBOs grant planning permission for specific types of development in a particular area.

Whilst NDO and CRtBO proposals are subject to formal consultation, it is really important to engage with communities and stakeholders from the beginning of the process. This helps to ensure that the community is aware of emerging proposals, well before the formal consultation stage.

Importantly, early engagement means that the knowledge and views of a wider range of people inform the content of the NDO or CRtBO. This means that people can influence the fundamentals of NDOs or CRtBO, rather than being limited to tweaking matters of detail. For CRtBOs, the outcomes of early engagement can inform the development brief.

As with Neighbourhood Plans, close liaison with the Council is important.

If you are submitting either of the above for consideration it will need to be subject to a six-week period of consultation (Regulation 14). This will include consulting national bodies, which are set out in Schedule 1 of the Neighbourhood Planning (General) Regulations 2012.

Following the consultation period, representations must be considered, and any amendments thought to be necessary must be made to the NDO or CRtBO.

The Council's role

The NDO or CRtBO proposal must be submitted to the Council. We will check that proper procedures and consultation has been carried out in the preparation of the order. The Council will then publicise the order to bring it to the attention of people in the area and consult certain national bodies.

The Council may decline to consider a CRtBO if it considers the development specified in the order is likely to have significant effects on the environment by virtue of its nature, size, or location.

Once the Council has confirmed that the order proposal has followed the required process and includes the necessary documents, it will arrange for it be assessed by an independent examiner. If successful at the examination stage, the Council will arrange for a referendum to take place.

The public will have the opportunity to vote in the referendum which will confirm if the order should be made (agreed). Once the order is made, development that is permitted under an NDO can take place without having to apply for planning permission. However, if the order is subject to conditions or limitations, then an 'approvals application' may have to be made to the Council to confirm that each development proposal satisfies the relevant conditions or limitations.

4.5 Conservation Area Appraisals

Conservation Area Appraisals and boundary reviews

It is a duty¹⁴ of the Council to, from time to time, review whether any parts or any further parts of their area should be designated as conservation areas and designate those parts accordingly. There is no legal requirement to consult on Conservation Area Appraisals or new Conservation Area boundaries or boundary reviews.

However, the Council may engage with local groups such as the Parish/ Town Council to undertake a 'fact checking' exercise prior to adopting the appraisal or boundary review.

Aligning with Historic England's advice, the Council will consider how to best inform local people about a new appraisal or boundary review to ensure that everybody is aware of the designation, its benefits, and implications.

Conservation Area Management Plans

The Council has a duty to, from time to time, formulate and publish proposals for the preservation and enhancement of any of our conservation areas, also known as a Conservation Area Management Plan. There is a legal requirement for the Council to arrange a public meeting in the area to which the management plan relates.

The Council will collate responses and have regard to any views expressed at the meeting.

5. Planning Proposals (Development Management)

¹⁴ <https://www.legislation.gov.uk/ukpga/1990/9/contents>

5.1 Introduction

The Planning System enables Local Authorities to determine applications for development and change of use of land or buildings. National planning legislation, regulations and guidance set out what should be included in an application and the process of making decisions on their acceptability.

Development Management decisions shape the character of the area. A range of applications are determined by the Council, including householder development, extensions to domestic or commercial sites, fences, listed building and tree applications, changes of use, advertisements, major housing development, commercial development, mineral applications, waste applications, planning enforcement, major highway schemes and the Council's own development. Nationally Significant Infrastructure Projects (NSIPs) follow a different process that are set out in The Planning Act 2008. Development Consent Orders (DCOs) are submitted to the Planning Inspectorate and a 6 stage process is followed involving pre-application, acceptance, pre-examination, examination, recommendation and decision, and post decision. The Planning Inspectorate must prepare a report on the application to the relevant Secretary of State, including a recommendation, within three months of the close of a six month Examination stage. The relevant Secretary of State then has a further three months to make the decision on whether to grant or refuse development consent. Once a decision has been issued by the relevant Secretary of State, there is a six week period in which the decision may be challenged in the High Court. This process of legal challenge is known as Judicial Review.

The National Planning Policy Framework (NPPF)¹⁵ expects Councils to have a positive approach to decision-taking in order to deliver sustainable development. Councils are expected to proactively work with applicants to secure development aiming to improve the economic, environmental, and social conditions of an area.

There are four stages during the planning application process where the local community and stakeholders are consulted and/or notified about the proposals:

1. Pre-application stage: undertaken **by the applicant** once or a number of times. The scale and extent of consultation is dependent on scope and scale of proposal and whilst encouraged is not a requirement prior to submission of a planning application for the majority of applications.
2. Application stage: formal consultation on the application undertaken **by the Council**.
3. Appeal consideration: consultation is undertaken **by the Council** on behalf of the Planning Inspectorate (PINS); additional formal comments may be submitted to the Inspector prior to the determination of the appeal.

¹⁵ <https://www.gov.uk/guidance/national-planning-policy-framework>

Government legislation, including Planning Acts, Orders and Regulations, set out the approach to consultation, publicity, and community involvement that the Council and applicants are required to undertake in regard to planning applications.

This SCI will be utilised by the Council to set expectations for applicant led consultation and guide the approach taken to consultation in the planning application process.

5.2 Pre-Application stage

Pre-application consultation is the responsibility of the applicant. This section of the SCI focuses primarily on setting the standards the applicant is encouraged to follow prior to making an application for planning permission.

Councils cannot require that a developer submits a pre-application proposal or engages with them before submitting a planning application, but the take-up of any pre-application services they offer is strongly encouraged. Pre-application advice is subject to payment of an appropriate fee based on the size and scale of the development.

Applicants are also encouraged to undertake appropriate and effective pre-application consultation with the local community and, where relevant, with statutory and non-statutory consultees, prior to submitting an application. There is an expectation that applicants that are promoting rural exception sites to meet a specific community need should engage with the local community prior to submitting an application. The applicant is encouraged to seek the views through early engagement to highlight issues, and potential amendments to address comments or concerns of both the Council and the local community which can then influence and shape the design of the development. Additional information requirements can also be highlighted at this stage. The Council does not consult neighbours or parish councils on applications for Pre-application advice and advice given is not publicly available.

The Council also offers Planning Performance Agreements to applicants and developers, for an additional fee, for an enhanced service with respect to their proposal. A planning performance agreement is a project management tool which the Council and applicants can use to agree timescales, actions, and resources for handling particular applications.

5.3 Application stage

Once an application has been submitted to the Council it is checked to ensure it is valid and, if so, it is registered and allocated to a Case Officer. The application, and all accompanying documents are then published on the Council's website.

Who can comment?

Anyone is allowed to comment on planning applications whether or not they have been consulted. Consultees on applications include the following groups:

- Statutory consultees (those that we must consult to fulfil our statutory duty)
- Non-statutory consultees (those we consult to inform the application)
- Adjoining owners or occupiers (where required as set out below)

Who is consulted?

It is required under Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Council carries out consultation on applications.

For certain types of application, the Council is also obliged to consult with statutory consultees. Appendix 1 provides an extract of from Government guidance that confirms the up-to-date list of statutory requirements to consult particular bodies or persons on applications for planning permission in prescribed circumstances. This is not a definitive list. It does not necessarily include, for example, all the bodies which must be consulted as a consequence of a consultation direction.

Consultation will be proportionate to the application being considered.

Other, non-statutory consultees may be consulted on an application if the Council considers that their professional advice is required. The requirement for this type of consultation is determined on a case-by-case basis and could occur after validation if the case officer considers it necessary.

Adjoining owners or occupiers will also be notified where required as set out below.

How do we consult?

Publicity

The Council has a duty¹⁶ to ensure applications and decisions are properly publicised to ensure that everyone can meaningfully engage with the process. The way in which a particular application is publicised will depend upon the nature, scale and location of the development proposed.

The Council is required to publicise an application either by serving a written notice to neighbours or by displaying a site notice, depending on the type of application. Where neighbours are to be notified, as a minimum the Council will notify any adjoining owner or occupier. If a site notice is required, it will be displayed in a prominent position on or near to the site. Appendix 3 provides an extract from Government Guidance summarising these requirements.

A Public Notice will also be placed in the local newspaper if required, for example for major developments, applications contrary to the Local Plan and some statutory applications (e.g. those within Conservation Areas).

The letter, notice or advert will contain details of the planning application and a link to the Council's website where the plans and supporting documents can be viewed. Additionally, it will provide a link for comments to be made online.

¹⁶ Regulation 15 <https://www.legislation.gov.uk/ukxi/2015/595/article/15/made>

Although most applications are subject to a 21 day consultation period, this can vary depending on the type of application and can range from 14 to 30 days. The consultation deadline for each specific application will be clearly stated in the letter, notice, advert and online. Information on statutory publicity requirements is available on the Government's website.

Other Consultation Methods

Other than the statutory consultation methods discussed above, the Council may decide to utilise some optional methods of consultation for planning applications depending on the size and scale of the proposal.

How to comment on planning applications

All comments should be submitted online within the consultation period set out in the consultation letter, notice, or advert you may have seen. You can still comment online after the consultation period has expired and until a decision is made, however, we recommend you do so as soon as possible because a decision can be made at any time after the expiry of the consultation period.

To track progress of an application, search the online application database. Using the application reference number is the easiest way to find the application.

What do we do with comments received?

Comments received will be published on the Council's website. Comments will not be viewable to the public until the content has been checked and we endeavour to upload comments within 5 working days of receipt.

Personal information such as the name and address of the respondent will be published but phone numbers, email addresses and signatures will be removed/redacted. Anonymous representations will not be accepted. Please ensure that you only provide information belonging to you and that you are happy will be made available to others.

The Council can only consider comments which relate to material planning issues and planning applications. Examples of these matters include, but are not limited to:

- Loss of light or overshadowing
- Overlooking or loss of privacy
- Transport problems
- Noise and disturbance resulting from use
- Hazardous materials
- Smells
- Loss of trees
- Effect on listed buildings and Conservation Areas
- Layout and density of buildings
- Design, appearance, and materials
- Planning policy

- Previous planning decisions
- Nature conservation
- Archaeology

Examples of what is not considered a material consideration include loss of value to a property, background of the applicant, or the loss of a person's private view. We would not publish photographs of certain protected species and habitats where this could give rise to their subsequent disturbance.

Some applications are limited in terms of what can be considered as part of the determination. Prior Approvals are a form of permitted development with considerations for any Prior Approval application set out in legislation. If comments raise issues outside of the listed considerations, they cannot be taken into account.

Comments will not be accepted that are offensive, obscene, racist, or malicious. Content will be redacted to remove any comments that are considered inappropriate and could be returned. We may pass such material on to the Police.

Please do not include hyperlinks in your representations as you will be asked to remove them because the Council is unable to control information on other websites. All comments will be taken into account but will not be acknowledged. Please note that the Council does not normally respond to individual representations given the volume received.

Decisions

After a decision has been made, a copy of the decision notice will be made available to view on the Council's website by searching for the specific planning application.

5.4 Planning Appeals

An applicant has the right to appeal if they disagree with the Council's decision to refuse the application. They also have the right to appeal against non-determination if a decision is not made within the required time period. Applicants must lodge an appeal with the Planning Inspectorate (PINS) who will confirm it is valid before initiating proceedings and issuing a start date.

In most cases appeals must be made within 6 months of the date on the decision notice from the Council. The right of appeal is only available to the applicant and not to any third parties.

There are three types of appeal: Written Representations, Hearing, or Inquiry. There are also fast track householder appeals which are considered and determined based on the officer's report.

Most appeals are considered via written representations. More complex or controversial appeals are usually considered via a Hearing or Inquiry. Irrespective of the type of appeal, members of the public and other interested parties are notified by the Council on behalf of PINS and have the opportunity to forward any additional comments to the Planning Inspectorate. Comments originally submitted on the

application that was refused planning permission are forwarded to PINS for consideration when the appeal is registered. Unless a new issue has emerged, there is no need for members of the public and interested parties to re-submit their original comments.

The Council will write to those who were originally consulted informing them of the appeal and outlining the appeal process. A time limit of six weeks is allowed in which comments can be forward to the Inspector. Applicants, agents and third parties can register to attend and are given an opportunity to address the Inspector during an Informal Hearing and Public Inquiry to expand on or discuss their concerns on the application.

Further information can be found on the Planning Inspectorate website¹⁷

5.5 What we will do if you feel unfairly treated

The level of service you can expect from the Council is set out in our Service Standards. If a person is not happy with the service they have received they should contact the service manager in the first instance. If they are dissatisfied with the response, they can make a formal complaint through the Council's complaints procedure.

If you have gone through the Council's complaints procedure and remain unsatisfied with the service you have received, the Local Government Ombudsman investigates complaints of injustice arising from misadministration by Local Government and certain other bodies. The Ombudsman can investigate complaints about process and whether the appropriate procedures were followed, they cannot overrule planning decisions on applications.

6. Monitoring and Review

Legislation requires the SCI to be updated every five years. It will be reviewed to ensure it meets any national regulations, the needs of the community and our corporate objectives.

¹⁷ <https://www.gov.uk/topic/planning-development/planning-permission-appeals>

Appendix 1 – Consultations bodies for Local Plans

“Specific Consultation Bodies” to be consulted as the local planning authority consider may have an interest in the subject of the proposed local plan as set out in Regulation 2(1) of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)¹⁸.

National Agencies and organisations	Environment Agency National Highways Homes England Historic England Natural England Sport England The Coal Authority Network Rail Marine Management Organisation Civil Aviation Authority* Officer for Road and Rail*
Regional Agencies and Strategic Bodies	Heart of South West Local Enterprise Partnership Local Nature Partnership Avon and Somerset Constabulary NHS Somerset Integrated Care Board NHS England
Other planning authorities relevant to Somerset	Exmoor National Park Authority Bath and North East Somerset Council North Somerset Council Wiltshire Council Dorset Council Devon County Council East Devon District Council Mid Devon District Council North Devon District Council Mendip Hills Area of Outstanding Natural Beauty (AONB) Cranbourne Chase AONB Blackdown Hills AONB Quantock Hills AONB East Devon AONB Dorset AONB
Town, City and Parish Councils	Town and Parish Councils in and adjacent to the Local Planning Authority area.
Infrastructure Providers	National Grid Western Power Distribution

¹⁸ <https://www.legislation.gov.uk/ukxi/2012/767/regulation/2/made>

	Wales and West Utilities RWE npower renewables EDF Energy Office for Nuclear Regulation (for matters relating to Hinkley A and B) South West Water Wessex Water Parrett Internal Drainage Board British Telecom PLC Commpro Telecommunications Mobile Operators Association (MOA) Mono Consultants Ltd. T-Mobile (UK) Ltd O2 (UK) Ltd Orange Personal Communications Vodafone Ltd
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* Relates solely to Duty to Cooperate

“General Consultation Bodies” to be consulted as the local planning authority consider appropriate as set out in Regulation 2(1) of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended):

- (a) voluntary bodies some or all of whose activities benefit any part of the local planning authority's area,
- (b) bodies which represent the interests of different racial, ethnic, or national groups in the local planning authority's area,
- (c) bodies which represent the interests of different religious groups in the local planning authority's area,
- (d) bodies which represent the interests of disabled persons in the local planning authority's area,
- (e) bodies which represent the interests of persons carrying on business in the local planning authority's area.

These could include:

Community Support and Hard to Reach Community	<ul style="list-style-type: none"> • Older persons groups • Youth groups • Mental health and well-being Disability groups • Churches and Faith groups • Cultural Organisations • Individuals and Groups representing Gypsies, Travellers & Showpeople
Housing	<ul style="list-style-type: none"> • Housing Associations/Registered Providers

	<ul style="list-style-type: none"> • Tenants Groups & Housing Initiatives • Residents and Neighbourhood Groups
Environmental Organisations & Groups	<ul style="list-style-type: none"> • Environmental organisations • Local amenity societies and Trusts • Wildlife groups • Local food initiatives
Sport & Recreation	<ul style="list-style-type: none"> • National/local sports organisations • Sport clubs • Cultural organisations
Heritage & Culture	<ul style="list-style-type: none"> • Historical/Archaeological organisations • Town and village societies and associations • Arts organisations
Transport & Accessibility	<ul style="list-style-type: none"> • Rail and bus groups • Groups supporting cycling and walking • Community sustainable transport initiatives
Education & Health	<ul style="list-style-type: none"> • Schools, colleges, and other education/training providers • Health organisations
Development Industry	<ul style="list-style-type: none"> • Housebuilders/developers • Professional interest (agents, promoters, architects, consultants) • Significant Landowners • Other landowners promoting sites for development
Businesses	<ul style="list-style-type: none"> • Chambers of trade and commerce • Key Employers • Town centre strategy groups • Business groups • Farming organisations
Individuals & Others	<ul style="list-style-type: none"> • Individuals and organisations requesting to be on planning policy mailing list and those added to the list through making a response to a planning document (and have not opted out)

Appendix 2 – Statutory consultees on applications

Extract from Planning Practice Guidance [Consultation and pre-decision matters - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/consultation-and-pre-decision-matters)

Table 2 – Statutory consultees on applications for planning permission

The table below contains a list of statutory requirements to consult particular bodies or persons on applications for planning permission in prescribed circumstances. The table also includes links to planning guidance that encourages consultation with those bodies in other circumstances. This is not a definitive list. It does not necessarily include, for example, all the bodies which must be consulted as a consequence of a consultation direction.

Statutory consultee	Type of development
Canal and River Trust	Schedule 4(za) Development Management Procedure Order
Coal Authority	Article 26 and Schedule 4(o) Development Management Procedure Order
Control of major-accident hazards competent authority (COMAH)	Schedule 4(zb) Development Management Procedure Order
County Planning Authorities	Paragraph 7 of Schedule 1 to the Town and Country Planning Act 1990, Article 21 Development Management Procedure Order and Schedule 4(b)(c) Development Management Procedure Order
Crown Estates Commissioners	Article 26 Development Management Procedure Order
Department for Business, Energy and Industrial Strategy	Article 26 Development Management Procedure Order

Designated Neighbourhood Forum	Paragraph 8A inserted into Schedule 1 of the Town and Country Planning Act 1990 and Article 25A and paragraph (d) of Schedule 4 of the Development Management Procedure Order 2015
Environment Agency	Schedule 4(p)(t)(u)(v)(zc)(zd) Development Management Procedure Order
Forestry Commission	Paragraph 4 of Schedule 5 of Town and Country Planning Act 1990
The Gardens Trust	Schedule 4(s) Development Management Procedure Order and see also guidance on conserving and enhancing the historic environment
Greater London Authority	Mayor of London Order 2008 (as amended)
Health and Safety Executive	Schedule 4(e) and (in relation to applications for planning permission made on or after 1 August 2020 (zg) Development Management Procedure Order, see also guidance on hazardous substances and advice for local planning authorities on consulting Health and Safety Executive on planning applications; and paragraph 113 of guidance on minerals
[Relevant] Highways Authority (including Highways England)	Schedule 4(g)(h)(i) Development Management Procedure Order
Historic England	Schedule 4(g)(r)(s) Development Management Procedure Order and see also guidance on conserving and enhancing the historic environment

Lead local flood authority	Schedule 4(ze) Development Management Procedure Order
Local Planning Authorities	Schedule 4(b)(c), Article 19 and Article 24 Development Management Procedure Order, Paragraph 4(2) Schedule 1 and Paragraph 7 of Schedule 1 of the Town and Country Planning Act 1990 and Paragraph 3(b) of Schedule 4 to the Planning (Listed Buildings and Conservation Areas) Act 1990
National Parks Authorities	Schedule 4(a) Development Management Procedure Order
Natural England	Schedule 4(w)(y)(zb) Development Management Procedure Order and Paragraph 4 of Schedule 5 of the Town and Country Planning Act 1990
Office for Nuclear Regulation	Schedule 4(f) Development Management Procedure Order and see also deciding planning applications around hazardous installations guidance
Oil and Gas Authority	Article 26 Development Management Procedure Order
Parish Councils	Article 25 Development Management Procedure Order and Schedule 4(d) Development Management Procedure Order
Rail Infrastructure Managers	Article 16 Development Management Procedure Order
Rail Network Operators	Schedule 4(j) Development Management Procedure Order and see also guidance on transport

<u>Sport England</u>	<u>Schedule 4(z) Development Management Procedure Order</u> and see also <u>guidance on open space, sports and recreation facilities</u>
<u>Theatres Trust</u>	<u>Schedule 4(x) Development Management Procedure Order</u>
<u>Toll Road Concessionaries</u>	<u>Schedule 4(m) Development Management Procedure Order</u>
<u>Water and sewerage undertakers</u>	<u>Schedule 4(zf) Development Management Procedure Order</u>

Paragraph: 030 Reference ID: 15-030-20190722

Appendix 3 – Statutory publicity requirements

Extract from Planning Practice Guidance [Consultation and pre-decision matters - GOV.UK \(www.gov.uk\)](#)

Table 1 – Statutory publicity requirements for applications for planning permission and listed building consent

Type of development	Site notice	Site notice or neighbour notification letter	Newspaper advertisement	Website
Applications for major development as defined in Article 2 of the Development Management Procedure Order (which are not covered in any other entry) (including an application for public service infrastructure development made on or after 1 August 2021)	-	X	X	X
Applications subject to Environmental Impact Assessment which are accompanied by an environmental statement	X	-	X	X
Applications which do not accord with the development plan in force in the area (including an application for public service infrastructure development made on or after 1 August 2021)	X	-	X	X

Applications which would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 applies (including an application for public service infrastructure development made on or after 1 August 2021)	X	-	X	X
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Applications for planning permission not covered in the entries above eg non-major development	-	X	-	X
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Applications for listed building consent where works to the exterior of the building are proposed	X	-	X	X
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Applications to vary or discharge conditions attached to a listed building consent or involving exterior works to a listed building.	X	-	X	X
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Applications for development which would affect the setting of a listed building, or affect the character or appearance of a conservation area.	X	-	X	X
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Note: the [Environment Impact Assessment guidance](#) sets out further publicity and consultation requirements for applicants where this is relevant.

Paragraph: 029 Reference ID: 15-029-20170728

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