
Rural Designation of Areas in South Somerset

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Purpose of the Report

To set out the requirements to make an application to the Ministry of Housing, Communities and Local Government (MHCLG) to consider applying a rural designation status to parishes within South Somerset district under S.157 of the Housing Act 1985.

Forward Plan

This report appeared on the District Executive Forward Plan with an anticipated Committee date of April 2021.

Public Interest

The report sets out the case to enable the Council to make an application to Ministry of Housing, Communities and Local Government (MHCLG) to apply a rural designation status to qualifying parishes within South Somerset district. The rural designation will enable more affordable housing to be delivered in our rural communities once new policies in the Local Plan Review have been prepared and are supported by viability evidence. This designation will also help to protect our rural communities from potential future national policy changes that seek to accelerate housing delivery, but having the unintended consequence of reducing affordable housing delivery in rural communities.

Currently, the Council is only able to require affordable housing on residential schemes that are major developments, where 10 or more homes will be provided – this is a blanket approach introduced through national policy and guidance. National policy and guidance also states that local planning authorities can set their own lower threshold (i.e. below 10 dwellings) in Local Plans and seek affordable housing contributions from developments above that threshold in areas with a rural designation.

The Government has selected areas qualifying under S.157 of the Housing Act 1985 as designated rural areas to apply this lower threshold. Currently only a small area of the district within Areas of Outstanding Natural Beauty (AONB) would currently qualify. If an application to MHCLG to apply the rural designation to our qualifying parishes is successful, the Council will be able to include a policy in the Local Plan Review for a lower threshold for affordable housing contributions in parishes with a rural designation.

Recommendations

1. To agree that the Council submits an application to the Ministry of Housing, Communities and Local Government (MHCLG) for all rural parishes in South Somerset district with populations of under 3,000 to be designated as rural under section 157(1) of the Housing Act 1985.

Background

2. In November 2014 the government announced new national planning practice guidance introducing a national threshold of 10 units on market housing sites above which affordable housing contributions could be sought. It also advised that local planning authorities could choose to apply a lower threshold to rural areas described under section 157(1) of the Housing Act 1985, which included National Parks, Areas of Outstanding Natural Beauty (AONB) and areas designated by order of the Secretary of State as a rural area. In such cases commuted sums could be sought on developments of between six and ten units.
3. Although, two councils won a landmark High Court challenge in August 2015 and the relevant paragraphs of the Planning Practice Guidance (PPG) were withdrawn. This was successfully appealed by the Secretary of State and the paragraphs reinstated that proposed a 5-unit threshold in designated rural areas with commuted sums for developments of between 6-10 dwellings. This area of the PPG has been subject to further revision and currently states:

In designated rural areas local planning authorities may instead choose to set their own lower threshold in plans and seek affordable housing contributions from developments above that threshold. Designated rural areas applies to rural areas described under [section 157\(1\) of the Housing Act 1985](#), which includes National Parks and Areas of Outstanding Natural Beauty.¹

4. Currently all rural parishes in the district are designated as rural under the Housing Act 1996 for the purpose of the Right to Acquire restrictions and also under the Leasehold Reform Act 1967 for the purpose of shared ownership restrictions. However, these rural parishes are not designated as 'rural' under section 157(1) of the Housing Act 1985. Consequently, under the PPG, the district council is unable to apply a lower threshold for affordable housing to developments in the rural parishes outside the small areas of the AONBs within the district.
5. Since this guidance was introduced the Council has only been able to require affordable housing for residential developments that are major developments (where 10 or more homes will be provided, or the site has an area of 0.5ha or more and it is not known whether the development will contain 10 dwellings or more). As a result, in our Rural Settlements, many schemes have not provided any affordable housing (i.e. for developments of 9 or fewer dwellings), exacerbating the issue that rural areas tend to have a lower proportion of affordable housing compared to larger settlements. Affordable housing in our Rural Settlements has only come forward on Rural Exception Sites, or on larger schemes that have generally benefitted from the presumption in favour of sustainable development exercised when the Council could not demonstrate a five-year housing land supply.

¹ [Planning Practice Guidance](#) - Paragraph: 023 Reference ID: 23b-023-20190901



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6. The rural designation is therefore an important policy tool that will enable the Council to take forward a lower threshold for affordable housing on development sites in our rural parishes in the Local Plan Review. This will be informed by the plan wide viability assessment, and depends on the application to MHCLG proving successful.
7. The Council has been considering this matter for some time, as preparation of the emerging Local Plan Review continues. However, the consequences of not having a rural designation for our rural parishes was particularly emphasised through the Government consultation on Changes to the Current Planning System (August 2020). This proposed various measures to support housing delivery and affordable home ownership and set out protections for designated rural areas. The consequences of only having very limited designated rural areas (within the AONBs) in South Somerset would mean the proposals would have significant impacts on our rural communities (see paragraphs 13-14).

Applying for Rural Designation

8. MHCLG has issued guidance to Councils that wish to submit an application for all rural areas to be designated under the section 157 of the Housing Act to enable a lower threshold for affordable housing to be applied to all rural parishes. This guidance (see Appendix 1) advises that local authorities may apply to have specified areas designated as 'rural'. Parishes must meet the criteria of a population density no more than two persons per hectare, and any settlements in them must have with a population of fewer than 3,000 inhabitants. The first criterion can be applied flexibly. For example, some parishes just over these limits may be designated in order to avoid a 'patchwork' situation where some parishes are designated while others, broadly similar, are excluded.
9. The primary purpose of rural designation under section 157 of the Housing Act 1985 is to restrict the consequences of the Right to Buy. It allows restrictive covenants to be put in place so that the property can only be sold on to someone who has been living or working in the parish for 3 years. Alternatively, the landlord may require the tenant to offer the home back to them if the tenant wishes to sell within 10 years of buying.
10. Currently, outside the AONBs there are no designated rural parishes within the district. This is an anomaly when compared to surrounding districts, and it is not understood why this section of the Housing Act omits the identification of rural parishes within the district.

Outcomes to be achieved

11. Rural designation of all rural parishes under section 157 of the Housing Act 1985 will enable the Council to apply a lower threshold for affordable housing contributions in the next iteration of the Local Plan Review, to all new housing sites within rural parishes and maximise the contribution towards the delivery of affordable housing to meet local housing need and our affordable housing targets.
12. The current affordable housing unit threshold policy does not work for rural areas as it limits the supply of much-needed rural affordable housing and often results in schemes that no longer meet genuine community need. There is little evidence that requirements for affordable housing contributions made small housing sites in rural areas unviable in the past, and there is considerable documentary evidence to demonstrate that housing in rural areas commands much higher values compared to other urban areas (outside



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of London)². A lower threshold can only be set in the Local Plan Review after the approach has been appropriately viability tested.

13. The importance of this rural designation was highlighted by the government's consultation on Changes to the Current Planning System³, published in August 2020. This document proposed significant changes including increasing the threshold for affordable housing to schemes of 40 or 50 dwellings to assist the recovery small and medium enterprises in the construction industry – this was proposed to exclude areas designated as rural. However, for South Somerset, this would only include areas within the AONBs. A further change was to propose to allow First Homes Exception Sites, but not in designated rural areas, where delivery would continue to be through rural exception sites policy. Both proposals would have significant adverse impacts for affordable housing delivery in the rural areas of the district and our concerns were submitted to the consultation.
14. The Government has not fully responded to this consultation (only on changes to the standard method for assessing local housing need), although the Minister for Housing has indicated that the increase to thresholds for affordable housing will kept under review. However, as the Government continues to use designated rural areas as a policy and rural-proofing tool to determine approaches to national policy and guidance, it emphasises the significance of the need to secure this designation for the rural parishes in the district.
15. Rural designation of all rural parishes may also help to reduce the consequences of the government's proposed Voluntary Right to Buy scheme that is intended to extend the Right to Buy to housing association tenants. A pilot has been running in the Midlands – this used guidance where housing associations could exercise discretion over sales which include properties in rural locations. The pilot finished in 2020 and the government has published the evaluation report. Future policy decisions will be taken following the evaluation.

Proposal

16. It is proposed that an application, comprising of parishes listed in Appendix 2 be submitted to the MHCLG Right to Buy Team. This shows that we are requesting that a significant proportion of parishes should be designated as rural. The only exceptions are the two parishes that are wholly within the Blackdown Hills AONB (Buckland St Mary and Whitestaunton) and therefore already benefit from the rural designation, and the urban areas of the largest settlements. For consistency, the parishes of Ansford, Castle Cary, Langport and Huish Episcopi have also been included as urban areas even though their populations are below the 3,000 threshold. This is because both Ansford & Castle Cary and Langport & Huish Episcopi are identified respectively as one settlement with a population of over 3,000 in the Local Plan.
17. Consideration has been given as to whether Abri (formerly Yarlinton) tenants with the Preserved Right to Buy would be adversely affected by such designations. The Housing Act 1985 Section 157(1) states, "...the conveyance or grant **may** contain a covenant

² Department for Environment, Food and Rural Affairs, *Rural Economic Bulletin for England*, December 2020

³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/927157/200805_Changes_to_the_current_planning_system.pdf



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limiting the freedom of the tenant (including any successor in title of his and any person deriving title under him or such a successor) to dispose of the dwelling-house...”

- 18. Rural designation does not imply a statutory restriction but one that can be applied by a local authority or housing association on disposal of a property under the Right to Buy legislation. Homes owned by South Somerset District Council that were transferred to Yarlington Housing Association (now Abri) in March 1999, have a Preserved Right to Buy for tenants that still occupy these homes from the point of transfer. For those homes located in areas proposed to be designated as rural for Right to Buy purposes, it means anyone with the Preserved Right to Buy, the sale will be on the condition that they may only resell it to someone who has been living or working in the area for 3 years. It is considered that due to the length of time that has elapsed since the transfer of our housing stock, that the number of existing tenants who have the means to exercise the Preserved Right to Buy will be relatively low, as there has been a period of over 20 years in which to exercise this right before the Council considers an application for a rural designation. The implications for Abri tenants with the Preserved Right to Buy are considered to be minimal.
- 19. The policy on thresholds for affordable housing was introduced by government to reduce the planning obligations on small sites, encourage their development and improve their viability. A whole local plan viability assessment will need to be undertaken for the Local Plan Review to provide the appropriate lower threshold for affordable housing in rural areas, should the application for rural designation be successful.

Financial Implications

- 20. There are no financial implications arising from the report.

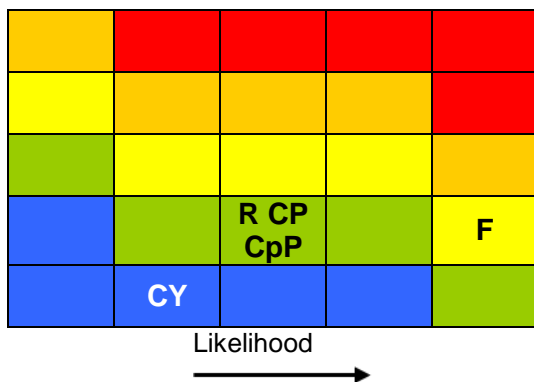
Legal implications (if any) and details of Statutory Powers

- 21. The application for rural designation must be made to the Secretary of State under [section 157\(1\) of the Housing Act 1985](#). If the application is approved by the Secretary of State, then a Statutory Instrument must be laid before Parliament to enable the designated rural areas to be identified in statute.

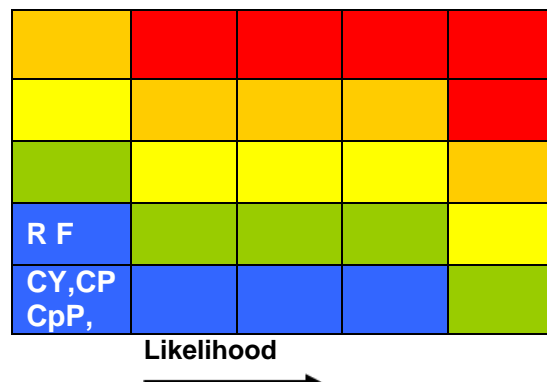
Risk Matrix

The risk matrix shows risk relating to the Council Plan headings.

Risk Profile before officer recommendations



Risk Profile after officer recommendations



Key

Categories	Colours (for further detail please refer to Risk management strategy)
R - Reputation	High impact and high probability
CpP - Corporate Plan Priorities	Major impact and major probability
CP - Community Priorities	Moderate impact and moderate probability
CY - Capacity	Minor impact and minor probability
F - Financial	Insignificant impact and insignificant probability

Council Plan Implications

The rural designation will assist with delivering Council Plan priorities for delivering the housing needed in our rural communities.

PLACES WHERE WE LIVE

To enable housing and communities to meet the existing and future needs of residents and employers we will work to:

- Enable sufficient housing in appropriate places to meet community needs
- Maximise the number of affordable homes including providing more affordable homes to support rural economies and communities

Carbon Emissions and Climate Change Implications

No implications as purely a procedural matter.

Equality and Diversity Implications

Rural designation under section 157(1) of the Housing Act 1985 of the district's rural parishes with populations of fewer than 3,000 (see Appendix 2) will have a positive impact on the availability of affordable housing to local communities in the district, including people with protected characteristics.

Privacy Impact Assessment

Not required – no personal data is affected by the report.

Background Papers

Please bear in mind that, for executive decisions, all background papers listed here must be available for public inspection and posted on the SSDC website. Do not list working files.

- [Planning Practice Guidance – Planning Obligations](#)
- [Housing Act 1985](#)

Appendix 1:

Right to Buy – rural designation

Section 157 of the Housing Act 1985 provides that local authorities in certain areas can impose certain restrictions on the subsequent resale of homes acquired under the Right to Buy scheme. The areas concerned are (i) National Parks, (ii) Areas of Outstanding Natural Beauty, and (iii) areas designated by the Secretary of State as 'rural'.

Local authorities may apply to have specified areas designated as 'rural'. These areas might be a whole district or part of a district. When an application is submitted, an assessment is made for each parish in the area for which designation is sought. The criteria are that:

- There should be a population density of no more than two persons per hectare, and
- Towns with more than 3,000 inhabitants are ineligible.

The first criterion (the density test) can be applied flexibly. For example, some parishes just over these limits may be designated in order to avoid a 'patchwork' situation where some parishes are designated while others, broadly similar, are excluded.

Applications should be formally made to the Secretary of State and sent to the Right to Buy team, Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU. They should include density and population figures for each parish seeking designation and also a plan (map) of the whole district showing;

- Its extent;
- All urban areas;
- The parishes to be considered
- Any National Parks and Areas of Outstanding Natural Beauty already designated for as 'rural' for this purpose.

Please contact the Right to Buy team on 0303 444 3798 if you require any further information.



Appendix 2 – Proposed Designated Rural Parishes

(chart and map)

Parish	Currently designated as rural under S157 of the Housing Act 1985	Total Population 2011 Census	Parish Area (Ha)	Persons/Ha based on 2011 Census	2019 Mid Year Population Estimate ONS
Bratton Seymour		104	556.29	0.2	132
Puckington		117	312.99	0.4	105
Yarlington		123	486.82	0.3	102
Seavington St Michael		127	116.36	1.1	143
Beercrocombe		134	314.44	0.4	140
Compton Pauncefoot		139	565.77	0.2	121
Maperton		140	465.29	0.3	98
Lovington		141	466.07	0.3	155
Isle Brewers		150	545.49	0.3	159
Stocklinch		154	209.62	0.7	141
South Barrow		162	309.29	0.5	170
Chillington		164	748.89	0.2	190
Cucklington		173	722.40	0.2	178
Wambrook	Partially - Blackdown Hills AONB	184	1,126.01	0.2	196
Corton Denham		189	464.76	0.4	194
Kingstone		-	-	-	190
Muchelney		195	643.60	0.3	208
Isle Abbots		205	481.25	0.4	200
Shepton Montague		208	866.97	0.2	198
North Cheriton		208	369.17	0.6	196
Whitelackington		209	776.69	0.3	185
Closworth		220	1,266.14	0.2	209
Chaffcombe		229	471.34	0.5	220
North Barrow		233	742.99	0.3	234
Alford		-	-	-	234
Rimpton		235	407.96	0.6	250
Holton		238	481.88	0.5	235
Knowle St. Giles		244	1,265.60	0.2	268
North Perrott		246	517.69	0.5	286
Babcary		248	974.52	0.3	236
Dinnington		-	-	-	251
Whitestaunton	Wholly within Blackdown Hills AONB	256	954.01	0.3	301
Lopen		260	215.04	1.2	274
Cricket St Thomas		-	-	-	268
Cudworth		-	-	-	268
Pen Selwood	Partially - Cranborne Chase AONB	273	522.85	0.5	315
Chiselborough		275	324.29	0.8	314
Dowlsh Wake		277	490.64	0.6	275
South Cadbury		284	489.48	0.6	298
Kingsdon		303	941.38	0.3	329



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Parish	Currently designated as rural under S157 of the Housing Act 1985	Total Population 2011 Census	Parish Area (Ha)	Persons/Ha based on 2011 Census	2019 Mid Year Population Estimate ONS
Curry Mallet		306	616.85	0.5	334
Stoke Trister		313	670.03	0.5	345
Kingweston		-	-	-	318
Wayford		-	-	-	312
Long Load		332	587.74	0.6	333
Limington			-	-	334
Donyatt		347	753.56	0.5	365
Pitney		374	549.98	0.7	369
Drayton		379	817.56	0.5	352
Seavington St Mary		384	447.60	0.9	382
Charlton Musgrove	Partially - Cranborne Chase AONB	398	1,485.27	0.3	424
Aller		410	1,457.22	0.3	392
Barrington		438	457.47	1.0	409
Brewham	Partially - Cranborne Chase AONB	441	2,312.87	0.2	446
Hinton St. George		442	859.97	0.5	467
Chilton Cantelo		445	1,153.94	0.4	334
West Camel		459	806.66	0.6	467
East Chinnock		479	545.91	0.9	487
Hambridge and Westport		514	673.74	0.8	539
Buckland St Mary	Wholly within Blackdown Hills AONB	521	1,477.15	0.4	529
Marston Magna		523	563.29	0.9	528
Ashill		529	985.01	0.5	618
Pitcombe		532	909.26	0.6	520
Barton St. David		561	901.91	0.6	619
Horsington		571	1,266.15	0.5	564
Chilthorne Domer		574	599.94	1.0	539
Hardington Mandeville		585	1,083.74	0.5	554
Charlton Horethorne		591	1,339.18	0.4	626
West and Middle Chinnock		592	467.01	1.3	556
Fivehead		609	1,322.42	0.5	562
Sparkford		617	659.21	0.9	676
Ash		626	793.01	0.8	597
West Crewkerne	Partially - Dorset AONB	631	1,993.08	0.3	602
Mudford		696	911.64	0.8	734
Compton Dundon		705	1,115.13	0.6	740
Shepton Beauchamp		728	339.48	2.1	701
Broadway		740	837.47	0.9	799
Norton sub Hamdon		743	341.67	2.2	692
Haselbury Plucknett		744	841.12	0.9	726
Winsham		748	1,221.72	0.6	689
Odcombe		759	455.01	1.7	764
Horton		812	254.23	3.2	824
Misterton		826	577.32	1.4	987
Montacute		831	593.46	1.4	832



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Parish	Currently designated as rural under S157 of the Housing Act 1985	Total Population 2011 Census	Parish Area (Ha)	Persons/Ha based on 2011 Census	2019 Mid Year Population Estimate ONS
Long Sutton		833	1,543.50	0.5	891
Ilton		854	830.48	1.0	939
Tintinhull		902	959.45	0.9	926
Queen Camel		908	943.02	1.0	974
High Ham		909	2,029.22	0.4	909
North Cadbury		950	1,086.28	0.9	969
Keinton Mandeville		1,068	277.37	3.9	1076
Charlton Mackrell		1,073	1,414.07	0.8	1064
Langport*		1,081	68.02	15.9	1018
Ansford*		1,085	372.38	2.9	1040
Barwick		1,221	493.65	2.5	12115
Yeovilton		1,226	1,125.51	1.1	1418
Kingsbury Episcopi		1,307	1,505.45	0.9	1359
Combe St Nicholas	Partially - Blackdown Hills AONB	1,373	1,938.33	0.7	1381
Abbas and Templecombe		1,560	772.17	2.0	1571
East Coker		1,667	802.33	2.1	1644
Henstridge		1,814	1,719.61	1.1	1739
Stoke sub Hamdon		1,968	491.91	4.0	1952
Merriott		1,979	1,096.56	1.8	1950
West Coker		2,018	642.67	3.1	2019
Huish Episcopi*		2,095	895.43	2.3	2527
Curry Rivel		2,148	1,481.75	1.4	2140
Ilchester		2,153	626.76	3.4	2096
Castle Cary*		2,276	889.90	2.6	2406
Tatworth and Forton	Partially - Dorset AONB and Blackdown Hills AONB	2,660	1,500.05	1.8	2621
Milborne Port		2,802	1,335.19	2.1	3030
Bruton		2,907	1,620.75	1.8	3058
South Petherton		3,367	1,414.63	2.4	3728
Somerton		4,697	2,684.96	1.7	4899
Martock		4,766	1,538.65	3.1	4675
Wincanton		5,272	1,148.82	4.6	6138
Ilminster		5,808	585.26	9.9	6018
Yeovil Without		6,834	678.09	10.1	8785
Crewkerne		7,000	522.29	13.4	7038
Brympton		7,308	611.13	12.0	7679
Chard Town		13,074	631.55	20.7	13873
Yeovil		30,378	968.08	31.4	31302

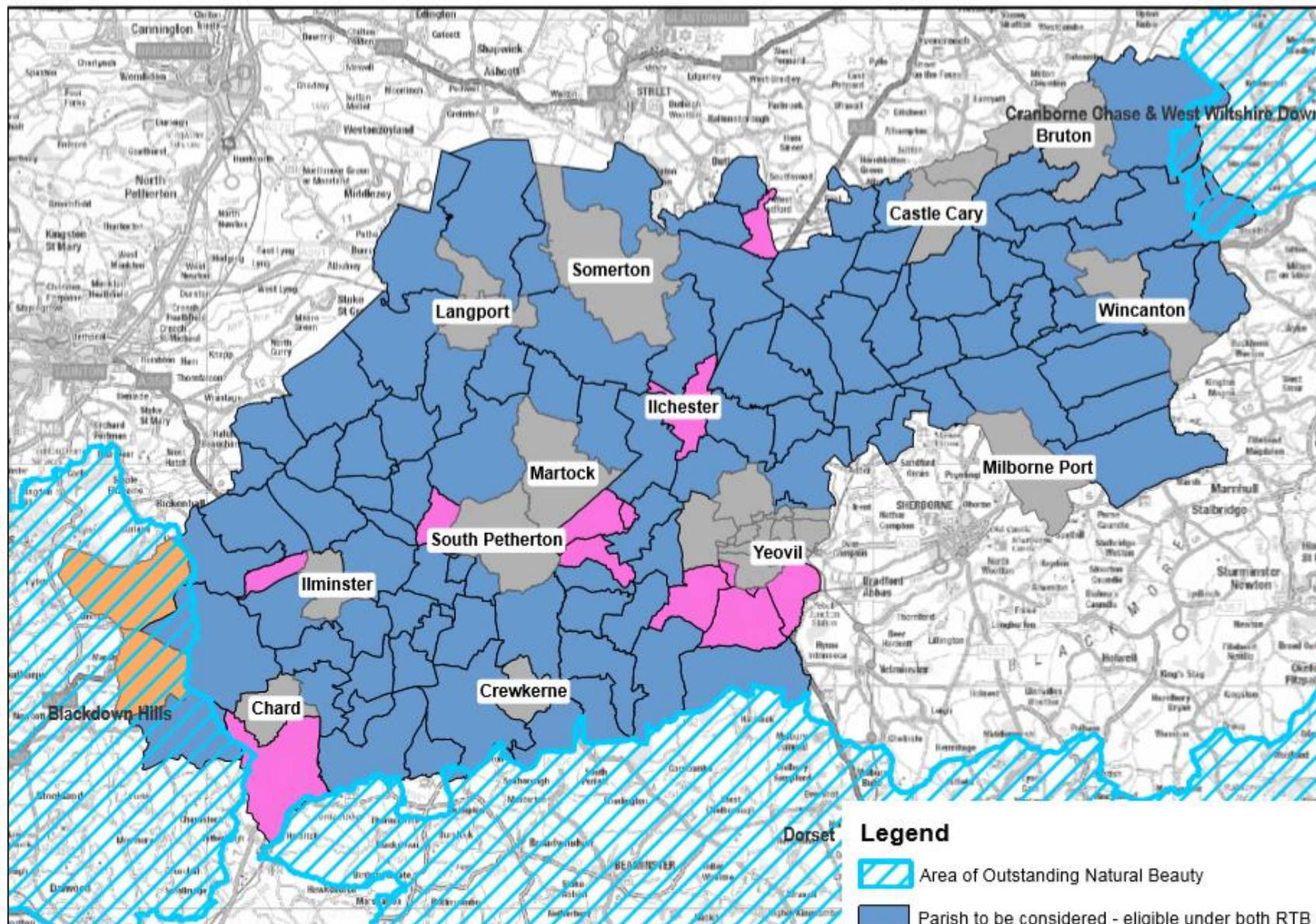
Parishes to be considered - eligible under both RTB criteria

Parishes to be considered - eligible if the RTB criteria is applied flexibly






Urban Area

Parishes already described as rural under S157 of the Housing Act 1985

*A settlement closely associated with another settlement in a separate parish – together considered as one settlement (with over 3,000 population) for planning purposes - Ansford & Castle Cary and Langport & Huish Episcopi.



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- Legend**
-  Area of Outstanding Natural Beauty
 -  Parish to be considered - eligible under both RTB criteria
 -  Parish to be considered - eligible if the RTB criteria is applied flexibly
 -  Urban Area
 -  Parish already described as rural under S157 of the Housing Act 1985