

<b>Application Details</b>	
Application Reference Number:	38/21/0440
Application Type:	Full Application
Description	Demolition of Auction House and site clearance with temporary diversion of cycle and pedestrian route through the site, raising of ground to create platform formation levels, ground remediation, flood mitigation, primary foul and surface water drainage networks and connections for future sites/developments surrounding the site at Firepool, Taunton. Includes Environmental Statement.
Site Address:	FIREPOOL Regeneration Site, Canal Road/Priory Bridge Road, Taunton
Parish:	Taunton unparished area
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment area:	Yes
AONB:	No
Case Officer:	Simon Fox, Major Projects Officer (Planning) 07392 316159 <a href="mailto:s.fox@somersetwestandtaunton.gov.uk">s.fox@somersetwestandtaunton.gov.uk</a>  Should you wish to discuss the contents of this report item please use the contact details above by 5pm on the day before the meeting, or if no direct contact can be made please email: <a href="mailto:planning@somersetwestandtaunton.gov.uk">planning@somersetwestandtaunton.gov.uk</a>
Agent:	J Price Consulting
Applicant:	Somerset West and Taunton Council
Reason for reporting application to Members:	In the interests of probity - The proposal is submitted by Somerset West and Taunton Council with assistance from Somerset County Council on a strategic regeneration site owned and due to be developed by Somerset West and Taunton Council.

## 1. Recommendation

That planning permission be **GRANTED** subject to conditions

## 2. Executive Summary of key reasons for recommendation

- 2.1 The application seeks permission for enabling infrastructure works to enable the long-term development of the Firepool site. After consideration of all representations, planning policy and material considerations including the planning history, the scope of the application and the knock-on benefits of the scheme, the application is considered appropriate to be recommended for approval subject to a s106 agreement/unilateral undertaking concerning

the provision of temporary flood barriers if necessary and the conditions listed at Appendix 1 to this report.

### **3. Planning Obligations, conditions and informatives**

#### **3.1 Obligations**

A section 106 agreement/unilateral undertaking concerning the provision of temporary flood barriers in the Frieze Hill to Town Bridge area of Taunton if project TTC5 of the Taunton Strategic Flood Alleviation Improvements Project is not completed by December 2024.

#### **3.2 Conditions (see Appendix 1 for full wording)**

- 1) Time Limit
- 2) Drawing numbers
- 3) Condition survey of highway
- 4) Protection of trees
- 5) Archaeology
- 6) Details of any temporary drainage connections
- 7) Origin of fill materials
- 8) Flood Risk Assessment
- 9) Construction Traffic and Construction Environmental Management Plans
- 10) Remediation Strategy
- 11) Lighting for Bats
- 12) No tree and hedge removal during bird nesting season
- 13) SUDs scheme
- 14) Responsibility and maintenance of the surface water drainage system

#### **3.3 Informatives (see Appendix 1 for full wording)**

- 1) Statement of positive working.
- 2) Rights of Way
- 3) Protection of Network Rail Assets
- 4) Advice from Canal and Rivers Trust
- 5) Protection of bats
- 6) Protection of badgers
- 7) Advice from the Environment Agency
- 8) Advice from the LLFA

### **4. Proposed development, Site and Surroundings**

#### **Details of proposal**

- 4.1 This is a full application for enabling infrastructure works:
- a) Clearance of existing obstructions including demolition of the Auction House building and parking
  - b) Remediation works of existing ground
  - c) Construction of raised development plateaus
  - d) Culverts to cater for overland exceedance flows within Canal Road
  - e) Diversion of existing drainage assets to clear the site for development

- f) Provision of new primary drainage infrastructure to service future uses
- g) Temporary diversion of pedestrian and cycles access routes though the site
- h) Security fencing and finishes
- i) Removal of some trees

The application is accompanied by an Environment Statement.

- 4.2 The infrastructure works will remove the existing above ground obstructions to future development of the site; this includes the Auction House building, historic structures and walls from the previous cattle market use and miscellaneous street furniture on the site.
- 4.3 Below ground obstructions consisting of existing sewers will be removed or relocated to free up the development footprint and new sewer networks will be constructed to collect and convey wastewater from the future development to the existing infrastructure. New surface water infrastructure will similarly be provided in anticipation of future development including a central conveyance swale which will form part of the future sustainable drainage techniques. This regularisation is important as currently such services criss-cross the site which prohibits building in certain areas.
- 4.4 Ground remediation will be carried out alongside bulk earthworks to raise the site and create development platforms for future parcels. The development plateaus will be provided at a level to protect whatever form the future development might take from fluvial flooding from the River Tone whilst maintaining connections to the surrounding infrastructure. In this regard the scheme has been developed with reference to the Taunton Strategic Flood Alleviation Improvement Scheme (TSFAIS).
- 4.5 The existing pedestrian and cycle link, with lighting, through the site will be re-provided on the development plateau and will incorporate access to the existing Wessex Water siphon. Existing site fencing will be reinstated to retain security of the site until the future development can commence.
- 4.6 The Firepool public car park will be retained as an active car park for public and contractor use as long as is required by Somerset West and Taunton Council until further development takes place.
- 4.7 As the mix of the future development is not yet known the enabling works have been developed by the applicants to provide flexibility whilst accommodating some guiding principles established by the previous planning permission such as maintaining the existing sightlines through the site.
- 4.8 All access for these works will be via Canal Road.
- 4.9 It should be noted that Somerset West and Taunton District Council is in this case both applicant and Local Planning Authority. The application is being brought forward by the Council in its role as developer after the site has lain dormant for many years and to provide some stimulus to unblock and unlock

the site for development. Reference hereon to 'the Council' is as applicant/developer, the planning team referred to as the 'Local Planning Authority' or 'LPA' whose defined role is to apply national and local planning policy and assess material considerations without fear or favour.

Site and surroundings

- 4.10 The application site is located within Taunton town centre. It comprises an area of approximately 4.2hectares (ha) and is arranged in a broad rectangular shape as shown on the submitted Site Location Plan.
- 4.11 The application site is bounded by Canal Road to the north, the River Tone to the south and Priory Bridge Road to the south-west. The site currently comprises previously developed land. The site is bordered to the north beyond Canal Road by further vacant previously developed land which has recently been granted planning permission for a three storey Innovation Centre being developed by Somerset County Council.
- 4.12 The site, along with the adjoining land described above to the north and a triangular site to the south of the river which is partly developed, forms part of a wider previously developed area of land known as Firepool which has been vacant for over ten years.
- 4.13 Formerly, the wider Firepool site comprised a livestock market, but this use ceased in 2008 and the site was largely cleared to facilitate its redevelopment. The part of the site subject to this specific application is currently partly laid to grass, and partly used as a public car park. The Auction House lies at the junction of Canal Road and Priory Bridge Road and is currently used as a warehouse, due to be vacated in March 2022.
- 4.14 There is a public right of way (PROW) recorded on the Definitive Map that abuts the site (public bridleway T 33/21) at the present time. A long-distance trail, the East Deane Way, abuts the site on a temporary route beside the river.
- 4.15 The application site is not within a Conservation Area, nor does it contain any Listed Buildings. However, there are a number of listed buildings in the wider vicinity, including Taunton Railway Station to the north, the Firepool Pumping Station to the east, Gurds on Station Rd, plus the former Shirt and Collar Factory (Barnicotts) and Priory Lodge (all Grade II listed). Further south is the Grade II\* St James Church and the Grade I listed St Marys Church.

**5. Planning (and enforcement) history**

Reference	Description	Decision	Date
Firepool South - 38/10/0214	Up to 11,200 sq m of office floorspace, up to 4,475 sqm of hotel floorspace, up to 49 residential units together with associated car parking, landscaping, infrastructure and	Approval	30/11/2010

	access on the southern part of the Firepool site adjacent to Priory Bridge Road, including the now constructed Viridor building which was later granted reserved matters approval pursuant to this outline.		
Wider Firepool Site - 38/15/0475	Outline planning application with some matters reserved for the redevelopment of the former cattle market site to provide up to 3500sqm of convenience retail development, up to 6000sqm of non-food development (class A1), up to 4000sqm of office (B1) or hotel (C1) use, up to 2400sqm for a cinema (D2), up to 2600sqm of food and drink establishments (A3/A4/A5) and up to 200 residential units with redevelopment of the former priory bridge road car park to provide up to 4014sqm of office (B1) and 4475sqm of office (B1) or hotel (C1) uses and a further 1300sqm of A3/A4/B1 (office) D2 uses with car parking, landscaping, public realm, access, highways, infrastructure works and relevant demolition.	Refusal	01/09/2016
Wider Firepool Site - 38/17/0150 <i>'the approved St Modwen scheme'</i>	Outline planning application with some matters reserved, except for access for the NIDR only, for the redevelopment of the former cattle market site to provide up to 3500sqm of convenience retail development (Class A1), up to 6000sqm of non-food development (A1), up to 4000sqm of office (B1) or hotel (C1), up to 3900sqm of assembly/leisure (D2) and non-residential institutions (D1) (of which no more than 1500sqm shall be D1), up to 2600sqm of food and drink establishments (A3/A4/A5), and up to 200 residential units (C3) with redevelopment of the former Priory Bridge Road car park and former 84-94 Priory Bridge Road to provide up to 2964sqm of office (B1) and 5525sqm of office (B1) or hotel (C1) uses and a further 1300sqm of A3/A4/B1 (office) D2 uses with car parking, landscaping, public realm,	Approval	13/03/2019

	access, (in detail for the NIDR connection) highways, infrastructure works and relevant demolition, (resubmission of 38/15/0475)		
38/21/0109/SCO	EIA Screening for 1,800 sqm, four storey office building and 300 space, four storey car park.	No EIA required	31/03/2021
Somerset County Council Decision SCC/3775/2020	The erection of a three storey Innovation Centre building of 2,613 sqm floor space (Use Class E) and external car parking area.	Approval	09/02/2021
38/21/0436	Erection of an office building with ancillary ground floor commercial use (Class E), conversion and erection of extension to the GWR building to form restaurant (Class E), public realm, landscaping and associated infrastructure works on land to the south of Trenchard Way (aka The Block 3 application)	Pending	
38/21/0464	Formation of vehicular access with associated works and alterations to highway	Approved	09/02/2022

## 6. Environmental Impact Assessment

- 6.1 Environmental Impact Assessment or EIA is a formal procedure underpinned by The Town and Country Planning (EIA) Regulations, 2017 (the 'EIA Regulations') as amended. The procedure must be followed for certain types and scales of development.
- 6.2 In this case the development proposed is a type described in Schedule 2, 10(b) of the EIA Regulations. That is: *"10. Infrastructure projects...(b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas..."* and furthermore meets the first of the three applicable thresholds for Schedule 2, 10(b) projects: *"...(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or (ii) the development includes more than 150 dwellings; or (iii) the overall area of the development exceeds 5 hectares."*
- 6.3 The EIA process systematically identifies and assesses the likely significant environmental effects of a development. The process also offers an opportunity to promote an iterative design process whereby the likely significant adverse and beneficial effects of a project can be avoided or minimised, and encouraged and maximised, respectively. Where EIA is required, the results are reported in an Environmental Statement (ES). The ES allows the relevant determining authority, in this case Somerset West

and Taunton Council, to consider all likely significant environmental effects arising from a development.

6.4 In accordance with the EIA Regulations, the ES reports the findings of the EIA process. As such, the ES sets out:

- The likely significant environmental effects of the Development.
- The likely significant cumulative effects of the Development.
- Mitigation measures required to prevent, reduce, ameliorate and / or offset any likely significant adverse environmental effects.
- The likely significant residual effects of the Development which would occur following implementation of the above mitigation measures.

6.5 The submitted ES is a material consideration to this planning determination process and the topics assessed form the sections to the main body of the report which follows.

## 7. Habitats Regulations Assessment

The site lies within the catchment area for the Somerset Moors and Levels Ramsar site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that the proposed access will not increase nutrient loadings at the catchment's waste water treatment works. The Council is satisfied that the development is not likely to have a significant effect on the Ramsar site should permission be granted (either alone or in combination with other plans or projects) pursuant to Regulation 63(1) of the Habitats Regulations 2017.

## 8. Consultation and Representations

8.1 Statutory consultees (the submitted comments are available in full on the Council's website.

Date of Consultation: 03 November 2021

Date of revised consultation (if applicable): Additional consultation was undertaken with specific statutory consultees (HA, LLFA, EA).

It should be noted not all statutory consultees are consulted on all planning applications. The circumstances for statutory consultation are set out in the Development Management Procedure Order. The following statutory consultees were consulted on this application:

Statutory consultee	Comments	Officer comments
Highway Authority - SCC	Initial comments received 30/11/2021, comments made regarding drainage, the ped/cycle route, ES, and construction phase impacts. Further comments dated 21/01/2022 upon consultation with additional information – concluding paragraph - <i>“Having reviewed the further information, there is now no highway</i>	Noted, conditions imposed regarding the CEMP and the need for a highway

	<p><i>objection to the scheme as presented. The only other comment relates to the Construction Traffic Management Plan, and it is requested that a highway condition survey is undertaken along Canal Road and at the junction with Prior Bridge Road. Subject to this being included there would be no objection, and no need for any planning conditions if the Construction Traffic Management Plan is implemented as required”.</i></p>	<p>condition survey.</p>
<p><b>National Highways</b></p>	<p><i>No objection – “We have reviewed the submitted documents including the Construction Traffic Management Plan dated October 2021. Based on the scope of the application and associated traffic generation we are satisfied it is unlikely to result in an adverse impact on the safe operation of the strategic road network, in this case M5 Junction 25”.</i></p>	<p>No action required.</p>
<p><b>Environment Agency</b></p>	<p>Initial objection received 24/11/2021 regarding Flood Risk Assessment; other comments made regarding access to the river, modelling data and permits.</p> <p>Further comments dated 17/02/2022 and 18/02/2022 were received upon consultation with additional information –</p> <p><i>“Provided the Local Planning Authority (LPA) is satisfied the requirements of the Sequential Test under the National Planning Policy Framework (NPPF) are met, and providing a section 106 is agreed for temporary defences in the event the Taunton Flood Defence Scheme being delayed, the Environment Agency can now WITHDRAW its earlier objection, in principle, to the proposed development, subject to the following conditions being included within the Decision Notice....”</i></p> <p><i>“I can confirm that the Environment Agency have taken a risk based approach and will not require the flood model to be reviewed for the demolition and land raising of this site. As a result of this application the ground levels will be lower than future proposals, and the impact on third parties is expected to be reduced. This enabled the Environment Agency to remove its objection without a detailed review of the model. We may however require to review a model for future proposals at this site. If we did not take this approach we would be unable to remove our objection until completion of the model review, which may have taken up to 6 weeks to complete”.</i></p>	<p>The conditions referred to in the final EA response have been imposed.</p> <p>The matter of the sequential test is discussed at para 12.29.</p>



<p><b>Lead Local Flood Authority (LLFA) - SCC</b></p>	<p>Initial objection received 24/01/2021 regarding the suitability of the surface water drainage system as designed when accounting for the overland flows in the critical storm duration for the Mill Lease Stream and correspondence from the Environment Agency that the modelling undertaken to demonstrate this is acceptable.</p> <p>Further comments dated 28/02/2022 were received upon consultation with additional information –</p> <p><i>“The responses from the Environment Agency confirms that the EA have taken a risk-based approach and as such does not require a review of the flood model for the demolition and land raising of the site.</i></p> <p><i>The applicant should note, that the EA have commented that they may require a review the model for future proposals at the site.</i></p> <p><i>We suggest to the applicant that other organisations such as the Environment Agency continue to be consulted regarding the future proposals at this site.</i></p> <p><i>Overall, the LLFA is content with the information provided and recommends the development be conditioned with the following two conditions”.</i></p>	<p>The conditions and informatives referred to in the final LLFA response have been imposed.</p>
<p><b>Canal and River Trust</b></p>	<p>General advice given – The accessibility to and maintenance of Firepool Lock may be comprised by works on this site, plus the character of the lock and canal beyond.</p> <p><i>“...alterations to the lock gates and ground levels in the area to provide flood defences could have an impact on the non-designated Heritage asset; Firepool Lock. The Lock should be considered as an important part of the public realm of this part of Taunton and the trust would wish to see a holistic approach to improvements alongside the river, canal and lock area. The applicants should continue to discuss these proposals directly with the Canal and River Trust to allow us to input at the earliest possible stage to ensure that the issues mentioned above are addressed. It is suggested a meeting is set up to allow these issues to be explored in more detail as the development scheme progresses”.</i></p> <p>Please note that part of the site, previously owned by the Canal and Rivers Trust is subject to covenants.</p>	<p>Noted, some of these comments relate to the longer term development plans, the impact of this application on the lock will be considered in the heritage part of the report.</p>
<p><b>Historic England</b></p>	<p><i>“On the basis of the information available to date, we do not wish to offer any comments. We</i></p>	<p>No action required other</p>

	<p><i>suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant”.</i></p>	<p>than assess archaeological and conservation officer’s comments.</p>
<p><b>Natural England</b></p>	<p>Unlikely to be an impact on the Hestercombe House SAC, designated for its lesser horseshoe bat feature.</p> <p>Comments on the Somerset Levels and Moors Ramsar Site - If a development is identified as likely to add additional phosphorus to the catchment, planning permission should not be granted until a Habitats Regulation Assessment has been undertaken.</p>	<p>Noted, see para 12.53.</p>
<p><b>Wessex Water</b></p>	<p><i>“There is significant public sewer infrastructure crossing the development site including a storm overflow known as Taunton Market overflow 17338. We have been working with the developers over the past 18 months to discuss protection and diversion options to achieve an acceptable site layout. The developer has instructed Wessex Water to undertake some of the diversion works the design of which we are currently progressing. Works on site must ensure that self cleansing velocities are maintained and there is no increase in flooding or pollution as a result of the proposals. The drawing included in the FRA Drainage Strategy Enabling Infrastructure Drainage Layout Drawing 501 P3 has not been submitted as part of the diversion application to Wessex Water. The applicant’s consultants has advised the drawing reflects interim arrangements if the southern boulevard comes forward prior to the site wide diversions being implemented. Temporary arrangements have not been agreed with Wessex Water and will require further assessment. Please can you consider a suitable worded condition to ensure temporary arrangements are only progressed with further discussion and agreement with Wessex Water. The current drawing Wessex Water is working to is reference S185 Drainage Diversion Strategy 505 Revision P1.</i></p> <p><i>There has been interest in the operation of the current overflow associated with this site and I can advise: Upon redevelopment of brownfield sites we look for opportunities to separate out surface water from the combined or foul systems to land drainage to reduce flooding and overflow</i></p>	<p>Noted, a condition regarding temporary arrangements has been added.</p>

	<p><i>operation. With regards to the Firepool site systems are already predominantly separate with surface water entering the combined system from further upstream. Storm overflows are a legacy arrangement and exist on our networks to protect properties from flooding, flows are very dilute when they do operate. Further information can be found here - <a href="https://www.wessexwater.co.uk/services/sewerage/storm-overflows">https://www.wessexwater.co.uk/services/sewerage/storm-overflows</a> . We have installed Event Duration Monitoring on site 17338 recording 5 spills in 2019 and 2 spills in 2020. Since 2000 Wessex Water has invested £181 million on upgrading nearly 600 storm overflows across its region, with a further £150 million set aside for improvements between 2020 and 2025 It would not be possible for the Firepool developer to achieve any measures on site to enable the overflow to be abandoned without increasing the risk of flooding to upstream properties; during storm conditions it is likely the excess water would find another point to discharge and in a less controlled manner. Improvement will need to be implemented in the upstream catchment through surface water separation schemes. Wessex Water is working in partnership with other flood risk management authorities on the wider Taunton Flood Alleviation Scheme. As part of this project we are seeking to redirect surface water flows from impermeable areas (typically rainwater draining from roofs and driveways) connected to the foul sewer and into land drainage upstream from Firepool. We are currently assessing the feasibility of disconnecting surface water from a development upstream which has separate systems of foul and surface water flows but connection of both flows has been made to the combined sewer. There are limited opportunities to separate significant flows without tackling the issue on a house by house basis. We accept that there is need for a step change in the way storm overflows operate in the UK, but to do so is not simple and will require several years of sustained investment – to eliminate all overflows in England and Wales will cost in excess of £300 billion”.</i></p>	
<p><b>Network Rail</b></p>	<p><i>No objections in principle “but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety,</i></p>	<p><i>Noted, no further action. Applicant to note and</i></p>

	<p><i>operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission”.</i></p> <p><i>“Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3 months notice before works start”.</i></p>	provide notice of the start of works. Note imposed.
<b>DLUHC</b>	The Department for Levelling Up, Housing and Communities acknowledge receipt of the ES but have no comments to make.	No further action.

## 8.2 Non-Statutory Consultees

<b>Consultee</b>	<b>Comments</b>	<b>Officer comments</b>
<b>SWT Conservation Officer</b>	<i>“The auction house is a more modern building likely 1950s and is not a heritage asset. I have no objection to its demolition. I have no comment to make on the drainage proposals of plateaus or security fences”.</i>	No action required.
<b>SW Heritage Trust (archaeology)</b>	<i>“The submitted Heritage Statement and archaeological WSI are sufficient to enable the significance of the archaeology on the site to be understood. The WSI represents an appropriate archaeological response and as this has been submitted as part of the planning application we advise that the following (amended) condition be attached to permission if granted. For this reason I recommend that the applicant be required to provide archaeological monitoring of the development and a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 205)”</i>	Condition added.
<b>SWT Tree Officer</b>	<i>“With regards to the existing trees there’s little of particular note on this site. Normally efforts would be made to retain any category A or B trees. There aren’t any A’s, but there are a few B’s, notably the limes along the eastern boundary. They are of moderate quality, well-established but structurally not the best, with some poor unions and past pruning. Whether they are retained will</i>	No further action. Tree protection measures imposed by condition.

	<p><i>depend on the proposed layout and the quality of the proposed landscape design and planting scheme for the site, which of course I think should be the highest quality for this important site for the town, in accordance with our Design Guide”.</i></p>	
<p><b>SWT Green Infrastructure Officer</b></p>	<p>No objection to Auction House demolition or the diversion to the cycle and pedestrian route.</p> <p>Concerns raised about the temporary flood mitigation proposal and the lack of green infrastructure elements in the proposal.</p> <p><i>“The site is adjacent to the River Tone, an important GI corridor within the city. Given that this is the first stage of developing the site and part of a larger plan, it would be beneficial to plant new trees at this stage and according to the site's future development plan. The application should also consider building the permanent SuDS feature, which is part of the boulevard's future plan, instead (or in addition) of the proposed temporary swale. That can support the ecology system and improve the runoff water quality”.</i></p>	<p>Noted, this will be assessed in the main body of the report.</p>
<p><b>SWT Environmental Health</b></p>	<p><i>“The proposal is to carry out demolition and ground works at the former cattle market site at Firepool, Taunton. This will include site remediation and raising ground levels. Regarding the potential contamination issues at the site, Environmental Health can confirm that, based on the information provided, the proposed remediation strategy would be acceptable to deal with any risks to future users of the site.</i></p> <p><i>It is recommended that the Environment Agency also review the information regarding any concerns about contamination of ground or surface waters (although the report did not find any significant groundwater contamination).</i></p> <p><i>The information provided includes an Environmental Impact Assessment and an Environmental Statement (Avison Young, October 2021). Information on ground conditions and potential contamination was addressed in this, also in a specific report on ground conditions:</i></p> <ul style="list-style-type: none"> <li>- <i>Firepool, Taunton Infrastructure Works, Remediation Strategy, 20 August 2021.</i></li> </ul>	<p>Noted, a condition is imposed to require the remediation scheme to be implemented and any unexpected contamination to be reported.</p>

	<p><i>Jubb Consulting Engineers Ltd</i></p> <p><i>The Jubb Report includes a review of previous investigations and reports carried out for this site, going back to 2005.</i></p> <p><i>The report states that as the works for this application includes bulk earthworks for the future development of the site, the existing contamination must be addressed to meet the anticipated requirement of the future scheme and range of uses.</i></p> <p><b>Ground contamination</b></p> <p><i>An additional ground investigation was carried out in 2021, including window sampling and boreholes. This found evidence of made ground on the site. Testing of soil samples found some areas with levels of contaminants above the chosen assessment criteria. A conceptual model and risk assessment were prepared which found low risk to future site users. However, the report made some recommendations for remedial works including</i></p> <ul style="list-style-type: none"> <li><i>- Segregation, quarantining and testing of made ground and natural deposits</i></li> <li><i>- Removal of hot spots of contamination</i></li> <li><i>- Garden areas in future development to have a 650mm capping layer</i></li> <li><i>- Soft landscaped areas to have 450mm capping layer</i></li> <li><i>- Import criteria for soils to be based on relevant Criteria</i></li> <li><i>- Watching brief to deal with any unexpected contamination.</i></li> </ul> <p><b>Asbestos</b></p> <p><i>Based on the site investigation the report noted that asbestos is unlikely to be present or pose a significant risk, however, a watching brief should be kept at the site.</i></p> <p><b>Controlled water</b></p> <p><i>Monitoring and sampling was carried out and the report concluded that no significant groundwater contamination had been encountered.</i></p> <p><b>Ground gas</b></p> <p><i>Sampling was carried out. The report states that</i></p> <p><i>“The development is likely to fall into a Type B category (Private or commercial/public, possible multiple occupancy), for which Characteristic Situation 2 requires 3.5 points</i></p>	
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	<p><i>of protection. This will comprise a combination of: the structural barrier of the floor slab; ventilation measures; and gas resistant membrane. Specific details will need to be considered by the structural engineer.”</i></p> <p><i>Note that gas protection measures are part of the Building Regulations and should be agreed and signed off as part of the Building Control process.</i></p> <p><i>The proposals outlined in the Jubb Remediation Strategy should be used as a basis for the works needed for the future, detailed development proposals for the site”.</i></p>	
<p><b>SCC Ecologist</b></p>	<p><i>“The application is located within the catchment of the Somerset Levels and Moors Ramsar site. However, the proposed application, with associated low levels of Phosphate production, is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore, a Likely Significant Effect under The Conservation of Habitats and Species Regulations 2017 (and as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) can be ruled out.</i></p> <p><i>Please note that this only applies to the specifics of this application as a standalone. It is recognised that any future schemes as a separate planning application will need to be assessed on their own merits and may require a Habitats Regulations Assessment (HRA). Notwithstanding nutrient considerations above please see ecology comments below:</i></p> <p><i>An Ecological Survey Addendum report of the application site was carried out in 2021 by Cotswold wildlife surveys. The report provides updates to historic survey efforts across the site.</i></p> <p><b>Habitats:</b></p> <p><i>The site is mostly hardstanding ground. Features of ecological value are limited to an area of amenity grassland, buildings and a few scattered trees that fall within the redline boundary in the northern section the site and vegetation on the southern boundary between the site and the adjacent river tone.</i></p>	<p>Noted, Conditions and Informatives imposed.</p>

**Designated sites:**

*The application site lies within Band C of the Bat Consultation Zone for the Hestercombe House SAC which is designated for its lesser horseshoe bat feature. However, the proposed development is highly unlikely to have an effect on lesser horseshoe bats and therefore I do not propose to carry out a Habitats Regulations Assessment for the application.*

**Bats:**

*The buildings on site were considered to be negligible for roosting bats, low levels of activity of commuting and foraging bats are associated with the site and particularly along the river tone.*

**Birds:**

*Nesting opportunities associated with building structures and vegetation on site.*

**Otter and water vole:**

*Known records associated with the river tone adjacent to the site.*

**Invasive species:**

*A fresh scat from American Mink was noted along the banks of the river tone during the survey but not specifically attributed to the development site itself.*

**Recommendations**

*To comply with local and national policy, wildlife legislation, and the requirements of the mitigation hierarchy and for biodiversity net gain, please attach the following conditions to the planning permission if granted”.*

**“Biodiversity Enhancement (Net Gain)**

*In accordance with National Planning Policy Framework (NPPF) and the Environment Act, the requirement of biodiversity enhancement needs to be considered with planning applications. However, it is accepted that this application is for site clearance as part of enabling infrastructure works for future plans which will be implemented under a separate application. Therefore, any enhancement measures at this stage would likely be inappropriately incorporated and potentially disturbed during the later development. It is therefore anticipated that permanent biodiversity enhancement measures shall be*



	<p><i>implemented in detail within the design stages of the future applications”.</i></p> <p>Conditions and Informative proposed relating to bats, small mammals, badgers and birds.</p>	
<b>SCC Rights of Way</b>	<p><i>“...there is a public right of way (PROW) recorded on the Definitive Map that abuts the site (public bridleway T 33/21) at the present time. A long-distance trail, the East Deane Way, abuts the site on a temporary route beside the river”.</i></p> <p><i>“The proposed pipeline across the bridleway T 33/21 will need to be authorised through a s50 licence”. “On the parallel planning application 38/21/0436, there is a temporary bridleway diversion shown on the application’s plans but this does not appear to be shown on the plans for this application 38/21/0440 and therefore there needs to be co-ordination between all the applications”.</i></p> <p>Any proposed works must not encroach onto the width of the PROW (public bridleway), ref T33/21.</p> <p>Health and safety should be considered.</p> <p>Informative suggested.</p>	Informative added.
<b>Taunton Disability Action Group</b>	<p>Referring to all three applications currently pending – <i>“We are surprised that an Equality Impact Assessment isn’t done at this stage, effectively, planning permission could be given for something that does not comply with the Equality Act 2010. It would seem sensible to consider these matters at the beginning, consulting with interested parties, working together, finding solutions, avoiding problems at a later stage where things have been overlooked, as has happened with other schemes. Our input at this stage is this; the schemes must be inclusive and comply with the provisions of the Equality Act 2010”.</i></p>	The applicant is undertaking an EIA, however this application involves no greater public access than exists currently.

### 8.3 Local representation

8.3.1 This application was publicised by 81 letters of notification to neighbouring properties and 6 site notices were displayed around the periphery of the wider Firepool site on the 11<sup>th</sup> November 2021.

8.3.2 One representation, indicating neither support nor objection, was received from a private individual, who recounts the ‘Auction House’ being used as an Indoor Market from the 1950’s to the mid-1990’s. Attempts to include a

specific location for a market in the Town Centre Action Plan failed but a policy [*Case Officer comment – this is Policy Fp1*] includes reference to the relocation of the produce market within the town centre. The representation calls for a portion of the proceeds from the development of this corner of the site to be saved for the new Taunton Town Council to help develop market space elsewhere. These matters will be picked up in the main body of the report at para 12.62.

- 8.3.3 Those that are material to the determination of the applications are addressed in substance in the material planning considerations sections of this report.

<b>Comment</b>	<b>Officer comment</b>
<b>Parking</b>	
A small area should be retained for resident parkers and as short-term connection point for the businesses in Station Road.	Addressed in para 12.42 of this report.

- 8.3.4 There were no specific letters of support received.

## **9. Relevant planning policies and Guidance**

- 9.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former Taunton Deane area. The Development Plan comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (SADMP) (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).
- 9.2 Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 are currently being reviewed and the Council undertook public consultation in January 2020 on the Council's issues and options report. Since then the Government has announced proposals for the local government reorganisation and regulations are currently going through Parliament with a new unitary authority for Somerset to be created from 1 April 2023. The work undertaken towards a new local plan will feed into the requirement to produce a Local Plan covering the new authority.
- 9.3 Relevant policies of the development plan in the assessment of this application are listed below.

### Core Strategy 2012

SD1 - Presumption in Favour of Sustainable Development

SP1 - Sustainable Development Locations

SP2 - Realising the Vision for Taunton  
CP1 - Climate Change  
CP2 - Economy  
CP3 - Town and other Centres  
CP4 – Housing  
CP5 – Inclusive Communities  
CP6 - Transport and Accessibility  
CP7 - Infrastructure  
CP8 - Environment  
DM1 - General Requirements  
DM4 - Design  
DM5 - Use of Resources and Sustainable Design

#### Site Allocations and Development Management Plan 2016

A1 - Parking  
A2 - Travel Planning  
A3 - Cycle network  
TC4 - Primary Shopping Areas  
I4 - Water Infrastructure  
ENV1 – Protection of trees, woodland, orchards and hedgerows  
ENV2 - Tree Planting within New Developments  
ENV4 – Archaeology  
ENV5 - Development in the Vicinity of rivers and canals  
D1 - Taunton's skyline  
D7 - Design Quality  
D8 - Safety  
D9 - A co-ordinated approach to development and highway planning  
D13 - Public Art

#### Taunton Town Centre Area Action Plan 2008

Fp1 - Riverside - Development content  
Fp2 - Riverside - Transport measures  
Tr2 – Parking in New Development  
Tr3 – Smarter Choices  
Tr4 – Travel Plans  
Tr5 – Car Sharing  
Tr6 – Developer Contributions to Transport  
Tr10 – Cycle Schemes  
F1 – Development in the Floodplain  
ED1 – Design  
ED2 – Public Art  
ED3 – Mixed Use  
ED4 – Density  
ED5 – Combating Climate Change through New Development  
ED6 – Off-site Public Realm Enhancements  
TS1 – Training & Skills  
IM1 – Priorities for Developer Funding

#### Supplementary Planning Documents

Public Realm Design Guide for the Garden Town, December 2021

District Wide Design Guide, December 2021

Other relevant policy documents

Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (February 2021)

Neighbourhood Plans

There is no made Neighbourhood Plan for the area

The National Planning Policy Framework

The revised National Planning Policy Framework (NPPF), last update July 2021 sets the Governments planning policies for England and how these are expected to be applied.

Relevant Chapters of the NPPF include:

2. Achieving sustainable development
3. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
7. Ensuring the vitality of town centres
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

**10. Conclusion on Development Plan**

- 10.1. To properly perform the S38(6) duty the LPA has to establish whether or not the proposed development accords with the development plan as a whole. This needs to be done even if development plan policies "pull in different directions", i.e. some may support a proposal, others may not. The LPA is required to assess the proposal against the potentially competing policies and then decide whether in the light of the whole plan the proposal does or does not accord with it. In these circumstances, the Officer Report should determine the relative importance of the policy, the extent of any breach and how firmly the policy favours or set its face against such a proposal.
- 10.2. There are specific polices in the Core Strategy (CP3) Taunton Area Action Plan (Fp1) that support the development of the Firepool site, making it a strategic priority for the Council, given its transformative impacts on the Town Centre and delivery of the Garden Town objectives.
- 10.3. This report assesses the material considerations and representations before reaching a conclusion on adherence with the development plan as a whole.

## **11. Local Finance Considerations**

### Community Infrastructure Levy

The application is for an access which is a development type where the Community Infrastructure Levy (CIL) is not charged. As such there would not be a CIL receipt for this development.

## **12. Material Planning Considerations**

12.1. The main planning issues relevant in the assessment of this application are as follows:

- The principle of development
- Prematurity – development in advance of a Masterplan
- Technical Assessments – Flood Risk
- Access and highway safety
- The impact on neighbouring residential amenity

### Principle of Development

12.2. Delivering the redevelopment of the Firepool site is one of the Council's key corporate priorities. This application is one of three recent applications and is another important first steps towards achieving that objective.

12.3. Planning Committee approved in February 2022 the application for an access off Trenchard Way and this in time will become the principal means of access for vehicular traffic relieving Canal Road.

12.4. The third application to develop Block 3, with a new office building (with retail on the ground floor) and conversion of the existing GWR building to a restaurant, plus the northern extent of the planned public realm boulevard is subject to a separate report also on the agenda for the 17 March 2022 Planning Committee.

12.5. The Firepool site has been vacant for over a decade and there is very strong support within the local community for it to be redeveloped. In tandem with the proposed main vehicular access, this substantive package of enabling infrastructure works is necessary site preparation of this brownfield site to cater for future development. Whilst largely a technical assessment of matters concerning flooding and drainage, and works which will be largely unseen underground, its implementation represents the opportunity for a significant future development within a highly accessible and sustainable location.

12.6. The redevelopment of the application site which forms part of a key brownfield site (Firepool) within Taunton's Town Centre, is supported by the Development Plan and is an important part of its strategy for Taunton. The clear focus of long-established national and local planning policy is to secure sustainable patterns of redevelopment and regeneration through the efficient

use of previously developed urban land and through concentrating development in accessible locations. Paragraph 119 of the NPPF states that local planning authorities should adopt a clear strategy for accommodating objectively assessed needs in a way that makes as much use as possible of previously developed or 'brownfield' land. Paragraph 120 c) states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for development needs.

- 12.7. The Development Plan echoes the rhetoric of the above. The Core Strategy (Policy SP1) makes it clear that the Taunton urban area will remain the strategic focus for growth and will be the focal point for new development. It states that priority has been given to the regeneration and expansion of the town centre, with a number of strategic sites allocated in the adopted Taunton Town Centre Area Action Plan (2008). Meanwhile, Policy DM1 seeks to ensure new development makes the most effective and efficient use of land, giving preference to the recycling of previously developed (brownfield) land. It also sets out the scale of additional office and retail space that the vision for Taunton will require.
- 12.8. The Town Centre Area Action Plan (AAP) is essentially a delivery plan. It includes Firepool as one of its main proposals where around 60,000 square metres of new offices, 8,000 square metres of retailing and leisure uses, a boulevard linking the railway station with the River Tone and the town centre and two multi-storey car parks (including one for rail users) will be provided.

#### Prematurity – Development in advance of Masterplan

- 12.9. The proposed enabling work is an integral first step to the opening up of the Firepool site.
- 12.10. The revised NPPF (July 2021) provides policy support for the application proposals. In addition to the presumption in favour of sustainable development, the following paragraphs are pertinent:
- Paragraph 38 states that decision-makers at every level should seek to approve applications for sustainable development where possible.
  - Paragraph 80 states that significant weight should be placed on the need to support economic growth and productivity.
  - Paragraph 118 states that planning decisions should give substantial weight to the value of reusing brownfield land within settlements and promote and support the development of under-utilised land and buildings.
- 12.11. A new Masterplan and revised mix of uses for the wider Firepool site is being prepared and will be subject to public consultation before its adoption as a material planning consideration. It is understood the Council's objective is to commence development, starting with these enabling works, as soon as possible. Whilst ideally this application would have waited to be informed by

a site-wide Masterplan the LPA is required to determine the application before it.

- 12.12. The LPA must therefore proceed on the basis that this planning application should be treated on its merits and on the balance of considerations applying the relevant policies in the Development Plan, the weight that can be given to them, and all material considerations including national policy.
- 12.13. If, due to the way the levels and drainage are being designed, it later causes a constraint to development potential, then any financial risk in this 'cart before the horse' approach lies with the applicant. This will ultimately only be known post-Masterplan when planning applications are submitted for assessment. The previous approval for the St Modwen scheme was a comprehensive development inclusive of this type of infrastructure work led by a proposed final design where one knew where buildings were going to be located, trees planted, and roads constructed. In this case the predominant route for realigned services is the boulevard which become more of a 'fix' but the principle of a boulevard of some description is supported by policy.
- 12.14. Significant weight should also be given to the potential knock-on economic benefits, the value of re-using brownfield land by facilitating the actual delivery of development on a site that has lain vacant for over a decade which is supported by national and local policy.
- 12.15. The Local Planning Authority also must assess whether the information it has within the Environment Statement is sufficient to determine the application now before it. The Local Planning Authority is of the view that based on the information submitted with and subsequently acquired in connection with the application is adequate to form the view that the application would not have any further environmental effects. As such no formal request under Reg 25 of the EIA Regulations has been necessary.
- 12.16. It is considered that the development complies with the Development Plan when taken as a whole. The relevant policies are CS policies SD1, SP1, SP2, CP1, CP2, CP3, CP5, CP6, CP7, CP8, DM1, DM4; AAP policies Fp1, Fp2, TR6 and ED1, and SADMP policies A3, D7 D8 and D9, as well as policies within the National Planning Policy Framework (NPPF).

#### Flooding and Drainage

- 12.17. The area of the Firepool site covered by this application falls within Flood Zones 2 and 3 (the zones of medium and highest risk respectively). Due to the location of the site, the flood risk source is fluvial and specifically from the overtopping of the adjacent River Tone.

- 12.18. The submission details scenarios whereby the extent of flooding is modelled with and without the existing river defences to understand the likelihood and severity of any flood events.
- 12.19. Onsite flood mitigation in the form of land raising is proposed, which will mitigate the risk of fluvial flooding within the proposed site further. The development levels that are proposed as part of this planning application are to be set at a level which will allow for future building floor levels and the majority of finished external areas within the site to be raised sufficiently taking into account wider flood defence works and allowing for climate change.
- 12.20. However, whilst this addresses on-site concerns, the raising of levels at Firepool may increase flood risk elsewhere, as was the case with the previous St Modwen scheme. At that time the potential for additional permanent flood defences in Taunton was being established with what became the Taunton Strategic Flood Alleviation Improvements Project (TSFAIP), and with it a commitment from the Council to spend £6m. The impacts of the St Modwen scheme were mitigated short-term by a commitment via section 106 to deploy temporary flood barriers in the Frieze Hill to Town Bridge area until the permanent scheme (wall raising) in that area was completed (known as project TTC5).
- 12.21. Roll forward several years and work on the respective projects of the TSFAIP continues. Project TTC5 is not yet completed to mitigate the works proposed by this application, but the Council is contracted with the EA to start delivery in late 2023. As such, discussions with the EA have taken place to determine the appropriate course of action given the works subject to this application will likely be completed 12-18 months in advance of the TTC5 project.
- 12.22. The LPA and EA remained concerned about a 'what if?' scenario of the TTC5 project not ever going ahead. Recognising that concern the applicant has proposed a solution that addresses the key risk that TTC5 is not completed at all by providing a section 106 agreement with the following provisions:
1. That the Council completes the TTC5 flood defence works within 18 months of the Practical Completion of the Firepool Drainage and Levels project (by December 2024) keeping the EA regularly informed as matters progress
  2. Should it become clear the target Practical Completion of the TTC5 works is terminated or will be subject to a significant delay, then the Council will, before practical completion of the Drainage and Levels project, submit to the Local Planning Authority a scheme for the installation of the Temporary Flood barriers, such scheme to include:
    - i. Details of the ownership of the land upon which the Temporary Flood Barriers would be provided
    - ii. Details of the consultation that will be carried out with the community affected by the Temporary Flood barriers; and



- iii. A scheme for storage, deployment and maintenance of the Temporary Flood Barriers for the entire period during which the Temporary Flood barriers are required.
  3. Once the scheme submitted under paragraph 2 has been approved by the Council (in consultation with the Environment Agency) to implement and maintain the approved scheme in accordance with the details approved therein and this to be completed within 18 months of Practical Completion of the Drainage and Levels project
- 12.23. This solution has been agreed by the EA and the recommendation recognises the need for a section 106 agreement.
- 12.24. The site is also at risk of overland and surface water flooding, i.e. flooded by water from elsewhere. The main risk of overland flooding to the site is caused through the overtopping of the Mill Lease Stream culvert northwest of the site, which contributes to the surface water flood risk identified along the western boundary of the site. Overtopping flows from this culvert could potentially be conveyed down the railway and surrounding region before flowing down Albermarle Road and ultimately to Canal Road and through the western region of the site and into the River Tone.
- 12.25. The combination of river flooding from the Tone and overland flooding necessitates the need for the proposed works in order to facilitate future development of the site.
- 12.26. In addition, Wessex Water (WW) has several drainage assets located within the existing site, which includes combined, surface water and combined overflow sewers. Several WW combined trunk sewers run through the site from Priory Bridge Road and Canal Road, which ultimately discharge into a 4 no. piped siphon located immediately adjacent to the River Tone that conveys flows beneath the river. Canal Road contains smaller public combined sewer infrastructure which served the former uses on the site and currently serves the Prospect Terrace, Canal Terrace and Market Terrace properties.
- 12.27. The existing site is also served by a private network of foul and surface water sewers. However, due to the current state of the site many of these are currently disused/abandoned. One of the upstream surface water sewers that connects into the main trunk sewer serves the relatively new development north east of the site and will need to be maintained/diverted as part of any proposed works for the site.
- 12.28. Extensive investigation has been carried out by Wessex Water at the behest of the applicant to identify the existing sewer networks on the site and the live sewers. The combined sewer network in particular presents a constraint to development with large brick sewers crossing the development zone and the existing siphon being a significant infrastructure asset that requires maintenance and operation.

- 12.29. The sequential test by the Local Planning Authority (LPA) is required as per NPPF guidance as the site is located outside of Flood Zone 1. The site is allocated within the Local Plan and by Policy Fp1 of the Taunton Town Centre Area Action Plan, which is designated for a mixed-use scheme, and the sequential test is passed, and no further assessment will be required.
- 12.30. The proposed works effectively include an untangling of a network of underground services to create unhindered development areas for future buildings. Four WW diversions are proposed, new foul drainage infrastructure will be constructed to serve future development and a new surface water drainage network, inclusive of a swale (part of the future SuDs treatment train for the site) will be provided. A new surface water outfall is required within the bank of the River Tone and will partially sit beneath the water level. Works within 8m of the watercourse requires an EA permit.
- 12.31. Lastly, due to the risk associated with surface water flooding from the overtopping of the Mill Lease Stream Culvert, it is proposed to provide a flood relief culvert as part of the drainage scheme which will connect into the main proposed surface water network for the development and ultimately discharge into the River Tone.
- 12.32. It is evident in the Flood Risk Assessment and Drainage Strategy document that the site supports two combined sewer overflows, which collect and convey overtopping flows from the combined sewers directly into the River Tone. This has recently become a high-profile issue in the media but it should be stressed that the Firepool site is merely the end point of this existing infrastructure and does not currently contribute any foul load to the sewer. In discussions with WW it has been confirmed that with redevelopment of brownfield land they look for opportunities to separate out surface water from the combined or foul systems to land drainage to reduce flooding and overflow operation. However with regards to the Firepool site the systems are already predominantly separate with surface water entering the combined system from further upstream. They state storm overflows are a legacy arrangement and exist on their networks to protect properties from flooding, flows are very dilute when they do operate.
- 12.33. WW have installed Event Duration Monitoring on site (No.17338) recording 5 spills in 2019 and 2 spills in 2020. In response, WW since 2000, has invested £181 million on upgrading nearly 600 storm overflows across its region, with a further £150 million set aside for improvements between 2020 and 2025.
- 12.34. Importantly WW state it would not be possible for the Firepool developer to achieve any measures on site to enable the overflow to be abandoned without increasing the risk of flooding to upstream properties; during storm conditions it is likely the excess water would find another point to discharge and in a less controlled manner. Improvement will need to be implemented in the upstream catchment through surface water separation schemes. WW is working in partnership with other flood risk management authorities on the wider Taunton Flood Alleviation Scheme. As part of this project they are

seeking to redirect surface water flows from impermeable areas (typically rainwater draining from roofs and driveways) connected to the foul sewer and into land drainage upstream from Firepool. WW are currently assessing the feasibility of disconnecting surface water from a development upstream which has separate systems of foul and surface water flows but connection of both flows has been made to the combined sewer. There are limited opportunities to separate significant flows without tackling the issue on a house by house basis. WW accept that there is need for a step change in the way storm overflows operate in the UK, but to do so is not simple and will require several years of sustained investment – to eliminate all overflows in England and Wales will cost in excess of £300 billion.

- 12.35. The proposal has been subject to consultation with the Environment Agency and the Lead Local Flood Authority. A meeting was also convened to address concerns and queries initially expressed by these bodies. Further modelling information has been reviewed and this led to the EA withdrawing its initial objection subject to conditions, which have been imposed.
- 12.36. The LLFA were similarly consulted and following the lead from the EA have also withdrawn their objection subject to two conditions relating to SUDs and a plan for the future responsibility and maintenance of the surface water drainage system.
- 12.37. In light of the above, it is considered that the development complies with the NPPF and Local Development Plan Policies CP1, CP7 and CP8 (of the Core Strategy), and I4 (of the SADMP).

#### Transport and Highways

- 12.38. The most significant transport impacts of this proposal are short-term whilst the variety of groundworks (remediation, infrastructure and ground raising) are undertaken. Thereon, only traffic movements associated with the re-provided public car park and general maintenance of the site, river, syphon and lock will continue as they have done.
- 12.39. The most notable period for traffic movement associated with this proposal is the period when material is being brought to site to raise the levels. The Construction Traffic Management Plan states all HGV deliveries will be between 9.30am and 3pm on weekdays, and up to 20 per day can be expected, on top of daily staff movements of 10 per day. At its peak based on the associated calculation of material movements this would likely result in 1108 movements over a 12-week period.
- 12.40. In the context of the site this is considered acceptable. The Highway Authority has sought a 'road condition survey condition'; this surveys the carriageway prior to the development taking place so any identifiable damage caused by an increase in HGV use from the construction activity can be put right post works.
- 12.41. The re-provided cycle link through the site is welcome.

- 12.42. One representation requested a small area to be retained for resident parking and as a short-term connection point for the businesses in Station Road. There is no policy to require such, but the Council as applicant will no doubt take on board this feedback.
- 12.43. It is therefore considered that the proposal complies with policies within the National Planning Policy Framework (NPPF) as well as CS policies CP6, CP7, CP8 and DM1 plus SADMP policies A3, D7 D8 and D9.

#### Heritage and Archaeology

- 12.44. There are a number of designated heritage assets in the immediate vicinity surrounding the site including the Firepool Pumping Station, a cluster of buildings around Taunton Station, GURDS and the Former Shirt and Collar Factory Premises of Barnicotts Limited Printers, all of which are Grade II Listed, plus Staplegrove Road Conservation Area. These heritage assets will not be adversely impacted by the proposal. SADMP policy ENV4 is relevant.
- 12.45. With respect to archaeology, a Written Scheme of Investigation (WSI) has been submitted. A condition refers to its implementation.
- 12.46. Impact on the Canal – The lock has been identified as a non-designated heritage asset. Policy ENV5 of the SADMP is also relevant. The site levels are not substantially increased in the vicinity of Firepool Lock and so there is no direct impact envisaged. It is absolutely right that the development team take into account Firepool Lock as part of the Masterplan progression, to that end they will no doubt heed the calls for further engagement with the Canal and River Trust.
- 12.47. In light of the above, it is considered that the proposals comply with the NPPF and Policy CP8 of the Core Strategy as well as Policies ENV4 and ENV5 of the SADMP.

#### Landscaping and Arboriculture

- 12.48. Policy ENV1 provides for the protection of trees and other green infrastructure, seeking for development to minimise its impact in this respect or otherwise providing adequate replacement tree provision to compensate.
- 12.49. There are very few, if any trees, or indeed any greenery, of any significance on the site. One category B sycamore on the boundary with Priory Bridge Road has some presence and is to be retained plus some lime trees along the river bank may be saveable given the extent of the works to allow a comprehensive review when the future scheme, inclusive of planting can be considered. For the purposes of these works, tree protection fencing will be conditions for all retained trees. One group of trees which will be lost is a notable group of four Silver Birch bordering Canal Rd, due south of the GWR Goods Office. This is regrettable but the prospect of tree planting as part of future development is tangible enough to justify this loss.

12.50. The comments of the Green Infrastructure Officer are noted; however this application is limited to site enabling and groundworks only, leaving the question of “what next?” to the Masterplan process and future applications. This proposal therefore represents the foundations of the scheme with all above ground development still to be fully designed. Similarly, Policy ENV2 seeks to encourage the planting of new trees in a development, however this application simply seeks to prepare the site for future development where tree planting will be required.

#### Ecology

12.51. An accompanying Ecological Statement describes the site as of low ecological interest and opines there will be no impact on designated sites in the area. While acknowledging the low species diversity on site, it goes on to recommend some possible mitigation measures.

12.52. These are reaffirmed and enhanced by suggested conditions from the Somerset Ecology Service as consultee. These conditions in part protect bats, birds, small mammals and badgers from the works and two conditions seek to enhance the ecological value of the site via a Biodiversity Net Gain plan.

12.53. In light of a court Judgement (known as Dutch N), Natural England have advised the Local Planning Authority that in light of the unfavourable condition of the Somerset Levels and Moors Ramsar Site, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should undertake a Habitats Regulations Appropriate Assessment. However, the application proposals do not contain any of the uses which would give rise to an increase in nutrient loadings at the wastewater treatment works and so a project level Appropriate Assessment is not required to be undertaken in this case (see Paragraph 7 above).

#### Impact on Residential Amenity

12.54. Works of the nature proposed here inevitably cannot be undertaken without some impact on residents. Policy DM1 outlines that potential noise pollution which could adversely impact amenity of residents or occupants of a site should be appropriately dealt with. To mitigate as far as possible these impacts a Construction Management Plan has been submitted.

12.55. It states site working hours will be 0700 – 1900 Monday to Friday and 0700 – 1300 on Saturdays. No construction works are proposed to be carried out on Sundays or Public Holidays and it states any variations from this will only occur with the prior agreement of the client after appropriate consultations with local residents and businesses (or their representatives) and the Local Planning Authority.

- 12.56. All heavy goods deliveries will be restricted to take place between 09:30 and 15:00 on weekdays, outside both the highway peaks and the drop off/pick up periods at the local schools. The most intense phase of construction traffic movements would be during the initial earthworks phase (i.e. cut and fill). Based on the associated calculation of material movements this would likely result in 1108 movements over a 12-week period.
- 12.57. The site will also be served by wheel washing facilities.
- 12.58. It is considered these provisions are acceptable.

#### Origin of Materials

- 12.59. In order to raise ground levels, it is certain new material will need to be brought to site and the traffic impacts of this activity is assessed previously in this report. Whilst the importation of material is governed by EA permits it is considered appropriate to impose a condition to set out the type and origin of new materials being brought to site once it is known once a contractor is appointed.
- 12.60. The applicant team are seeking to reuse as much on-site material as possible to limit importation (and cost).

#### Ground Conditions

- 12.61. The submitted ground report confirms that there is limited contamination on the site which is generally to be capped by hardstanding and buildings, with limited soft landscaping and no specific remediation measures required. The report concludes that a watching brief should be maintained during site works to ensure any unexpected contamination is dealt with correctly. The reports have been reviewed by Environmental Health colleagues whose comments are replicated in Section 8.2. A condition is imposed to require the remediation scheme to be implemented and any unexpected contamination to be reported.

#### Other Issues

- 12.62. Produce Market - Para 8.3.2 refers to the representation received regarding the Auction House which is noted. It is not considered Policy C4 of the SADMP is relevant and therefore there is no policy to prevent the demolition of the Auction House, historically used for a variety of uses. It is also worth noting that the St Modwen scheme did permit the demolition of the Auction House. Future development plans will need to address Policy Fp1 and therefore the point raised relating to the relocation of the Produce Market within the town centre. This is a matter for the development team and wider Council to consider.

### **13. Planning Balance and Conclusion**

- 13.1. Delivering the redevelopment of the Firepool site is one of the Council's key corporate priorities and this planning application proposal is another vital step towards achieving that objective. The Firepool site has remained vacant for over a decade and there is strong support within the local community for it to be redeveloped. A new Masterplan and revised mix of uses for the wider Firepool site is being prepared and the Council's objective is to deliver the site itself, starting with the commencement of enabling work on the application site as soon as possible.
- 13.2. Whilst that Masterplan is being produced this planning application should be treated on its merits and on the balance of considerations, applying the relevant policies in the Development Plan, the weight that can be given to them, and all material considerations including national policy. It is concluded that the proposal accords with the Development Plan, read as a whole.
- 13.3. Significant weight should be given to catalytic effects of this proposal to finally realise the economic benefits of the wider proposals, the value of re-using brownfield land, the intended high quality of the overall regeneration project and that the application will facilitate the actual delivery of development on a brownfield site that has remained vacant for over a decade.
- 13.4. The recorded concerns and objections have been replicated, explained, and assessed in this report, balanced against a series of material considerations.
- 13.5. It is considered that the tangible benefits of the scheme outweigh any minor residual concerns. For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted subject to the stated conditions set out in full in Appendix 1.
- 13.6. In preparing this report the Case Officer has considered fully the implications and requirements of the Human Rights Act 1998 and the Equality Act 2010.

## Appendix 1 – Planning conditions and informatives

1. The development hereby permitted shall be begun within three years of the date of this permission.  
Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

21137-100-P3	Location Plan
21137-142-T3	Proposed Plateau Levels
21137-144-T1	Proposed Plateau Levels Sections
21137-150-T2	General Arrangement
21137-151-P2	Proposed Footway/Cycle Link
21137-160-P2	Revised Car Park Entrance Section
21137-200-T3	Site Clearance
21137-501-P3	Enabling Infrastructure Drainage Layout Plateau
21137-570-P2	Drainage Construction Details Plateau
21137-601-P3	Proposed Isopachyte Site Strip v Formation Plateau

Reason: For the avoidance of doubt and in the interests of proper planning.
3. No development shall take place (including investigation work, demolition, siting of site compound/welfare facilities) until a survey of the condition of the adopted highway has been submitted to and approved in writing by the Local Planning Authority. The extent of the area of adopted highway to be surveyed must be agreed by the Highway Authority prior to the survey being undertaken. The survey must consist of:
  - a) A plan to a scale of 1:1000 showing the location of all defects identified;
  - b) A written and photographic record of all defects with corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey.
  - c) A timetable for the 'making good' of any defects (in this regard all work should be to the satisfaction of the Highway Authority)Reason: To ensure that any damage to the adopted highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer.
4. No development shall take place (including site clearance and any other preparatory works) until a scheme for the protection of trees to be retained (trees to be felled are shown on the Site Clearance Plan, DwgNo. 200 RevT3) has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing and shall specify the type of protective fencing, all in accordance with BS 5837:2012. Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected. The fencing shall be maintained and retained for the full duration of development works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the



protected areas without the prior written agreement of the Local Planning Authority.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase.

5. Prior to any excavations within the Watching Brief Area (as defined in the WSI) a programme of archaeological work shall be implemented in accordance with the submitted and approved Written Scheme of Investigation (WSI - Cotswold Archaeology October 2021) The development hereby permitted shall be carried out in accordance with the WSI.

Reason: The site has been identified as of possible archaeological interest and therefore as requiring further archaeological investigation in accordance with section 16 of the National Planning Policy Framework and Policy CP8 of the adopted Taunton Deane Core Strategy.

6. Prior to the commencement of the drainage works comprised in the development, details of any temporary connection works required to maintain operation of live drainage assets shall be submitted to and approved in writing by the Local Planning Authority together with a timetable for implementing the permanent works.

Reason: The suggestion that temporary measures may be required necessitates consultation and agreement with Wessex Water to ensure the site and wider area is suitably drained.

7. Prior to the importation of any material to the site, a specification of the materials to be used for ground raising plus their quantum and origin and any proposals for the phasing of works shall be submitted to and approved in writing by the Local Planning Authority. There shall be no processing of material on the site (crushing, riddling) without the prior written consent of the Local Planning Authority.

Reason: To control the importation of materials in the interest of pollution control, highway safety and residential amenity.

8. The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) by Jubb Consulting Engineers dated October 2021 ref: 21137-FRA&DS-01v2 and the mitigation measures it details, particularly:

- a) Ground levels should only be raised to enable Finished Floor Levels (FFLs) of new buildings and roads to be raised 300 mm and 150 mm above the post TSFAIP 1 in 100 year including climate change level.
- b) The overland flow route should not be interrupted as a result of the land raising work and as such, prior to any land raising that would interrupt the overland flow path, the twin culvert and drainage system must be in place.

These mitigation measures shall be fully implemented in accordance with a timetable based on the FRA's timing/ phasing arrangements to be submitted to and approved by the Local Planning Authority prior to any works taking place. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding.

9. The approved Construction Traffic Management Plan reference W21137-CTMP01-D, dated December 2021 shall be implemented in full and maintained throughout the duration of the works (or phase thereof) unless otherwise agreed in writing by the Local Planning Authority. Once a contractor

is appointed to undertake the development, the outline Construction Environmental Management Plan reference 21137-CEMP-Rev1 dated October 2021 shall be updated, refreshed and resubmitted and once agreed in writing by the Local Planning Authority shall be implemented in full and maintained throughout the duration of the works (or phase thereof) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, to protect the amenities of nearby properties during the construction of the development and to protect the natural and water environment from pollution.

10. The development shall be carried out in accordance with the recommendations in the document "Firepool, Taunton Infrastructure Works, Remediation Strategy, 20 August 2021. Jubbs Consulting Engineers Ltd" unless otherwise agreed in writing by the Local Planning Authority. In the event that contamination is found at any time when carrying out the approved works that was not previously identified, such contamination must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must then be undertaken and where remediation is necessary a remediation scheme must be submitted which is subject to the approval in writing of the Local Planning Authority, and then carried out in full, in accordance with a timetable which shall have also been submitted to and approved by the Local Planning Authority.

Reason: To ensure the approved remediation scheme is implemented and unexpected contamination is reported in the interests of controlling pollution to the benefit of the environment and future residents.

11. Prior to installation of any external lighting, a lighting design for bats, following Guidance Note 8 - Bats and Artificial Lighting (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 5 of the said Guidance Note 08/18, including submission of contour plans illustrating Lux levels. Lux levels should be below 0.5 Lux. All external lighting shall be installed in accordance with the specifications and locations set out in the approved design, and these shall be maintained thereafter in accordance with the approved design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species.

12. No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or works to or demolition of building structures commences and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.

- Reason: In the interests of nesting wild birds.
13. No development shall be commenced until details of the sustainable surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. Such scheme should aim to meet the four pillars of SuDS (water quantity, quality, biodiversity, and amenity) to meet wider sustainability aims as specified by The National Planning Policy Framework (July 2021) and the Flood and Water Management Act (2010). The development shall include measures to prevent the control and attenuate surface water and once approved the scheme shall be implemented in accordance with the approved details and maintained at all times thereafter unless agreed otherwise in writing by the local planning authority.  
Reason: To ensure the development is properly drained in accordance with the NPPF.
14. No development approved by this permission shall be occupied or brought into use until a plan for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved by the Local Planning Authority. The approved drainage works shall be completed and maintained in accordance with the approved plan.  
Reason: To safeguard the long-term maintenance and operation of the proposed system to ensure development is properly drained in accordance with the NPPF.

## Notes

1. In accordance with the National Planning Policy Framework the Council and relevant statutory consultees have worked in a constructive and pro-active way with the applicant to find solutions to problems in order to reach a positive recommendation and to enable the grant of planning permission.
2. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted a footpath is built on or otherwise interfered with.
3. The applicant is advised to contact Network Rail Asset Protection Team via [assetprotectionwestern@networkrail.co.uk](mailto:assetprotectionwestern@networkrail.co.uk) at least 3 months before works commence to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required.
4. The applicant is advised of the comments received 30 November 2021 from the Canal and River Trust concerning restrictive covenants.
5. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.
6. The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape.

In the event that badgers, or signs of badgers are unexpectedly encountered during implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

7. The applicant is advised of these comments from the Environment Agency-
- a) It should be noted that Block 3 Phasing and Infrastructure enabling works from the adjacent application (ref: 38/21/0436 and Agency Ref: WX/2021/135813/02) indicates drainage infrastructure within this red-line. A co-ordinated approach is required. Land raising on this site should not compromise the temporary attenuation provided for Block 3, and plans should be made for the attenuation system to merge into one as part of the final design.
  - b) Measures should be taken to prevent the runoff of any contaminated drainage during the construction phase. Any oil or chemical storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches. Generic advice on managing contamination is available on the Land Contamination: Risk Management pages of the GOV.UK website:  
<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>
  - c) Any waste generated must be disposed of in accordance with Waste (England and Wales) Regulations 2011. If waste material is brought onto site for construction purposes, the developer should ensure that appropriate permits are held according to [Waste \(England and Wales\) Regulations 2011](#)
  - d) The above proposal falls within Flood Zone 3 which is an area with a high probability of flooding, where the indicative annual probability of flooding is 1 in 100 years or less from river sources (i.e. it has a 1% or greater chance of flooding in any given year). The EA recommend the applicant contacts the EA on 0345 988 1188 to sign up for our free Floodline Warnings Direct service. Future occupants of the properties would also be advised to sign up to this service.
  - e) The EA recommend that the applicant prepares a Flood Warning and Evacuation Plan for this site as there will not be a safe access during a flood event whilst the land raising is taking place. The Council's Emergency Planners should be consulted in relation to these arrangements for the site. The EA do not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to

occupants/users. The responsibility is on LPAs to consult their Emergency Planners with regard to specific emergency planning issues relating to new development.

- f) The applicant should note that this development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Tone, designated a 'main river'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available on the GOV.UK website:  
<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>
  - g) The need for an Environmental Permit is over and above the need for planning permission. To discuss the scope of the controls please contact the Environment Agency on 03708 506 506. Some activities are now excluded or exempt; please see the following link for further information:  
<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>
  - h) It is noted that material is being sought to import to the site to raise site levels for development. It is important that this is done in such a way as to prevent introduction of additional risks to controlled waters. The importation and reuse of materials require an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2016, from the Environment Agency, unless an exemption applies, or the material is reused in accordance with a scheme such as the CL: AiRE DoW CoP. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. They should be aware that there is no guarantee that a permit will be granted. Additional 'Environmental Permitting Guidance' can be found at:  
<https://www.gov.uk/environmental-permit-check-if-you-need-one>
8. The applicant is advised of these comments from the Lead Local Flood Authority when seeking discharge of Conditions 13 and 14 –
- a) Drawing / plans illustrating the proposed surface water drainage scheme including the sustainable methods employed to delay and control surface water discharged from the site, sewers and manholes, attenuation features, pumping stations (if required) and discharge locations. The current proposals may be treated as a minimum and further SuDS should be considered as part of a 'SuDS management train' approach to provide resilience within the design.
  - b) Detailed, network level calculations demonstrating the performance of the proposed system are required and this should include:
  - c) Details of design criteria etc and where relevant, justification of the approach / events / durations used within the calculations.
  - d) Where relevant, calculations should consider the use of surcharged outfall conditions.
  - e) Performance of the network including water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details / discharge rates

- f) Results should be provided as a summary for each return period (as opposed to each individual storm event).
- g) Evidence may take the form of software simulation results and should be supported by a suitably labelled plan/schematic to allow cross checking between any calculations and the proposed network
- h) Detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific.
- i) Details for provision of any temporary drainage during construction. This should include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system. Suitable consideration should also be given to the surface water flood risk during construction such as not locating materials stores or other facilities within this flow route.
- j) With regards to maintenance, it should be noted the condition is recommended as a 'pre-occupation' condition. The following information will be required:
  - Detailed information regarding the adoption of features by a relevant body. This may consider an appropriate public body or statutory undertaker (such a water company through an agreed S104 application) or management company.
  - A management and maintenance plan for the lifetime of the development which shall outline site specific maintenance information to secure the long-term operation of the drainage system throughout the lifetime of the development.