

## SWT Planning Committee

Thursday, 21st July, 2022,  
1.00 pm



Somerset West  
and Taunton

The John Meikle Room - The Deane  
House

[SWT MEETING WEBCAST LINK](#)

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**Members:** Simon Coles (Chair), Marcia Hill (Vice-Chair), Ian Aldridge, Ed Firmin, Steve Griffiths, Roger Habgood, John Hassall, Mark Lithgow, Craig Palmer, Vivienne Stock-Williams, Ray Tully, Brenda Weston, Keith Wheatley, Loretta Whetlor and Gwil Wren

### Agenda

**1. Apologies**

To receive any apologies for absence.

**2. Minutes of the previous meeting of the Planning Committee**

To approve the minutes of the previous meeting of the Committee.

**3. Declarations of Interest or Lobbying**

To receive and note any declarations of disclosable pecuniary or prejudicial or personal interests or lobbying in respect of any matters included on the agenda for consideration at this meeting.

(The personal interests of Councillors and Clerks of Somerset County Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)

**4. Public Participation**

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have submitted any questions or statements, please note, a three minute time

(Pages 5 - 10)

limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

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5. **3/21/22/044 Replacement of garage with erection of a single storey extension, erection of first floor extension to the rear and replacement of hip to gable with insertion of dormer to rear. 64 Poundfield Road, Minehead, TA24 5SE** (Pages 11 - 20)
6. **38/21/0345 Demolition of 136 No. Woolaway homes and erection of 111 No. dwellings with associated works on land located between Dorchester Road and Lyngford Lane, Taunton** (Pages 21 - 44)
7. **53/21/0010 Outline planning with all matters reserved, except for principle means of access, for the erection of up to 80. dwellings, local centre, and access onto Dene Road, Cotford St Luke** (Pages 45 - 76)
8. **13/22/0003 Erection of timber garden shed at 1 Yeas Cottage, Cushuish (retention of works already undertaken) Yeas Cottage, 1 Cushuish Road, Cothelstone TA2 8AP** (Pages 77 - 84)
9. **49/21/0030 Erection of an agricultural building for the rearing of calves on Simons Holt Farm retained land, Whitefield, Wiveliscombe** (Pages 85 - 102)
10. **Appeals decisions** (Pages 103 - 134)



**ANDREW PRITCHARD  
CHIEF EXECUTIVE**

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Members of the public are welcome to attend the meeting and listen to the discussions. There is time set aside at the beginning of most meetings to allow the public to ask questions. Speaking under "Public Question Time" is limited to 3 minutes per person in an overall period of 15 minutes and you can only speak to the Committee once. If there are a group of people attending to speak about a particular item then a representative should be chosen to speak on behalf of the group. These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

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**SWT Planning Committee - 23 June 2022**

Present: Councillor Simon Coles (Chair)

Councillors Marcia Hill, Mark Blaker, Norman Cavill, Steve Griffiths, John Hassall, Mark Lithgow, Craig Palmer, Vivienne Stock-Williams, Ray Tully, Brenda Weston and Loretta Whetlor

Officers: Alison Blom-Cooper, Martin Evans (Shape Legal Partnership) Briony Waterman, Michael Hicks, Rebecca Staddon and Tracey Meadows

Also Present: Councillor Mansell

(The meeting commenced at 1.00 pm)

**11. Apologies**

Apologies were received from Councillors Aldridge, Firmin, Habgood, Wheatley and Wren.

**12. Minutes of the previous meeting of the Planning Committee**

(Minutes of the meeting of the Planning Committee held on 26 May 22 to be approved at the next meeting).

**13. Declarations of Interest or Lobbying**

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr M Blaker	49/21/0030	Ward Member. Spoke to applicant on previous application. Avoided any communication in the community. Discretion 'not fettered'.	Personal	Spoke and Voted
Cllr N Cavill	All Items 48/20/0050	SCC & West Monkton. Contacted by	Personal Personal	Spoke and Voted

		Agent for the past two years. Discretion 'not fettered'.		
Cllr S Coles	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr Mrs Hill	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Lithgow	All Items	Wellington	Personal	Spoke and Voted
Cllr C Palmer	All Items	Minehead	Personal	Spoke and Voted
Cllr R Tully	All Items	West Monkton	Personal	Spoke and Voted
Cllr B Weston	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr L Whetlor	All Items	Watchet	Personal	Spoke and Voted

14. **Public Participation**

Application No.	Name	Position	Stance
48/20/0050	Mrs J Kemp	Senior Planning Manager – LNT Construction Ltd	In favour
49/21/0030	J Pinn A Radcliff T Cherry Cllr Mansell	Local resident Local resident Applicant Ward Member	Objecting Objecting In favour Objecting

15. **48/20/0050 - Erection of a 66 bedroom care home (Class C2) with associated parking, access and landscaping at Heathfield Industrial Park, Hardys Road, Bathpool, HEATHFIELD INDUSTRIAL PARK, HARDYS ROAD, BATHPOOL, TAUNTON**

**Comments from Members of the public included;**  
(summarised)

- The development was in keeping with the Local Plan and very attractive in design;
- The development would bring local employment opportunities and would allow the ageing community to remain local in their later years;
- No reason to warrant refusal of this development;
- The development would look more attractive than the 4 industrial units in a prime corner position already on site;
- The Council did not yet have a Phosphate Mitigation strategy in place so Planning permission should be approved;
- There was extant planning permission on the site already for more steel clad work units;

- The applicants had attended meetings with the Quality Review Panel for design and layout;
- The development was fully supported by residents and the Parish Council and Consultees over the steel units;
- Public Art would have been provided as part of our scheme had we been informed that this was requested as part of our application;
- The care home would be energy efficient from onsite renewable resources;
- The site was a windfall site with the 66 beds adding to the 5-year land supply;
- Cycle parking and electric vehicle charging points would be onsite as part of the sustainable Travel Plan;

**Comments from Members included;**  
(summarised)

- No concerns with the care home being in this location;
- Concerns with the look of the building as per QRP findings;
- Lack of public art;
- Concerns with the lack of a Phosphate Mitigation Strategy;
- Concerns with the lack of sunlight in some of the north and east facing rooms;
- Noise concerns from the industrial units and the nearby busy roundabout;
- Traffic concerns with visitors needing to travel to this out of town site;
- Concerns with the impact on Hardys Road due to inadequate parking on site;
- Concerns with the design issues due to lack of communal and open space;
- The development provided employment and would benefit the area;
- The developer has listened to the residents and PC to accommodate the changes requested;
- Local residents would like this development to go through as opposed to the steel clad work units and the noise that it produced;
- Sports pitches, open spaces and shops would be provided in the near future providing great benefits to the local residents within walking distance of this site;
- The care home was an improvement on the existing industrial units;

Councillor Hill proposed and Councillor seconded a motion for the application to be REFUSED as per Officer recommendation.

The motion was carried.

16. **49/21/0030 - Erection of an agricultural building for the rearing of calves on Simons Holt Farm retained land, Whitefield, Wiveliscombe, SIMONS HOLT FARM RETAINED LAND, WHITEFILED, WIVELISCOMBE, TA4 2UU**

### **Comments from members of the Public included;**

(summarised)

- The application was for a stand-alone barn for the intensive raising of 97 calves in cramped conditions for veal production. Therefore, the operation to undertake this operation in a remote field at an unsupervised location miles away from any available farm staff should not be allowed to proceed;
- Concerns with the negative impact of this development with regards to nearby residents complaining about the smell of ammonia and the noise of the calves bawling in distress all night;
- The site at Langley Marsh was an area of unspoilt pasture with no other working farms in the area;
- There was plenty of room for another barn on the applicants existing site with farm workers already in residence if another site was required;
- Concerns with the lack of a Phosphate Mitigation Strategy;
- Concerns that the application was incomplete due to lack of information regarding no dwelling associated on the site for an essential worker;
- Concerns with a mail drop to the residents of Langley Marsh regarding misinformation regarding the application;
- The proposed position of the agricultural building was a considerable distance from residential properties in the area and the topography of the landscape meant that it would be well screened from the local village and hamlets;
- Our farming practices met with all animal welfare and environmental legislation;
- Wiveliscombe was an agricultural area and agriculture was an important part of its economy;
- The business generated employment and we traded with many local farms and businesses;
- The proposed agricultural building was essential to the security and sustainability of the business model;

### **Comments from Members included;**

(summarised)

- Concerns with the lack of a noise assessment in the report and the impact on the neighbourhood;
- Concerns with the lack of a Phosphate Mitigation Strategy;
- Concerns with the lack of information regarding the numbers of animals that will be housed in the cattle shed;
- Concerns on how the slurry on site will be contained and controlled;
- A worker was needed to be on site to prevent noise;
- Slurry will be minimal due to straw bedding;
- Calves will bawl for a few days when they leave their mother. This will cease once they find fresh grass;
- The shed roof would be gapped to dissipate noise in all directions. Unfortunately, the noise of animals travels in the quiet of the countryside;



Councillor Hill proposed and Councillor Weston seconded a motion that the application be DEFERRED for the following reasons;

1. A noise assessment;
2. Further clarification on the phosphates issue;
3. Whether we can impose a limit on the number of livestock in the building via a condition;
4. How slurry was going to be dealt with;

The motion was carried.

17. **Access to information - Exclusion of Press and Public**

During discussion of the following item it may be necessary to pass the following resolution to exclude the press and public having reflected on Article 13 13.02(e) (a presumption in favour of openness) of the Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The Planning Committee will need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information. Recommend that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the ground that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any person (including the authority holding that information).

18. **Confidential report**

Councillor Hill proposed and Councillor Weston seconded a motion for approval of the Confidential report as per Officer Recommendation.

The motion was carried

19. **Confidential report**

Councillor Hill proposed and Councillor Weston seconded a motion for approval of the Confidential report as per Officer Recommendation.

The motion was carried.

(The Meeting ended at 3.30 pm)

<b>Application Details</b>	
Application Reference Number:	3/21/22/044
Application Type:	Full Planning Permission
Earliest decision date:	30 May 2022
Expiry Date	23 June 2022
Decision Level	Planning Committee
Description:	Replacement of garage with erection of a single storey extension, erection of first floor extension to the rear and replacement of hip to gable with insertion of dormer to rear
Site Address:	64 Poundfield Road, Minehead, TA24 5ES
Parish:	21
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment Area:	No
AONB:	No
Case Officer:	Sarah Wilsher
Agent:	Staddon Architectural Services
Applicant:	Mr & Mrs Lewington
Committee Date:	21 July 2022
Reason for reporting application to Committee	The applicant, Mrs Lewington, is a member of staff.

## 1. Recommendation

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

## 2. Executive Summary of key reasons for recommendation

2.1 The proposal would not harm the form and character of dwelling, in proportion in terms of scale, design and materials.

2.2 The proposal would not harm the appearance and character of locality.

2.3 There would be no impact in respect of residential amenity

2.4 There would be no impact on parking provision.

2.5 Conditions would be put in place for biodiversity enhancement and informatives for protected species.

The proposal therefore complies with policies SD1, BD/3 and NH6 of the West Somerset Local Plan to 2032.

## 3. Planning Obligations and conditions and informatives

3.1 Conditions (bullet point only full text in appendix 1)

3.1.1 Standard time limit

- 3.1.2 Approved drawings
- 3.1.3 Materials
- 3.1.4 Biodiversity enhancement

## 3.2 Informatives (bullet point only)

- 3.2.1 Proactive Statement
- 3.2.2 Bat informative
- 3.2.3 Nesting bird informative

## **4. Proposed development, site and surroundings**

### 4.1 Details of proposal

It is proposed to erect a first floor extension above the existing lean-to kitchen on the rear elevation to form a larger third bedroom with ensuite. This will be rendered under a dual-pitched clay tiled roof and have a ridge height of about 6.46m with eaves linking with the existing.

It is also proposed to remove the existing detached garage and erect a flat roofed single storey side extension with a lantern rooflight. This will be about 4.15m at the widest point with a length of about 6.05m. The height to the ridge will be about 3.11m from ground level, and with the rooflight will be about 3.51m from ground level. It will be used mainly as a family room plus a utility area linking through to the existing kitchen. This will be rendered to match the dwelling with a flat fibreglass roof.

In addition, it is proposed to replace the existing hipped roof with a gable roof, and to erect a gable roof dormer on the rear elevation, in order to provide the necessary head height for a fully useable loft conversion with a full internal staircase thereto. The dormer will be plain clay tiled and rendered to match the dwelling. It is considered that these works are permitted development, and as such will not be assessed within this report.

### 4.2 Sites and surroundings

No. 64 is a semi-detached rendered dwelling under a plain clay tiled hipped roof which dates from about the 1930s/40s. It is located within the west of Minehead. The site is not in a designated landscape area or Conservation Area and there are no nearby listed buildings.

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

None.

## **6. Environmental Impact Assessment**

Not applicable.

## 7. Habitats Regulations Assessment

The site lies outside the catchment area for the Somerset Moors and Levels Ramsar site.

## 8. Consultation and Representations

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

8.1 Date of consultation: 29 April 2022

8.2 Site Notice Date: 08 May 2022

8.3 Statutory Consultees the following were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
<u>Minehead Town Council</u>	The Committee can see no material planning reason to refuse the application.	No comment.
<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
<u>Highways Development Control</u>	Standing Advice	Parking provision addressed within report under 10.2.4..
<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
<u>SCC - Ecologist</u>	No comments received	Bat and bird informatives and condition for biodiversity enhancement to be added to permission if granted.

8.4 Internal Consultees - no internal consultees were consulted.

8.5 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

No letters have been received.

## 9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications 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 West Somerset area. The Development Plan comprises comprise the Adopted West Somerset Local Plan to 2032, Somerset Mineral Local Plan (2015), and Somerset Waste Core Strategy (2013).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a local plan within 5 years of vesting day.

Relevant policies of the development plan in the assessment of this application are listed below:

#### West Somerset Local Plan to 2032

SD1	Presumption in favour of sustainable development
BD/3	Conversions, Alterations and, Extensions
NH6	Nature conservation & biodiversity protection & enhancement
T/8	Residential Car Parking

Supplementary Planning Documents  
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 (March 2022)

9.1 National Planning Policy Framework  
Paragraphs 11 and 130 apply.

## **10. Material Planning Considerations**

The main planning issues relevant in the assessment of this application are:

The principle of development  
Design of the proposal  
Access, Highway Safety and Parking Provision  
Impact on the character and appearance of the locality  
Impact on neighbouring residential amenity  
Impact on trees and landscaping  
Impact on ecology and biodiversity and the Somerset Levels and Moors Ramsar Site  
Flood risk and energy efficiency

### **10.2.1 *The principle of development***

In terms of scale, design and materials the development complies with policy BD/3 which states that the building materials should be appropriate to adjoining buildings and the design of any alterations and extensions will be such that the scale, proportions and detailing are in character and are appropriate to the building(s) to which they relate.

### 10.2.2 *Design of the proposal*

The extensions will provide a family room with a utility area on the ground floor plus a much needed larger third bedroom with ensuite facilities on the first floor, with a relocation of the bathroom into the existing third bedroom.

The first floor extension will be much lower than the existing ridge thus showing subservience to the existing dwelling and will be in a design and materials to match the existing. It will therefore be easily assimilated into the existing layout. The single storey extension will adjoin the dwelling and being rendered will become an integral part of the house. A flat roof is considered to have no visual impact so is considered to be acceptable at a single storey level, whilst the lantern rooflight will add a contemporary feature of interest to the dwelling.

The proposed development is considered to comply with policy BD/3 and the District Design Guide.

### 10.2.4 *Access, Highway Safety and Parking Provision*

There are no proposed changes to the existing access and there are expected to be no implications in terms of highway safety.

In terms of parking provision, the proposed development will result in the loss of the garage. This measures about 2.95m x 6m internally so does not comply with Highways Standing Advice prescribed size of 3m x 6m. In addition, it is not used for parking but for storage and as a part utility area by the owners. The proposed plans do not show any increase in bedroom space so three bedrooms will be maintained. Policy T/8 says that a dwelling should have two parking spaces, whilst Highways Parking Standards states that three bedrooms requires 2.5 spaces plus visitor parking.

The proposed single storey extension will be slightly longer than the garage so will take up some space on the driveway thus reducing the space available on the drive for two cars to park within the curtilage. However, in practice due to the gradient of the drive and the narrowness of the access it is already difficult to park within the curtilage and only one narrow car can be manouvered on to the drive. Only parking provision for one car means that there is a potential policy conflict with policy T/8, however as there will be no increase in the number of bedrooms and the garage does not meet the required size standard, it is considered that there will be no difference in parking provision as currently experienced.

In addition, the character of Poundfield Road is for one garage, which is not necessarily used for parking, and one parking space on the drive and there is generous on-street parking, particularly in the upper sections of Poundfield Road. It is therefore considered that on balance the current character of the street scene and availability of on-street parking overcomes the lack of parking provision within the curtilage prescribed by Somerset Highways and the potential conflict with policy T/8.

### **10.2.5 *The impact on the character and appearance of the locality***

Many of the surrounding dwellings have extended to the rear with first floor extensions so this aspect of the development will not look out of place in the locality, particularly as the design and materials will match the existing. The majority of dwellings in this road have single storey lean-to or flat roofed garages attached to their side elevations, some of which have been converted to habitable accommodation, so the single storey extension being attached to the side of no. 64 will look more in keeping with the character and appearance of the locality. The proposal is therefore considered to comply with policy BD/3.

### **10.2.6 *The impact on neighbouring residential amenity***

The garage is detached and positioned at an angle so that it is almost aligned with the boundary with the neighbouring dwelling, no. 62. The single storey extension being attached to no. 64 will be further away from the boundary with this neighbour. It will be higher by about 30cm than the existing garage and no. 64 is on higher land than no. 62, but due to the distance of about 3.18m between the extension and the neighbour's dwelling there are not considered to be any loss of light issues to the bathroom/WC and landing windows on the neighbour's side elevation, and there will be no overlooking from either the first floor extension or the single storey extension as no windows are proposed on the east side elevations.

### **10.2.7 *The impact on trees and landscaping***

There will be no impact on trees or landscaping.

### **10.2.8 *The impact on ecology and biodiversity and the Somerset Levels and Moors Ramsar Site.***

The existing roof on the main dwelling and on the single storey rear lean to appear to be sound and in reasonable condition, whilst the flat roof on the garage is a tight fit. The roof has also already been converted with rooflights to the side and rear. It is thus considered improbable that there will be any loss of habitat issues, however, informatives to protect bats and nesting birds will be added to the permission if granted, in the unlikely event that they are encountered during works. For biodiversity enhancement a bird box will be conditioned. The site is outside the catchment area for the Somerset Levels and Moors Ramsar site. The proposal is therefore considered to comply with policy NH6.

### **10.2.9 *Flood risk and energy efficiency***

The site is within flood zone 1 so there are no flooding issues. A climate emergency checklist has been submitted which states that the family room proposed in the single storey extension will free up another room in the house for homeworking, thus reducing the need for the applicant to travel; by providing better insulation to the extensions heat loss to the whole building will be reduced; all materials will be sustainably sourced from local suppliers, and the garden to rear can be used for home grown foods. It is thus considered that the proposed development will contribute to sustainability and reducing the carbon footprint.



## **11 Local Finance Considerations**

### **11.1 Community Infrastructure Levy**

CIL does not apply in the former West Somerset Council area.

## **12 Planning balance and conclusion**

12.1 The general effect of paragraph 11 of the NPPF is that, in the absence of relevant or up-to-date development plan policies, the balance is tilted in favour of the grant of permission, except where the policies within the NPPF that protect areas or assets of particular importance provides a "clear reason for refusing the development proposed" or where the benefits of the proposed development are "significantly and demonstrably" outweighed by the adverse impacts when assessed against the policies in the NPPF taken as a whole.

12.2 Due to the design, scale and materials of the proposed development, the lack of harm to the character and appearance of the locality, the lack of impact on residential amenity, parking provision and flood risk, and the ability to introduce biodiversity enhancement and improve energy efficiency the proposal is considered to comply with policies SD1, BD/3 and NH6. it is therefore recommended that planning permission is granted subject to conditions.

In preparing this report the planning 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**

### **Recommended Conditions**

- 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:

(A3) DrNo SAS418-PL07 Location Plan  
(A1) DrNo SAS418-PL04 Proposed Site Plan  
(A1) DrNo SAS418-PL05 Proposed Plans/Sections  
(A1) DrNo SAS418-PL06 Proposed Elevations

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

- 3 The external finishes of the works hereby permitted shall match in material, style, type, size, colour, pointing, coursing, jointing, profile and texture those of the existing building.

Reason: To safeguard the character and appearance of the building.

- 4 The following will be installed:

A bird box shall be erected directly under the eaves and away from windows on the east or north elevation of the extension or dwelling within 6 months of the first occupation of the extensions hereby permitted, and maintained thereafter.

Photographs of the installed features will be submitted to the Local Planning Authority prior to first use.

Reason: In accordance with policy NH6 of the West Somerset Local Plan to 2032 and Government policy for the enhancement of biodiversity within development as set out in paragraph 170(d) of the National Planning Policy Framework.

### **Notes to applicant**

- 1 In accordance with paragraph 38 of the National Planning Policy Framework 2021 the Council has worked in a positive and creative way and has imposed planning conditions to enable the grant of planning permission.
- 2 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.

- 3 The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop until the young have fledged or then advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.



<b>Application Details</b>	
Application Reference Number:	38/21/0345
Application Type:	Full Planning Permission
Earliest decision date:	17 September 2021
Expiry Date	22 November 2021
Extension of time	29 July 2022
Decision Level	Committee
Description:	Demolition of 136 No. Woolaway homes and erection of 111 No. dwellings with associated works on land located between Dorchester Road and Lyngford Lane, Taunton
Site Address:	LAND LOCATED BETWEEN DORCHESTER ROAD AND LYNGFORD LANE, TAUNTON
Parish:	38
Conservation Area:	
Somerset Levels and Moors RAMSAR Catchment Area:	Yes
AONB:	
Case Officer:	Mr G Clifford
Agent:	
Applicant:	SOMERSET WEST AND TAUNTON
Committee Date:	
Reason for reporting application to Committee	Chair referral

## **1. Recommendation**

1.1 That planning permission be GRANTED subject to conditions and a legal agreement to secure the maintenance of any off-site parking and street trees.

## **2. Executive Summary of key reasons for recommendation**

2.1 The proposal provides a suitable redevelopment of a brownfield site within the settlement limits of Taunton to provide replacement affordable housing. The development is not considered to harm the character and amenity of the area, residential amenity or wildlife, flood risk and highway safety. The benefits of the development are not considered to be outweighed by any adverse impacts and as the proposal complies with the development plan it is considered an acceptable scheme.

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

3.1 Conditions (full text in appendix 1)

Time limit  
 Approved plans  
 Affordable housing  
 Water efficiency  
 Phased mitigation measures  
 Biodiversity management plan  
 Landscape and ecological management plan  
 NE licence  
 Bat mitigation  
 On site ecologist  
 Bat lighting  
 Biodiversity enhancement  
 Infiltration test  
 Drainage scheme  
 Maintenance  
 Road Condition survey  
 Cycle/footpath links  
 Materials  
 Obscure glazing

### 3.2 Informatives (bullet point only)

3.2.1 Proactive Statement and highways licence/stopping up order

### 3.3 Obligations

Legal agreement to secure the maintenance of any off-site parking and street trees.

## 4. **Proposed development, site and surroundings**

### 4.1 Details of proposal

The proposal is for the demolition of 136 No. Woolaway homes and erection of 111 new replacement dwellings with associated works on land located between Dorchester Road and Lyngford Lane. This is a full application for phase 2 of the scheme following the outline and detailed schemes approved by Members in November 2019.

### 4.2 Sites and surroundings

The site is an area of largely two storey concrete framed dwellings set along ten roads within an area north of the local shops at Priorswood. The area is approximately 6.44ha and comprises 136 residential properties and access is via existing highway infrastructure. There are no heritage assets impacted.

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

Reference	Description	Decision	Date
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38/18/0467	Outline Planning Application with all matters reserved for the replacement and refurbishment of 186 Woolaway homes and the erection of additional dwellings to provide up to 230 No. dwellings on land located between Lyngford Lane and Dorchester Road, Taunton	Undetermined	
38/18/0465	Replacement of 26 No. Woolaway homes and the erection of an additional 21 No. dwellings and a community facility building, Phase 1, on parcels of land at Bodmin Road, Dorchester Road, Wells Close, Cambridge Terrace and Rochester Road, Taunton	CA	2/4/20

## 6. Environmental Impact Assessment

Not required.

## 7. Habitats Regulations Assessment

Not required as development is reducing numbers over the current situation and can be considered nutrient neutral and phosphates can be screened out - no increase in phosphates due to no significant change in wastewater output.

## 8. Consultation and Representations

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

8.1 Date of consultation: 27 August 2021

8.2 Date of revised consultation (if applicable):

8.3 Press Date:

8.4 Site Notice Date: 31 August 2021

8.5 **Statutory Consultees** the following were consulted:

Consultee	Comment	Officer comment
SCC - TRANSPORT DEVELOPMENT GROUP	No objections subject to an agreement for a Travel plan and conditions to cover estate roads, cycle/footpath connections, surface water discharge, roads/turning spaces to base course level, a construction management plan, wheel cleaning,	See para 10.2.4

	condition survey, parking and ev charging	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - CHIEF EDUCATION OFFICER	No comment received	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - FLOOD RISK MANAGER	No objection but recommend drainage details be conditioned	See para 10.2.8
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - ECOLOGY	As this is a regeneration project and would not result in an increase in residences in Taunton I would consider there would be no significant net change in wastewater output from the proposed development. Therefore, a Habitats Regulations Assessment is not required. No objections provided the following conditions are applied: Phased development, Construction environmental management plan, Landscape and environmental management plan, bat licence, mitigation, bat lighting, biodiversity net gain,	See para 10.2.7
SOMERSET WILDLIFE TRUST	Support recommendations in section 5 of the assessment.	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
ENVIRONMENT AGENCY	No comment.	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LANDSCAPE	I am content that the proposals are: consistent with the approved phase 1 scheme; comply with the outline; and reflect suitable landscape detailing.	Para 10.2.2
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
WESSEX WATER	No comment	



<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
CHIEF FIRE OFFICER - DEVON & SOMERSET FIRE RESCUE	Comment on need for consultation at Building Regulation stage	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
POLICE ARCHITECTURAL LIAISON OFFICER	No objection	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SOUTH WESTERN AMBULANCE SERVICE	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LEISURE DEVELOPMENT	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
HOUSING ENABLING	<p>The proposed housing mix meets the existing demand and have been chosen to suit existing resident's needs and provides a balance for future residents as such the scheme is considered to meet the local need.</p> <p>The mix of affordable homes includes 1 x 3 bed and 2 x 4 bed wheelchair adapted houses built to Part M4 (3) of Building Regulations which will meet an identified housing need. The disabled specification requirements are to be submitted and agreed in writing with the Development Enabling Specialist.</p> <p>Service charges should reflect the necessity to keep these properties affordable.</p>	See 10.2.3
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
HOUSING PROPERTY MANAGER	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>

WESTERN POWER DISTRIBUTION	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
Environmental Health - all Areas including Housing Standards	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
OPEN SPACES MANAGER	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LEISURE DEVELOPMENT	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
NATIONAL GRID PLANT PROTECTION TEAM, BLOCK 1, FLOOR 2	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
TREE OFFICER	I would always advocate that space is found for larger/broader specimen trees where possible. The open space at Phase Cii is an opportunity for such a tree – eg oak. The currently-proposed trees would have more space to grow without obstruction if pulled away from the adjacent houses and road.	See 10.2.2
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
PLACEMAKING OFFICER	I think this proposal is a very well thought through scheme in all aspects of layout, house types, and materials. I have no issues in these regards.	Para 10.2.2
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
NHS SOMERSET, SOMERSET PRIMARY CARE TRUST	No comment	

Consultee	Comment	Officer comment
SCC - RIGHTS OF WAY	No comment	
Consultee	Comment	Officer comment
SOMERSET WASTE PARTNERSHIP	No comment	
Consultee	Comment	Officer comment
ASSET HOLDINGS MANAGER	No comment	
Consultee	Comment	Officer comment
Climate Change Officer	No comment	

8.6 **Internal Consultees** the following were consulted:

Consultee	Comment	Officer comment

### 8.7 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

1 letter has been received making the following comments (summarised):

Material Planning Considerations	
Objections	Officer Comment
Overlooking and loss of privacy	See para 10.2.6
Support	Officer comment

## 9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications 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).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset Authority to prepare a local plan within 5 years of vesting day.

Relevant policies of the development plan in the assessment of this application are listed below:

CP1 - Climate change,  
CP4 - Housing,  
CP5 - Inclusive communities,  
CP6 - Transport and accessibility,  
CP8 - Environment,  
DM1 - General requirements,  
SD1 - Presumption in favour of sustainable development,  
A1 - Parking Requirements,  
A2 - Travel Planning,  
D7 - Design quality,  
D8 - Safety,  
D9 - A Co-Ordinated Approach to Dev and Highway Plan,  
D10 - Dwelling Sizes,  
D12 - Amenity space,  
SP1 - Sustainable development locations,

#### 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 (March 2022).

#### Neighbourhood plans:

N/a

#### 9.1 National Planning Policy Framework

Section 2 Achieving sustainable development

## **10. Material Planning Considerations**

The main planning issues relevant in the assessment of this application are as follows: the principle of development, design of the proposal, quality of accommodation, access, safety and parking, impact on the character of the locality, impact on residential amenity, impact on ecology and the Levels and Moors and flood risk and energy efficiency.

### **10.2.1 *The principle of development***

The site is an existing built up area within the town and as such is a brownfield site in a sustainable location for redevelopment in compliance with policy SP1 and the NPPF. The site is proposed for redevelopment for residential purposes and is considered acceptable in principle.

### **10.2.2 *Design of the proposal***

The site reflects the outline scheme which was the subject of praise from the Design Review Panel and site layout reflects the scheme previously considered. The scheme is a detailed one of two phases of the site, blocks B and C with demolition of block D. The latter is to enable the dwellings in the earlier phases to be constructed without falling foul of increased phosphate loading and the need for a HRA in relation to the Levels and Moors RAMSAR site.

The principle of the redevelopment has already been considered and supported by Members with the outline application 38/18/0467 in 2019. The illustrative designs were considered suitable and form the basis of this detailed full application and are not considered to be an overdevelopment of the site but a means of making the best use of available land. While the density of housing is increased the impact of this on the character of the area with potential increase of 44 units is not considered to be harmful and is supported in design terms

The materials will reflect those approved under the phase A scheme and each property has access to waste and recycling facilities as well as parking and cycle storage. The current scheme is supported by the Placemaking Officer and the layout as proposed has a significant number of new trees within the layout which will help with both shade and carbon reduction and the landscaping scheme submitted is supported by the Landscape Officer.

### **10.2.3 *Quality of Accommodation***

The development provides for 111 new homes including 19 flats, 4 bungalows, 38 x 2 bed properties, 35 x 3 bed, 14 x 4 bed and 1 x 5 bed. The properties will all be affordable and are considered by the Housing Enabling Officer to meet the needs of the area and include wheelchair adapted houses. A condition to secure the provision of this housing in perpetuity is considered appropriate.

#### **10.2.4 Access, Highway Safety and Parking Provision**

The Highway Authority (HA) raise no objection to the principle of the scheme and consider the development would not adversely impact on traffic in the area and would be capable of providing the appropriate level of car parking in line with policy. A travel plan is recommended by the Highway Authority, however it is considered that this is not reasonable given that the current scheme is providing less housing than currently exists. A Travel Plan would be a requirement of the next phase.

A suitable legal agreement will be required to deal with any works in the highway and to control future maintenance of any parking areas as well as trees in the highway. The indicative plan indicates a stopping up of parts of the highway and this process would need to be considered as part of any future stopping up order. The HA also proposes a number of other conditions which are not considered appropriate, necessary or enforceable. Conditions re details of estate roads is considered unnecessary as this would be covered by Highway legislation under s278 and the main routes already exist. Similarly a base course level link from the highway to any dwelling is considered unnecessary given the current situation. A construction management plan is not enforceable and the Highway Authority can control the state of the highway and a vehicle wash is also considered unnecessary.

A parking layout is shown on submitted drawings and the Highway Authority has yet to agree a standard EV charging point. In addition with regard to the latter the provision of such points becomes a requirement of the building Regulations after June 2022 so it is not considered necessary to condition an item required under other legislation. A condition survey of the highway prior to works is considered appropriate, as is details of drainage works in relation to the highway and details of cycle/footpath connections through the site. Informative notes re stopping up and retaining walls are added as requested.

#### **10.2.5 The impact on the character and appearance of the locality**

The proposed development is of a similar scale to the existing area and while the development will provide new more energy efficient dwellings, the impact of the scheme on the character of the locality is considered an acceptable one and there have been no objections on the design and character of the scheme.

#### **10.2.6 The impact on neighbouring residential amenity**

The scheme provides for a number of replacement dwellings which largely impact within the site. The properties towards the eastern boundary now partly face towards the Lyngford Lane boundary and are at a higher level than the lane. To a degree the impact of this is offset by existing vegetation along the lane and a distance of over 14m between rear elevations and nearby residential boundaries. The one letter of concern received relates to a first floor side window to plot 62, which is a window that serves a stairs. There would be no issue if this were fixed and obscure glazed and a condition to this affect is proposed which would overcome any overlooking and privacy issue.

### **10.2.7 *The impact on ecology and biodiversity and the Somerset Levels and Moors Ramsar Site.***

An ecological assessment has been submitted with the application and there were impacts identified on protected species, specifically bats, and consequently mitigation measures are identified, otherwise the site is of limited ecological interest. An enhancement of habitats across the site is possible and conditions to address protection and enhancements are recommended by the County Ecologist and are included in the conditions list.

The application is located within the catchment of the Somerset Levels and Moors Ramsar site. However, the application is replacing and reducing the number of dwellings, therefore the proposed application, with associated low levels of Phosphate production, would not add to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore the County Ecologist considers 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.

### **10.2.8 *Flood risk and energy efficiency***

The site is drained by an existing system in terms of foul and surface water drainage and new connections will need to be made. This will be covered by existing legislation. As part of the scheme a suitable means of surface water treatment is required and conditions to address this are recommended by the LLFA and are considered appropriate. The Environment Agency has raised no comment on the current submission.

The development constitutes a redevelopment of an existing estate due to faults within the concrete frame of the existing properties. The new houses are to adopt a fabric first approach to energy efficiency and will have high quality insulation to walls, floors and roofs and will have triple glazing. In addition air source heat pumps are proposed together with a heat recovery system to improve thermal efficiency.

### **10.2.9 *Any other matters***

The application site lies within easy walking distance of the existing public park to the south and the Leisure Officer previously considered that while there is no need for additional space on site, a contribution in terms of the potential to upgrade play equipment in the park was required due to the uplift in numbers of dwellings. As the current submission does not increase numbers it is considered the requirement for a contribution to upgrade facilities can be dealt with by a future detailed application for phase D. Consequently it is not considered an agreement to secure the necessary sum for improved play facilities needs to form part of the recommendation in this instance.

## 11 Local Finance Considerations

### 11.1 Community Infrastructure Levy

Creation of dwellings is CIL liable.

Proposed development measures approx. 10,712sqm.

The application is for residential development in Taunton where the Community Infrastructure Levy (CIL) is £70 per square metre. Based on current rates, the CIL receipt for this development is approximately £750,000.00. With index linking this increases to approximately £1,064,750.00).

## 12 Planning balance and conclusion

12.1 The general effect of paragraph 11 of the NPPF is that, in the absence of relevant or up-to-date development plan policies, the balance is tilted in favour of the grant of permission, except where the policies within the NPPF that protect areas or assets of particular importance provides a "*clear reason for refusing the development proposed*" or where the benefits of the proposed development are "*significantly and demonstrably*" outweighed by the adverse impacts when assessed against the policies in the NPPF taken as a whole.

In the current situation where there is a shortfall in the 5 year housing supply in the Taunton area the tilted balance is engaged. In summary the principle of the redevelopment of the area as proposed is considered an acceptable one and not to harm the character and amenity of the area, residential amenity or wildlife, flood risk and highway safety. The benefits of the development are not considered to be outweighed by any adverse impacts and as the proposal complies with the development plan it is considered an acceptable scheme.

12.2 For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted subject to conditions.

In preparing this report the planning 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

### Conditions

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:

(A1) DrNo: A.2201 Rev 3 Phases BDC Elevation 1 - Dorchester Road and Hereford Road

(A1) DrNo: A.2202 Rev 3 Phases BDC Elevation 2 - Rochester Road and Southampton Row

(A1) DrNo: A.2203 Rev 3 Phase BCD Elevation 3 - New Dover Road

(A1) DrNo: A.2204 Rev 3 Phase BCD Elevation 4 - Rochester Road

(A1) DrNo: A.2205 Rev 3 Phase BCD Elevation 5 - New Oxford Place & New Durham Place

(A3) DrNo: A.1210 Rev 3 Phases BCD 3 bed 5 person Narrow Fronted House Plans

(A3) DrNo: A.1211 Rev 3 Phases BCD 3 bed 5 person Wide Fronted House Plans - V1

(A3) DrNo: A.1212 Rev 3 Phases BCD 5 bed 7 person Corner House - Plans

(A3) DrNo: A.1213 Rev 3 Phases BCD 2 bed 4 person Narrow Fronted House Plans

(A3) DrNo: A.1214 Rev 3 Phases BCD 4 bed 6 person Wide House Plans - V1

(A3) DrNo: A.1215 Rev 3 Phases BCD 3 bed 6 person Chalet Plans

(A3) DrNo: A.1216 Rev 3 Phases BCD 3 bed 6 person Chalet Elevations

(A3) DrNo: A.1217 Rev 3 Phases BCD 1 bed 2 person FOG Plans

(A3) DrNo: A.1218 Rev 3 Phases BCD 2 bed 3 person FOG Plans

(A3) DrNo: A.1219 Rev 3 Phases BCD 2 bed 3 person FOG Elevations

(A3) DrNo: A.1220 Rev 3 Phases BCD Narrow Fronted Flat Block Plans

(A3) DrNo: A.1221 Rev 3 Phases BCD Narrow Fronted Flat Block Plans

(A3) DrNo: A.1222 Rev 3 Phases BCD 2 bed 4 person Chalet - Plans and Elevations

(A3) DrNo: A.1223 Rev 3 Phases BCD 4 bed 6 person Narrow House - Plans and Elevations

(A3) DrNo: A.1224 Rev 3 Phases BCD 2 bed 3 person Bungalow - Plans and Elevations

(A3) DrNo: A.1225 Rev 3 Phases BCD 4 bed 7 person Wheelchair House - Plans and Elevations

(A3) DrNo: A.1226 Rev 3 Phases BCD 2 bed 3 person and 1 bed 2 person Wide Flat Block - Plans

(A3) DrNo: A.1227 Rev 3 Phases BCD 2 bed 3 person and 1 bed 2 person Wide Flat Block - Elevations

(A3) DrNo: A.1228 Rev 3 Phases BCD 5 bed 7 person Corner House Elevations

(A3) DrNo: A.1229 Rev 3 Phases BCD 4 bed 6 person Wide Fronted House - V2

(A3) DrNo: A.1230 Rev 3 Phases BCD 4 bed 7 person Wheelchair House Elevations

(A3) DrNo: A.1231 Rev 3 Phases BCD 3 bed 5 person Wide Fronted House - V2

(A3) DrNo: A.1201 Rev 1 Phase BCD Location Plan

(A1) DrNo: A.1202 Rev 1 Phase BCD Existing Site Plan

(A1) DrNo: A.1203 Rev 7 Phase BCD Proposed Site Plan

(A1) DrNo: A.1204 Rev 3 Phase BCD Proposed Site Plan 1 to 500

(A1) DrNo: A.1205 Rev 1 Phase BCD Proposed Sub-phasing 1 to 500

(A1) DrNo: A.1206 Rev 1 Phase BCD Proposed Site Plan Coloured

(A1) DrNo: A.1207 Rev 1 Phase BCD Proposed Boundary Treatments

(A0) DrNo: TCP-2 Tree Constraints Plan

(A1) DrNo: 1939 A3 001 Detailed Planting Proposals Drawing 1 of 4

(A1) DrNo: 1939 A3 002 Detailed Planting Proposals Drawing 2 of 4

(A1) DrNo: 1939 A3 003 Detailed Planting Proposals Drawing 3 of 4

(A1) DrNo: 1939 A3 004 Detailed Planting Proposals Drawing 4 of 4

(A1) DrNo: 1939 A3 005 Landscape Specification and Details

(A1) DrNo: 1939 A3 006 Detailed Hard Landscape Details Plan 1 of 4

(A1) DrNo: 1939 A3 007 Detailed Hard Landscape Details Plan 2 of 4

(A1) DrNo: 1939 A3 008 Detailed Hard Landscape Details Plan 3 of 4

(A1) DrNo: 1939 A3 009 Detailed Hard Landscape Details Plan 4 of 4

(A1) DrNo: 105-1 Highway Construction Details - Sheet 1

(A1) DrNo: 102-1 Highway Construction Details Sheet 2

(A1) DrNo: 300-1 Phase B - D Drainage Strategy

(A0) DrNo: 301 Phase B - D Surface Water Discharge Rates

(A1) DrNo: 302-1 Phase B - D Engineering Appraisal

(A1) DrNo: 303 Phase B - D Vehicle Swept Parh Analysis Refuse Vehicle

(A1) DrNo: 304 Phase B - D Vehicle Swept Parh Analysis Bus Routes

(A1) DrNo: 305 Phase B - C Visibility Splays

(A1) DrNo: 307 Phase B - C Stopping Up Plans

(A1) DrNo: 308 Phase B - C Highways Works Adoption Plan

(A1) DrNo: 309 Phase A - D Highways Works - Combined Adoption and Stopping Up Plan

(A1) DrNo: 310 Phase A - D Existing Impermeable Areas

(A1) DrNo: 311 Phase A - D Proposed Impermeable Areas

(A1) DrNo: 312-1 Phase B - C Long Sections Sheet 1

(A1) DrNo: 312-2 Phase B - C Long Sections Sheet 2

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

3. The development shall not be occupied until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:
- i. the numbers, type, and location on the site of the affordable housing provision to be made;
  - ii. the timing of the construction of the affordable housing;
  - iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.

The affordable housing thereby approved shall meet the definition of affordable housing in the National Planning Policy Framework 2021 or any future guidance that replaces it, in perpetuity.

Reason: To ensure that the scheme is built as 100% affordable housing to ensure it meets the housing need in the area.

4. No individual dwelling hereby approved shall be occupied until:
- (i) the optional requirement for potential consumption of wholesome water by persons occupying that dwelling in Part G of Schedule 1 and Regulation 36 of the Building Regulations 2010 of 110 litres per person per day has been complied with; and
  - (ii) a notice specifying the calculated consumption of wholesome water per person per day relating to the dwelling as constructed has been given to the appropriate Building Control Body and a copy of the said notice provided to the Local Planning Authority.

Reason: To improve the sustainability of the dwellings in accordance with the Taunton Deane Core Strategy Policies DM5 and CP8, the Supplemental Planning Document - Districtwide Deign Guide and Paragraphs 134, 154 and 180 of the National Planning Policy Framework (July 2021).

5. No more than 12 months prior to the commencement of works on a phase of the development in which breeding sites or resting places of European Protected Species may be present, updated surveys for that phase shall be undertaken. The species in question include but are not necessarily limited to:
- (a) Bats;
  - (b) Badgers

(c) Reptiles

The survey results shall be submitted in writing to the Local Planning Authority together with details of any required mitigation measures and the appropriate mechanism for delivery of such measures.

Reason: In the interests of biodiversity and the protection of European Protected Species in accordance with National Planning Policy Framework, ODPM Circular 06/2005 and Policy CP8 of the Adopted Taunton Deane Core Strategy.

6. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) to biodiversity on site, including habitats (trees, hedgerows and watercourses, including pollution prevention measures) and protected species ( badgers, bats, birds, reptiles), followed by appropriate mitigation, as required
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of European and UK protected species. UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006 and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

7. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior of the development commencing. The content of the LEMP shall include the following:
- a) Description and evaluation of features to be managed.

- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006 and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

8. The works to demolish the buildings identified as bat roosts shall not in any circumstances commence unless the Local Planning Authority has been provided with either:
- a) a copy of the licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
  - a) a copy of a letter from Natural England confirming that the works fall within the remit of a Bat Mitigation Class Licence (WML-CL21) and that the site has been registered in accordance with the class licence.
  - b) a statement in writing from the licensed bat ecologist to the effect that he/she does not consider that the specified development will require a licence.

Reason: A pre-commencement condition is in the interest of the strict protection of European protected species and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

9. Provision shall be made for roosting bats. The location of and type of roost entrances will be set out in the design. Any areas that are accessible to bats must be lined with traditional black bitumen felt (type 1F) to avoid the risk of entanglement of bats. Modern roofing membranes will not be permitted in areas which are accessible to bats. Any timbers that are to be retained and requiring remedial timber treatment should only be treated with 'bat friendly' chemicals (see <https://www.gov.uk/guidance/bat-roosts-use-of-chemical-pest-control-products-and-timber-treatments-in-or-near-them>) A scheme must be submitted to and approved in writing by the Local Planning Authority prior to work commencing on site. The roosts will be implemented in strict accordance with the agreed scheme and maintained for the exclusive use of bats thereafter.

Reason: A pre-commencement condition in the interests of the Favourable Conservation Status of populations of European protected species and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

10. Works will not in any circumstances commence until:
- a) Construction operatives have been inducted by a licensed bat ecologist to make them aware of the possible presence of bats, their legal protection and of working practices to avoid harming bats. Written confirmation of the induction will be submitted to the Local Planning Authority by the licensed bat ecologist within one week of the toolbox talk.
  - b) bat boxes shall be made available to provide suitable alternative roosting location, and to accommodate any discovered bat(s), will be hung on a suitable tree or building on or adjacent to the site at a minimum height of 4 metres as directed by a licensed bat ecologist. Any such box will be maintained in-situ thereafter. Photographs showing their installation will be submitted to the Local Planning Authority.
  - c) Works potentially affecting bats will then proceed under the supervision of the licensed bat ecologist.

Reason: A pre-commencement condition in to ensure the strict protection of European protected species and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

Reason for pre-commencement: It is necessary to prevent harm to protected species.

11. Prior to occupation, 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 Guidance Note 08/18, including submission of contour plans illustrating Lux levels. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the 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 and in accordance Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

12. A Biodiversity Enhancement Plan (BEP) for shall be submitted to, and be approved in writing by, the Local Planning Authority prior to commencement of construction works on each phase. Photographs of the installed features will also be submitted to the Local Planning Authority prior to occupation: The content of the BEP shall include the following:
  - a) 1x Habitat 001 bat boxes or similar will be built into building structure at least four metres above ground level and away from windows of the west or south facing elevation and maintained thereafter on 30x plots split across phases B, C and D.
  - b) 2x Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level on the north facing elevation on 10x plots split across phases B, C and D.
  - c) 2x Vivra Pro Woodstone House Martin nests or similar will be mounted directly under the eaves of the north elevation on 10x plots split across phases B, C and D
  - d) 1x Schwegler 1SP Sparrow terraces or similar at least one metre apart directly under the eaves and away from windows on the north elevations on 30x plots split across phases B, C and D.
  - e) 1x bee brick will be built into the wall about 1 metre above ground level on the south or southeast elevation of 30x plots split across phases B, C and D.
  - f) Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site.
  - g) Where the landscaping scheme allows all new trees planted on site should ideally be from local native stock including fruiting trees of local provenance.
  - h) The grassland areas of the site will be sown with a native species wildflower seed mix such as Emorsgate Flowering lawn mixture (EL1) or similar and managed appropriately.



Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National Planning Policy Framework.

Reason for pre-commencement: To ensure no wildlife is harmed during construction.

13. Prior to the commencement of the development for phases B, C and D further infiltration testing in line with BRE365 must be undertaken to confirm the assumptions that infiltration to ground within phases B, C and D are not feasible methods of discharge groundwater.

Reason: To ensure the development is properly drained in accordance with the NPPF.

Reason for pre-commencement: It is necessary to prevent flood risk in the future.

14. No development shall be commenced on each individual phase 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 2018) 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.

Reason for pre-commencement: It is necessary to prevent future flood risk.

15. No development or part of the 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 details agreed.

Reason: To safeguard the long-term maintenance and operation of the proposed system to ensure development is properly drained in accordance with the NPPF.

16. A Condition Survey of the existing public highway shall be carried out and issued to the Highway Authority prior to any works commencing on site, and any damage to the highway occurring as a result of this development is to be remedied by the developer with the agreement of the Highway Authority once all works have been completed on site.

Reason: In the interests of highway safety.

Reason for pre-commencement: It is necessary to prevent possible damage to the highway during construction.

17. None of the dwellings hereby permitted shall be occupied until details of a network of cycleway and footpath connections within the development site and with appropriate links through the site boundary to the existing external network has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall thereafter be constructed and be available for use and thereafter retained in accordance with a phasing strategy to be agreed in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

18. The external finishes of the works hereby permitted shall match in material, colour, style, type, size, pointing, coursing, jointing, profile and texture those approved in Phase A and details of any variation thereto shall be agreed in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the buildings and area.

19. The first floor window to be installed in the gable elevation of the Plot 62 shall be obscured glazed and non-opening. The type of obscure glazing shall be submitted to and agreed in writing by the Local Planning Authority prior to its installation and shall thereafter be so retained.

Reason To protect the amenities of nearby residents.

#### Notes to applicant.

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

2. The applicant will be required to secure an appropriate licence for any works within or adjacent to the public highway required as part of this development, and they are advised to contact Somerset County Council to make the necessary arrangements well in advance of such works starting.

The applicant should be aware that proposed works are sited on / partially on highway land and as such they will need to apply for a S247 Order to stop-up (remove highway rights) in relation to this land. Such an application will need to be made to the Secretary of State via the National Transport Casework Team, Department for Transport, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne, NE4 7AH. Details about how to make this application can be found at [Highway stopping-up or diversion orders](#) | [Other permissions you may require](#) | [Planning Portal](#).

The applicant is further advised that such an application should be made after further consultation with the Highway Authority and the submission of the associated S278 / S38 applications to ensure that the details of the areas to be stopped up are agreeable to the Highway Authority and do not result in conflict with these other processes. On street EV charging points should be agreed with the Highway Authority.

Prior to works commencing on site the Applicant is advised that plans, sections, specifications and calculations of any proposed retaining walls must be submitted to the District Council and subsequent approval of the Highway Authority in accordance with Section 167 of the Highways Act 1980. (For information, this relates to retaining walls, which are wholly, or partly within 4 yards (3.7m) of a street and which is at any point of a greater height than 4'6" (1.37m) above the level of the ground at the boundary of the street nearest that point.)



<b>Application Details</b>	
Application Reference Number:	<u>53/21/0010</u>
Application Type:	<u>Outline Planning Permission</u>
Earliest decision date:	<u>05 July 2022</u>
Expiry Date	<u>12 January 2022</u>
Extension of time	<u>28 February 2022</u>
Decision Level	Committee
Description:	Application for Outline Planning with all matters reserved, except for principle means of access, for the erection of up to 80 No. dwellings, local centre (of up to 1000sqm of Class E and hot food takeaway) and access onto Dene Road with associated road/footway/cycleway provision, open space, landscaping, surface water attenuation and ancillary works on land at Dene Road, Cotford St Luke
Site Address:	<u>LAND AT DENE ROAD, COTFORD ST LUKE</u>
Parish:	53
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment Area:	Yes
AONB:	<b>No</b>
Case Officer:	<u>Darren Roberts</u>
Agent:	
Applicant:	HALLAM LAND MANAGEMENT
Committee Date:	24 February 2022
Reason for reporting application to Committee	Number of objections and objection from Parish Council

## 1. Recommendation

### 1.1 Conditional Approval

## 2. Executive Summary of key reasons for recommendation

2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions be made in accordance with the development plan, unless material considerations indicate otherwise. There is a shortfall against the Council's requirement to provide a 5YHLS, an indicator that the future the needs of local people will not be met. Specifically, this means that the presumption in favour of sustainable development set out in the Framework paragraph 11d) is engaged.

2.2 As a consequence, the weight that can be given to conflict with CS Policy SP1, and other provisions relating to the settlement hierarchy, is reduced by the fact that the growth needs of the former Taunton Deane area are not being met. As a result, there is limited weight to the harm arising from this conflict. It is acknowledged that Cotford St Luke has had some recent development, with the

completion of 30 homes at Luscombe Road, and at the Orchard Vale development, and that the village has a poor public transport provision, lacks a secondary school and medical facilities.

2.3 Balanced against this are the social, economic and environmental benefits of the proposal. In particular, it would contribute up to 80 new homes, including up to 20 affordable dwellings. This would be in an area where there is a shortfall in housing land supply, and in a location with good access to the village. As a greenfield site it is also likely that the site could be delivered within 5 years, thereby assisting with current housing land supply issues. Weight should therefore be given to the provision of market and affordable housing.

2.4 . The economic benefits of the proposal would include the creation of construction jobs and ongoing additional expenditure in the local economy. This also attracts weight. There would also be financial contributions towards healthcare provision, the provision of public open space and , improvement of PROW and a requirement to introduce car clubs to minimise private transport usage. These matters are primarily intended to address the impact of development and respond to the needs arising from it, nonetheless some modest weight can be attached to the wider social and environmental benefits this would bring, particularly in terms of biodiversity improvements .

2.5 Given the above planning balance, it is recommended that the application is approved.

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

#### 3.1 Conditions are proposed to cover the following: (full text is set out in appendix 1)

1. Outline permission and time scale
2. Plans
3. Local Centre floorspace restriction
4. No removal of hedgerows
5. Sustainable drainage details
6. Surface Water plan
7. CEMP (Biodiversity)
8. LEMP
9. Lighting design for bats
10. No vegetation removal without licence
11. Biodiversity Enhancement Plan
12. Visibility at access
13. Details of access
14. Layout of roads
15. Layout of footways and cycleways
16. CEMP (Highways)
17. EV charging point
18. Travel Plan

#### 3.2 Informatives (bullet point only)

##### 3.2.1 Proactive Statement

#### 3.3 Obligations

1. Woodland Creation for Phosphate Mitigation

2. Maintenance and management of woodland
3. Biodiversity Enhancement
4. Affordable Housing
5. Right of Way
6. Provision of £579 per dwelling towards primary healthcare provision
7. Funding towards an electric car club
8. Management and maintenance of open space

#### **4. Proposed development, site and surroundings**

##### **4.1 Details of proposal**

This is an outline application to construct 80 dwellings, and a local centre including a convenience store, cafe and workplace. The proposal is for all matters to be reserved, except for means of access, which is shown as being from Dene Road. An indicative plan has been included with the application which shows the local centre to the south east of the site, with predominantly two storey housing. The proposal retains the existing hedgerows around the site and includes SuDs, allotments and orchards within the north west corner of the site.

##### **4.2 Site and surroundings**

The site is characterised by a large field to the north side of the built up area of Cotford St Luke. There is existing housing to the south and west. The field fronts Dene Road to the east, opposite which is further housing. The land slopes down from this point to the west. At the far end of the field the slope levels off, and a ditch crosses the site from south to north. This is close to the western boundary of the site which is characterised by a low hedge and a tall single oak tree.

4.3 A footpath runs along the northern boundary of the site, it is separated from the site by a low hedge and fencing. On the southern side of the field, between the housing, is a substantial hedgerow, which also runs along the eastern side between Dene Road and the site. There is an existing field access adjacent to the footpath in the north east corner of the site.

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

53/22/0005 More recent application submitted for 80 dwellings in outline form. Decision yet to be made.

#### **6. Environmental Impact Assessment**

6.1 The site is not Schedule 1 development and lies below the threshold for Schedule 2 development. An Environmental Impact Assessment is not required.

#### **7. Habitats Regulations Assessment**

7.1 Natural England have advised the Council that, in determining planning applications which may give rise to additional phosphates within the Ramsar catchment they must, as competent authorities, undertake a Habitats Regulations assessment and undertake an appropriate assessment where a likely significant effect cannot be ruled out. NE identify certain forms of development affected including residential development, commercial development,

infrastructure supporting the intensification of agricultural use and anaerobic digesters.

7.2 The project being assessed here will result in a positive phosphate output and therefore the waste water from the development will add to the phosphate levels within the Somerset Levels and Moors Ramsar Site ('the Ramsar Site'). The pathway is via the wastewater treatment works. Therefore, the increased phosphate output needs to be mitigated in order to demonstrate phosphate neutrality and ensure no adverse impact in combination with other plans and projects which will arise on the affected designated area.

7.3 In response to this, the applicant has calculated the phosphate budget created by the number of proposed dwellings to be 6.74kg of phosphate per year, based on a methodology proposed by Natural England, and therefore seeks to provide sufficient mitigation which would demonstrate phosphate neutrality and ensure no significant adverse impact on the affected designated area.

7.4 It is proposed to take 9 hectares of agricultural land out of production and to replace with low maintenance grassland, without applying natural or artificial fertiliser. The land is to be fallowed prior to the first occupation of any dwelling constructed following the granting of reserved matters consent and retained in perpetuity by a S106 planning obligation.

7.5 A 'shadow' Habitat Regulations Assessment (sHRA) has been submitted by the applicant, and this has been considered by the LPA, Natural England and Somerset Ecology Services.

7.6 Natural England has been formally consulted and have confirmed that the submitted sHRA provides a firm basis for the LPA to assess the implications of the application in view of the conservation objectives for the Somerset Levels & Moors Ramsar Site, and they would anticipate the LPA being able to reach a conclusion subject to the proposed mitigation of no adverse effect on the integrity of the site.

7.7 Somerset Ecology Services, as the Council's/LPA's retained ecologists, have agreed with the methodology put forward by the applicant, however in their response have raised concerns that the proposed method of fallowing involves cropping of the land, which is not in accordance with the current advice. In response, the applicant has stated that the proposal is now to permanently fallow the land to enable transition into woodland with minimal intervention. Details of this approach have been forwarded to the Somerset Ecology Service and a response is awaited.

## **8. Consultation and Representations**

Statutory consultees have been consulted as set out in the table below (the submitted comments are available in full on the Council's website).

8.1 Date of consultation: 15/10/2021

8.2 Date of revised consultation (if applicable): 25/3/22

8.3 Press Date: 15/10/2021



**8.5 Statutory Consultees the following were consulted:**

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
COTFORD ST LUKE PARISH COUNCIL	<p>OBJECT</p> <p>Not sustainable development, would result in increase in population of the village, which has already had sufficient development.</p> <p>Outside settlement boundary therefore contrary to local plan. Infrastructure insufficient to cope.</p> <p>Increase in vehicle movements to Taunton</p> <p>Poor bus service</p> <p>Would increase rat running</p> <p>Will result in loss of trees at entrance</p> <p>Harm to views from footpath</p> <p>No requirement for a new village centre</p> <p>Issues with surface water run off</p> <p>Potential for anti-social behaviour</p> <p>Car club will not be achievable</p>	<p>See Section 11</p> <p>See Section 14</p> <p>See 17.1</p> <p>See 15.1</p> <p>See Section 13</p> <p>See 19.1</p>
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LEAD LOCAL FLOOD AUTHORITY	<p>(Response following revised information received)</p> <p>Somerset County Council as the LLFA advises the LPA that the LLFA is content with the information provided and recommends the development be conditioned with two conditions.</p>	<p>The proposed recommendation includes these two conditions, requiring details of the water drainage scheme for the site, and a plan for future responsibility and maintenance of the system.</p>
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - ECOLOGY	<p>Agree with the calculations to remove land for fallowing.</p> <p>The method of fallowing the land does not comply with current advice and therefore further information is required.</p> <p>Conditions are required for a Construction Environmental</p>	<p>See sections 7 and 18</p>

	Management Plan, a Landscape and Ecological Management Plan, Lighting and Bats, Dormouse licence, Biodiversity Net Gain	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - CHIEF EDUCATION OFFICER	We have no comments on this application as there is sufficient capacity in the local schools to accommodate any new pupils from the development	Noted
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - RIGHTS OF WAY	<p>We have no objections to the proposal, subject to the following:</p> <p>We welcome the proposed connection to footpath T 4/23. Subject to securing consent for a legal agreement with third party landowners, the connection should be secured through a s106 agreement.</p> <p>Any proposed works must not encroach onto the width of the PROW.</p> <p>The following bold text must be included as an informative note on any permission granted:  <b>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 if the path is built on or otherwise interfered with.</b></p>	<p>Will be subject to S106 Agreement</p> <p>Informative added</p>

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - TRANSPORT DEVELOPMENT GROUP	Impact of increased traffic movements is unlikely to be severe. A number of issues have been identified which can be controlled by condition. These include visibility distances, road gully positions, internal layout, a travel plan requirement, and cycleway details.	See section 14
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
Climate Change Officer	No response	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
TREE OFFICER	<p>This site is blessed with some good boundary planting already, as well as two TPO'd oak trees, one in the south east corner and one near the north east corner. The proposed housing is shown to be well away from these two trees. The illustrative layout gives sufficient space between boundary planting and proposed houses and roads – this must be maintained at the detail stage. As much as possible of the boundary planting should be retained either side of the new road access, as shown on the layout.</p> <p>Although the illustrative plan has been peppered with lots of proposed trees, I'd like to see some intelligent thought going into the details with regards to species and locations, so that species will survive and thrive to maturity without the need for significant pruning or the likelihood of removal by residents. Some space for a larger feature tree or two in the centre of the</p>	<p>see section 17</p> <p>Detailed plan required at reserved matters stage</p>

	layout would be welcome.	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
ECONOMIC DEVELOPMENT	No response	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
Environmental Health - all Areas including Housing Standards	No response	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
HOUSING ENABLING	<p>The proposal to deliver 26% (13 homes) of the scheme as affordable homes is welcomed. There is a demonstrable need for affordable housing in Cotford St Luke. There are currently 26 households registered on Homefinder Somerset for the parish. Of these the majority (20 households) require either 2 or 3 bedroom homes. 4 households require 1 bedroom properties and 2 require 4 bedroom properties.</p> <p>The rented properties should be in the form of 1, 2, 3 and 4 person dwellings. The 1 bedroom properties should be maisonette style houses with separate access way and garden. The majority of the shared ownership should be a mix of 2bedroom 4person houses and 3bedroom 5person houses subject to further discussions in relation to affordability.</p> <p>10% of the total affordable housing provision should be in the form of fully adapted disabled units in accordance with Part M4, Category 3: Wheelchair user dwellings of the</p>	<p>Will form part of Section 106 Agreement. Applicant has agreed to provision as part of Heads of Terms</p> <p>N.B. Figure quoted by the housing enabler is incorrect - the proposal is to provide 25% affordable housing which equates to 20 homes</p>

	<p>Building Regulations 2010. The type and size of the affordable housing units to be provided should reflect the distribution of property types and sizes in the overall development and the housing need requirements. In addition, the affordable housing is to be evenly distributed across the site. The practicalities of managing and maintaining units will be taken into account when agreeing the appropriate spatial distribution of affordable housing on site. Service charges should reflect the necessity to keep these properties affordable. A local connection clause will be required for the affordable housing and as such should be included in a S106 Planning Agreement. Early engagement with the Development Enabling Specialist to agree the affordable housing provision is recommended. The developer should seek to provide affordable homes through a Registered Provider</p>	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LANDSCAPE	Initial concerns regarding the proposed planting, views into the site, topography. Revised plans have incorporated additional woodland planting and screening which lessens impact on landscape.	See 15.1
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
CHIEF FIRE OFFICER - DEVON & SOMERSET FIRE RESCUE	No response	

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
ENVIRONMENT AGENCY	No response	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
NHS - GP PRACTICE	The CCG's concern is that the surgeries of Quantock Vale Surgery and Orchard Medical Centre, a community facility, are already over capacity within their existing footprints therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The combined surgeries already have 14,487 patients registered and this new development will increase the local population by a further 181 persons. Taking this into account the requirement is for £46,285 (£579 per dwelling).	Applicant has agreed to contribution to be provided as part of the S106 agreement
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>

POLICE ARCHITECTURAL LIAISON OFFICER	Outline stage so difficult to make comments. Suggestions made on road and footpath layout, orientation, car parking. Recommends LAP to be more central for good surveillance. Secured by Design required	Details will be agreed at reserved matters stage
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
THE RAMBLERS ASSOCIATION	No response	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SOUTH WESTERN AMBULANCE SERVICE	No response	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SOMERSET WASTE PARTNERSHIP	No response	

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
WESTERN POWER DISTRIBUTION (BRISTOL)	No response	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
WESSEX WATER	No response	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
HIGHWAYS ENGLAND	Offers no objection. The supporting Transport Statement (TS) utilises trip rates derived from the TRICS database using the 'Privately Owned' category, for a robust assessment. The presented trip rates are considered low given the location of the site, but we have undertaken our own assessment of trip generation applying higher rates and accept the difference is marginal. The TS makes no provision for external trips generated by the Class E Local centre, however given the scale of the proposed development and the proximity from the M5 it is considered unlikely that trips generated by this element of the proposal will result in a material impact on the SRN.	Noted
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
NATURAL ENGLAND	considers that the mitigation project proposed in the Nutrient Assessment will be sufficient to achieve nutrient neutrality for the proposed development. Natural England supports the principle of land use change for the purposes of providing a mitigation solution to enable development.	see section 7
SOMERSET WILDLIFE TRUST	We have noted the above mentioned Planning Application as well as the	noted

	supporting Ecological Appraisal provided by FPCR Environment and Design Ltd. We would agree with the findings of that Appraisal. We would also fully support the proposals for Mitigation and Enhancement in Section 6 which must be included in the Planning Application if it is decided to grant Planning Permission	
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## 8.6 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

26 number of letters have been received (all objections) making the following comments (summarised):

Material Planning Considerations	
Objections	Officer Comment
Traffic through the village is bad and would be made worse	see Section 14
School is oversubscribed	Education Officer has raised no objection
Will harm biodiversity	see Section 18
Will increase crime	Further applications will be subject to secured by design
Contrary to development plan	see Section 11
Distant from secondary schools and employment	see 11.5
Supermarket is very limited	See 13.2
Surgeries cannot cope	NHS have requested a contribution to enhance facilities
Need for sustainable features	Detailed design will need to incorporate sustainability
Shops will become houses	Condition proposed to retain units as commercial
No public house in the village	Noted
Removal of mature trees	see 17.1
Fields should be farmed	This is designated as Grade 3 farmland
Removal of hedgerow	see 17.1
Issues with sewage treatment	No response from Wessex Water- details of foul water drainage will be required



Should include post office	Operational matter for post office
Lack of facilities for cyclists	The site proposes a cycle link and future homes will require cycle facilities
No facilities for people in the village	see 11.5
Recent developments have provided no benefits to village	Developments should be considered on merits. Application includes commercial units.
Will increase flooding	see 19.1
Support - None	

#### 8.6.1 Summary of objections - non planning matters

Developer has no interest in local communities

#### 8.7.2 Summary of support - non planning matters

### 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 applications 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 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then the Government agreed proposals for local government reorganisation and a Structural Change Order agreed, with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a new local plan within 5 years of vesting day.

9.3 Relevant policies of the development plan in the assessment of this application are listed below:

- CP8 - Environment,
- SD1 - Presumption in favour of sustainable development,
- CP1 - Climate change,
- CP2 - Economy,
- CP3 - Town and other centres,
- CP4 - Housing,
- CP5 - Inclusive communities,
- CP6 - Transport and accessibility,

CP7 - Infrastructure,  
SP1 - Sustainable development locations,  
SP4 - Realising the vision for rural areas,  
DM1 - General requirements,  
DM4 - Design,  
TC3 - Local shopping,  
TC4 - Primary Shopping Areas (PSA),  
TC5 - Out-of-centre proposals,  
A1 - Parking Requirements,  
A5 - Accessibility of development,  
I4 - Water infrastructure,  
ENV1 - Protection of trees, woodland, orchards and hedgerows,  
ENV2 - Tree planting within new developments,  
D7 - Design quality,  
D8 - Safety,  
D9 - A Co-Ordinated Approach to Dev and Highway Plan,  
SB1 - Settlement Boundaries,  
MIN1 - East of Dene Barton, Cotford St Luke,

#### 9.4 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 (March 2022)

#### 9.5 Neighbourhood plans:

Cotford St Luke has no made Neighbourhood Plan

#### 9.6 National Planning Policy Framework (the NPPF)

The NPPF is a material consideration. The following chapters within the  
NPPF are considered the most relevant to this application

Achieving Sustainable development  
Decision making  
Delivering a sufficient supply of homes  
Promoting healthy and safe communities  
Making effective use of land  
Achieving well-designed places  
Conserving and enhancing the natural environment

## **10. Material Planning Considerations**

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

The principle of development

Design of the proposal  
Proposed Commercial Units  
Access and Parking  
Impact on the character and appearance of the area  
Impact on neighbouring residential amenity  
Impact on trees  
Impact on ecology and biodiversity, including phosphates  
Flood Risk and Water Disposal  
Heritage Impact  
Provision of Housing and Affordable Housing  
Any other matters

These are considered in the sections below

## 11. The principle of development

11.1 The site lies to the north west of the built up part of the existing village of Cotford St Luke. It is outside of the development boundary for the village, as indicated in the Site Allocations Document of the Local Plan. As part of this plan, an allocation is shown at Cotford which is partially outside and partially within the development boundary. This is known as 'MIN1' and is described as 'Land East of Dene Barton' within the Local Plan, being a site for 60 dwellings and small scale Class B employment units. Planning applications for this land have been submitted in two parts - with applications for 30 dwellings in each part. The northern part of the allocation has since been built out and now forms the area known as Luscombe Road.

The southern part of this allocation was granted permission for 30 homes in 2018. However work on this site was not commenced and the permission has now lapsed. No employment units have been provided as stated within Policy MIN1

11.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions be made in accordance with the development plan, unless material considerations indicate otherwise. As a starting point there would be conflict with policies in the Plan as this is not an allocated site. However there is a shortfall against the Council's requirement to provide a 5YHLS as evidenced by the recent publication of the position in the former Taunton Deane area which shows etc. The plan led system means that in situation such as this where future housing needs are not being met the Framework sets out that the development plan provisions must be balanced against wider social, economic and environmental objectives. This means that the presumption in favour of sustainable development of the NPPF paragraph 11d) is engaged.

11.3 This is a material consideration in the determination of the application. The NPPF is clear that the presumption in favour of sustainable development should apply in decision making, meaning that any adverse impacts of granting permission must significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies within the Framework as a whole.

11.4 Core Strategy Policy DM2 states that outside of settlement limits certain uses will be supported (not including housing development) although it does not state that other types of development will be refused. Other uses should therefore be

determined against Policy CP8, which provides that development outside of settlement boundaries will be permitted where a number of criteria are met.

These are that the development is in accordance with policies for development within rural areas;

is appropriate in terms of scale, siting and design;

protects, conserve or enhance landscape and townscape character whilst

maintaining green wedges and open breaks between settlements;

protects, conserve or enhance the interests of natural and historic assets;

does not exacerbate the availability of water resource;

protects habitat and species and provides for any necessary mitigation measures.

Reference to these criteria will be made within the appropriate section below. Policy

A5 of the Site Allocations Document also deals with accessibility, and states that

residential development is acceptable where it is within walking distance, or has

access by public transport to employment, convenience and comparison shopping,

education, health care, leisure and other facilities.

11.5 In the case of this site, access to the primary school, shop, playing field, and church are available within walking distance of the site, and would be accessed along lit roads and a proposed new pedestrian access to Manning Road. The village does not benefit from a range of employment opportunities (although the proposal includes provision for Class E use and a takeaway) or from a secondary school. A bus service connects the village to Taunton and Wiveliscombe with a one to two hourly frequency, although this does not operate at evenings or on Sundays.

11.6 A material consideration in respect of the principle of development is the 'Bagley Road' appeal in Wellington in 2018. This was an application for 205 dwellings and 60 care apartments to the west of the development boundary for the town. In that case, the Inspector decided that a site which was well related to the settlement, accessible along footpaths and was not considered to have any impact on the landscape of the area was considered to be acceptable in principle, despite being located outside of the development boundary. Since that decision, and in particular since August 2020 housing delivery has been more challenging with the issue of phosphates delaying many development schemes.

11.7 It is therefore necessary to balance the location of the proposal site with other considerations, such as the provision of housing, including affordable housing, and employment opportunities within the commercial units and during construction. This will be undertaken at the end of the report.

## 12. **Design of the proposal**

12.1 An indicative layout shows the arrangement of 80 dwellings, broadly shown as being semi-detached or small terraces of houses. Vehicular access is proposed from Dene Road, created by punctuating an existing hedgerow. There are also proposed pedestrian accesses, one using the existing field access adjacent to the public right of way, and a new access to Manning Road. The layout shows a series of cul-de-sacs.

12.2 It should be noted that officers have requested that the application be considered by the Quality Review Panel. This is because the Districtwide Design Guide states that 'the Council will generally expect schemes of more than 50 homes

to be informed by review. Design is underpinned by both local and national policy (NPPF, para 126) .However, the applicant has not agreed to this request, stating that this should be considered at the reserved matters stage.

12.3 The proposal for 80 homes within an area of 2.06 hectares gives a density of 39 dwellings per hectare. The Design Guide is clear that density alone is not a measure of residential quality, however the proposed indicative layout shows how two storey dwellings can appear within the development, and this would be in keeping with the location of this development on the edge of the village, allowing for a mix of house sizes and types and provide for internal play spaces and green areas.

### **13. Proposed commercial units**

13.1 In addition to housing, the application also proposes what it describes as a local centre, comprising up to 1000 square metres of Class E and hot food takeaway. The Design and Access Statement states that the new local centre will provide retail, commercial and community space with opportunity for new shops, restaurants, takeaways and facilities such as clinics, crèches and nurseries. The application, being in outline, seeks flexibility at this stage, although it is stated that any food store will be no larger than 280 square metres, in order to allow longer hours trading on a Sunday.

13.2 Due to the proximity of the Co-Op store, the Council requested additional information in respect of the need for a further convenience store. A detailed report has been submitted on behalf of the applicants. The methodology for this report is deemed to be appropriate, in that it first defines the catchment area, and then considers the available expenditure taking into account existing retail floor space. This report concludes that there is sufficient trading capacity within the village and surrounding areas to allow for an additional 349 square metres of convenience store floor space. Because this exceeds the proposed amount stated within the design and access statement, the report concludes that an additional store of this size is needed within the village, and is unlikely to result in the closure of the existing Co-op store.

13.3 The other units, with the exception of a proposed takeaway, offer services not currently available in retail premises within the village, and would give opportunities for people within the village to use local facilities, rather than making trips to other towns and villages in the area.

13.4 The need for the local centre is therefore accepted, however it is considered necessary to restrict the size of the centre and of the convenience store in order to reflect the local nature of the facility and to reflect the need.

### **14. Access, Highway Safety and Parking Provision**

14.1 It is proposed to provide one vehicular access from Dene Road, at a point just below the entrance to North Villas. This would be a standard 'T' junction at a point in the road which is relatively straight. A further new access is proposed to Manning Road, although this will be reserved for pedestrians and bicycles. The proposed layout has been subject to a highway safety audit by Somerset County Council. Visibility at the main junction accords with the recommended standards, and the road is of sufficient width to allow large vehicles to pass each other. Whilst it is acknowledged that there will be an increase in vehicle movements it is stated by the highway authority that it is unlikely that this will be severe and therefore the highway

authority has not objected to the application.

14.2 There are a number of issues which require further details or clarification. These include the need to show that refuse vehicles can turn within the site, that surface water will not collect on site, that there is a suitable travel plan, and that construction traffic is controlled and car parking for contractors is clearly shown. These are matters that can be covered by the imposition of conditions.

14.3 In terms of parking, the indicative layout generally shows two parking spaces per dwelling, in line with adopted parking standards. However a detailed layout will need to be submitted at reserved matters stage which will show the detailed level of parking within the development, as well as arrangements for EV charging, cycle and powered two wheeler parking.

14.4 The local centre will also require parking. The indicative layout shows in excess of 40 spaces split between the convenience store, and other retail units. This would give a ratio of approximately 1 space per 40 square metre of floor space, which is in keeping with the parking standards stated within the Development Management Plan.

## **15 The impact on the character and appearance of the locality**

15.1 The land slopes towards the north west, where there is a proposed orchard and allotments adjacent to an existing brook. The slope of the site gives rise to concerns over how housing and the proposed retail area will be seen, in particular from the farmland to the north and west. For that reason, a significant amount of planting adjacent to the right of way is proposed, in addition to the orchard planting. Whilst an application in outline form only, it is considered that due to the amount of proposed planting it would be possible to provide for a well landscaped scheme.

15.2 The site is currently beyond the development boundary for Cotford St Luke and is situated on the opposite side of hedgerows from the village. Currently, there are views from the open countryside to the north and west across the public right of way into the site. Development of these fields for housing will inevitably alter views into the site from the surrounding area. However it is considered possible that a sensitive development which works with the topography of the site and the physical features such as trees and hedgerows will not impact negatively on the character of the area, and therefore meets the specific criterion in Policy CP8 which relates to the preservation of landscape character.

## **16 The impact on neighbouring residential amenity**

16.1 The site is some distance from the rear of existing houses, and currently separated by hedgerows. There is no concern that the new properties will result in overlooking of existing properties. The main impact is likely to be from the proposed new pedestrian access onto Manning Road, which would require an opening in the hedge and result in pedestrians and cyclists using the Manning Road area to visit other parts of the village. However as this is not a vehicular access it is considered that impact will be minimal, and will also enable existing residents to walk to the proposed shops and the footpaths to the north of the village. It is not considered that there will be any unacceptable harm on the amenity of nearby residential areas, in accordance with Policy DM1 of the Core Strategy.

## 17 **The impact on trees**

17.1 The site is an existing arable field and no trees exist within the field itself. A number of mature trees are situated on the borders of the site and all are proposed for retention. There will however be tree removals to provide the entrance to the site and the foot/cycle path to Manning Road. Whilst this would result in the loss of approximately 7 metres of continual hedge and therefore habitat, these have been assessed as Category C trees within the arboricultural report, and the proposal is to replace these with a considerable amount of further native planting, including the proposed orchard. Conditions would be required to ensure planting of new trees to increase biodiversity within the site.

## 18 **The impact on ecology and biodiversity and the Somerset Levels and Moors Ramsar Site.**

18.1 The Ecological Appraisal submitted with the application has been assessed by the County Ecologist and Natural England. The conclusions are that the principal areas of wildlife habitat within the site, namely trees and hedgerows, will largely be maintained, and the addition of new habitat in the form of woodlands will result in an increase in biodiversity. The site lies outside of the bat consultation zone and low numbers of bats are recorded across the site, however conditions are recommended in respect of the minimisation of lighting which may affect bats, as well as conditions relating to the need for surveys prior to habitat removal to ensure that protected species such as dormice are safeguarded, and further conditions requiring biodiversity enhancement and a Landscape and Ecological Management Plan (LEMP).

18.2 Due to the location of the development within the catchment of the Somerset Levels and Moors Ramsar site, it is necessary to achieve nutrient neutrality. The proposal to fallow adjacent land in addition to building on the existing land. This would reduce the amount of phosphate within the catchment area. Rather than being intensively farmed, the fallow land will contain coarse grass species managed under a low-maintenance regime which would be suitable for local wildlife. The precise nature of the uplift in biodiversity will need to be agreed by way of a detailed biodiversity action plan, but will need to include an intervention strategy which allows for habitat succession to scrub or woodland.

18.2 The NPPF in paragraph 180 requests that opportunities to improve biodiversity in and around developments; this proposal would seek to achieve that by way of the measures outlined above.

## 19 **Flood risk and water disposal**

19.1 The site is entirely within Flood Zone 1, meaning there is less than a 0.1% change of fluvial flooding annually. There is a risk to surface water flooding, located in the vicinity of the ditch which is at the lowest part of the site. This part of the site is not proposed for built development. In terms of drainage, it is proposed to use a mixture of attenuation basins, permeable paving and rain gardens. Disposal of foul water will be into the existing sewers either by direct connection or by pumping, depending on land ownership. It is acknowledged that no response to the application has been received either from the Environment Agency or Wessex Water. However, the Lead Local Flood Authority have responded and are content with the information provided, providing conditions are placed on any permission requiring further details

of the drainage system and details of future maintenance.

## 20. **Affordable Housing**

20.1 The village lies within the former Taunton Deane area. The adopted SPD for this area states that 25% of all new housing should be in the form of affordable units. This is what is being proposed by the applicant as stated within their heads of terms.

20.2 There is a demonstrable need for affordable housing in Cotford, with 26 households currently registered on Home Finder for the parish, with the majority requiring either 2 or three bedroom homes. If 80 dwellings were built within the development, 20 would need to be affordable units, which would accommodate the majority of the identified need within the parish.

20.3 The indicative layout does not specify which units will be affordable, however it is agreed that the location, tenure and mix of the affordable units should be subject to ongoing discussions should the application be approved, with details being submitted at the reserved matters stage.

## 21 **Any other matters**

21.1 Whilst it is stated that there is insufficient infrastructure to support the additional housing, no objections have been raised from the Education department in terms of the need for additional primary or secondary school accommodation, and the response from the NHS has stated that a contribution towards facilities will be sufficient. The applicant has agreed to provide this contribution by way of a Section 106 agreement. It is acknowledged that a significant number of trips are likely to be by private car, although there is a bus service into Taunton which could be used by residents, which stops at Aveline Court, about 400 metres from the site.

21.2 Any permission would be subject to a Construction Management Plan, which would consider issues of access by construction vehicles, dust and mud control and routing of vehicles through the site

21.3 Finally, there is a policy requirement (D13) for public art to be introduced into developments of this size. This is not shown at this stage, but we would require a suitable scheme to be submitted at the reserved matters stage

## 22 **Local Finance Considerations**

### 22.1 Community Infrastructure Levy

22.2 The creation of dwellings and retail development is CIL liable. Outline application submitted so no detailed plans. Planning Statement submitted advises residential dwellings at 37dph so have used medium density residential testing assumptions to provide this response.

22.3 Residential development measures approx. 7325sqm. The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is



approximately £915,750.00. With index linking this increases to approximately £1,300,000.00.

22.4 Class E development measures 1000sqm. Exact uses not yet known. The application is for possible retail development outside of Taunton and Wellington town centres where the Community Infrastructure Levy (CIL) is £140 per square metre. Based on current rates, the CIL receipt for this development is approximately £140,000.00. With index linking this increases to approximately £200,000.00.

## **23 Planning balance and conclusion**

23.1 It is acknowledged that the site is outside of the development boundary for Cotford St Luke as shown in the adopted Development Plan. The village has seen some development in the past ten years, in accordance with the allocation outlined within the Development Plan. This development would therefore increase the number of dwellings in a village which has seen some recent new development. The site is sloping and providing a scheme for 80 homes and a local centre which would not result in impacts on the landscape will be challenging.

23.2 Balanced against this are the social, economic and environmental benefits of the proposal. In particular, it would contribute up to 80 new homes, including up to 20 affordable dwellings and a local centre. This would be in an area where there is a current shortfall in housing land supply. Significant weight should be given to the provision of market and affordable housing.

23.3 The economic benefits of the proposal would include the creation of construction jobs and ongoing additional expenditure in the local economy. This attracts moderate beneficial weight. There would also be financial contributions towards health infrastructure, biodiversity improvements and green infrastructure, and phosphate mitigation. These matters are primarily intended to address the impact of development and respond to the needs arising from it, nonetheless some modest weight can be attached to the wider social and environmental benefits this would bring, particularly in terms of biodiversity improvements.

23.4 Finally, it should be noted that this is an application in outline form with all matters reserved except for access. Whilst there are concerns over the impact the development will have on the character of the area, since the adoption of the design guide and emphasis on high quality development it is clear that any reserved matters will need to address this, and demonstrate how this can be achieved without detriment to the character of the area.

23.5 For the reasons outlined above it is considered that, whilst the proposal does not fully accord with the Development Plan, for the reasons stated above the 'tilted balance' applies. It is considered that the adverse impacts of the development do not significantly and demonstrably outweigh the benefits. The application is therefore recommended for conditional approval subject to the prior completion of S106 planning obligation to secure the following:

Woodland creation for phosphate mitigation

Maintenance and enhancement of woodland

Biodiversity Enhancement

Minimum of 25% Affordable Housing

Protection of right of way

£579 per dwelling towards primary healthcare provision

Funding towards an electric car club

Maintenance and management of open space

23.6 In preparing this report the planning 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

### Conditions

1. Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the site (hereinafter call 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of two years from the date of this permission. The development hereby permitted shall be begun not later than the expiration of two years from the approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A1) DrNo 8786-L-13 Rev E Location plan

(A1) DrNo 8786-L-16 Rev B Existing and Proposed Access Elevations

(A1) DrNo: 8786-L-14 Rev M Parameters Plan

(A3) DrNo: 8786-L-01 Rev B Pre Submission Planting

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

3. The proposed local centre shall not comprise more than 1000 square metres of floor space. Any use within the local centre shall be either under Class E of the Use Classes Order 1987 (as amended in 2020) or shall contain hot food takeaway comprising no more than 180 square metres of floor space. A single convenience store is permitted and shall not exceed 349 square metres in net floor space.

Reason: In order to provide a facility of a scale to primarily serve the immediate catchment within the village and surrounding area in accordance with Policy TC3 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016

4. No removal of scrub or hedgerow shall take place between 1st March and 31st August inclusive in any year, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided 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

Reason: In the interests of nesting wild birds and in accordance with policy CP8 of the Taunton Deane Core Strategy

5. 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 2018) 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.
  
6. 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. This should include details of gullies, connections, soakaways and means of attenuation on site. The approved drainage works shall be completed and maintained in accordance with the details agreed.  
Reason: To safeguard the long-term maintenance and operation of the proposed system to ensure development is properly drained in accordance with the NPPF and in accordance with highway safety.
  
7. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
  - a. Risk assessment of potentially damaging construction activities.
  - b. Identification of "biodiversity protection zones".
  - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) to biodiversity on site, including habitats (trees, hedgerows and watercourses, including pollution prevention measures) and protected species (amphibians, badgers, bats, birds, dormice and reptiles), followed by appropriate mitigation, as required.
  - d. The location and timing of sensitive works to avoid harm to biodiversity features.
  - e. The times during construction when specialist ecologists need to be present on site to oversee works.
  - f. Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority
  - g. The role and responsibilities on site of an ecological clerk of works (ECoW)

or  
similarly competent person

h. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of European and UK protected species. UK priority species and

habitats listed on s41 of the Natural Environment and Rural Communities Act 2006 and

in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

8. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be

approved in writing by, the Local Planning Authority prior to the commencement of the development. The content of the LEMP shall include the following:

a. Description and evaluation of features to be managed.

b. Ecological trends and constraints on site that might influence management.

c. Aims and objectives of management.

d. Appropriate management options for achieving aims and objectives.

e. Prescriptions for management actions.

f. Preparation of a work schedule (including an annual work plan capable of being

rolled forward over a five-year period).

g. Details of the body or organization responsible for implementation of the plan.

h. On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which

the long-term implementation of the plan will be secured by the developer with the

management body(ies) responsible for its delivery. The plan shall also set out (where

the results from monitoring show that conservation aims and objectives of the LEMP

are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning

biodiversity objectives of the originally approved scheme. The approved plan will be

implemented in accordance with the approved details.

Reason: In the interests of the 'Favourable Conservation Status' of populations of

European and UK protected species, UK priority species and habitats listed on s41 of the

Natural Environment and Rural Communities Act 2006 and in accordance with Taunton

Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

9. No development shall commence until a "lighting design for bats" has been submitted

to and approved in writing by the Local Planning Authority. The strategy shall:

- a. Identify those areas/features on site that are particularly sensitive for lesser horseshoe bats and that are likely to cause disturbance in or around their resting places or along important routes used to access key areas of their territory, for example, for foraging.

- b. Show how and where external lighting will be installed (through the provision of

lighting contour plans illustrating Lux levels accords with Step 5 of Guidance Note

08/18 Bats and artificial lighting in the UK) and do not exceed 0.5 Lux so that it can be clearly demonstrated that areas to be lit will not disturb or prevent lesser horseshoe bats using their territory or having access to their breeding sites and resting places. The design will also include any amenity and or security lighting where needed.

- c. Show the use of shields and other methods of reducing light spill (such as the installation of physical barriers) to prevent light spill.

All external lighting shall be installed in accordance with the specifications and locations

set out in the design, and these shall be maintained thereafter in accordance with the

approved details. 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, UK priority species listed on s41 of the Natural Environment

and Rural Communities Act 2006 and in accordance with, and in accordance with

Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment and Chapter 15 of

the National Planning Policy Framework 2021. This is a condition precedent as harm to

protected species needs to be prevented from the earliest stages of the development

10. The works to the site include vegetation removal shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

- a. a copy of the licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or

- b. a statement in writing from the licensed dormouse ecologist to the effect that he/she does not consider that the specified development will require a licence.

Reason: The removal of hedgerow would result in the loss of dormouse nesting and foraging

habitat and could result in the disturbance, killing or injury of dormice.

A pre-commencement condition in the interest of the strict protection of

European protected species and in accordance with Taunton Deane Core Strategy 2011

-2028: Policy CP 8 Environment.

11. A Biodiversity Enhancement Plan (BEP) shall be submitted to, and be approved in writing by, the Local Planning Authority Prior to commencement of construction works: The content of the BEP shall include the following:
- a) Bat boxes built into the structure at least four metres above ground level and away from windows of the west or south facing elevation of 20 plots and maintained thereafter.
  - b) Bee bricks will be built into the wall about 1 metre above ground level on the south or southeast elevation of 20 plots and maintained thereafter.
  - c) A cluster of 5x Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level on the north facing elevation of 20 plots and maintained thereafter.
  - d) 2x Vivra Pro Woodstone House Martin nests or similar will be mounted directly under the eaves of the north elevation of 20 plots and maintained thereafter.
  - e) Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site.
  - f) 2x reptile hibernacula will be created in the north west boundary and maintained thereafter.
  - g) new hedgerows are to be planted up with native species comprised of a minimum of 5 of the following species: hazel, blackthorn, hawthorn, field maple, elder, elm, dog rose, guelder rose and spindle.
  - h) All new trees planted on site should ideally be from local native stock including fruiting trees of local provenance.
- Plans showing the installed features will be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme will thereafter be implemented and retained in perpetuity.
- Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National Planning Policy Framework
12. At the new vehicular access there shall be no obstruction to visibility greater than 300 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43 metres in either direction. Such visibility shall be fully provided prior to commencement and shall thereafter be maintained at all times
- Reason: In the interests of highway safety
13. The details of the proposed main access onto Dene Close and the proposed foot/cycle access onto Manning Road shall be agreed in writing with the local planning authority prior to commencement and constructed in accordance with details shown on the submitted plan, and shall be available for use before occupation of the first dwelling or commercial unit. Once constructed the access



shall be maintained to an appropriate standard at all times.

Reason: In the interests of highway safety

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

Reason: In the interest of highway safety

15. None of the dwellings hereby permitted shall be occupied until details of a network of cycleway and footpath connections within the development site and with appropriate links through the site boundary to the existing external network has been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall thereafter be constructed and be available for use in accordance with a phasing strategy for these connections to be agreed in writing by the Local Planning Authority.

Reason: In the interests of sustainable development

16. a) No development shall commence unless a Construction Environmental Management Plan (Highways) has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:
- Construction vehicle movements;
  - Construction operation hours;
  - Construction vehicular routes to and from site;
  - Construction delivery hours;
  - Expected number of construction vehicles per day;
  - Car parking for contractors;
  - Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
  - A scheme to encourage the use of Public Transport amongst contractors;
- and
- Measures to avoid traffic congestion impacting upon the Strategic Road Network.
- b) The applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be

installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local

Planning Authority and fully implemented prior to works commencing on site, and thereafter maintained until the construction phase is completed.

c) A Condition Survey of the existing public highway will need to be carried out and

agreed with the Highway Authority prior to any works commencing on site, and any damage to the highway occurring as a result of this development is to be remedied by the developer to the satisfaction of the Highway Authority once all works have been completed on site

Reason: In the interests of highway safety and control of pollution in accordance with policy DM1 of the Core Strategy

17. Prior to first occupation of each dwelling, access to covered cycle and electric vehicle charging points will be made available.

This is to be provided through garages or shared charge points. They shall be in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development

18. The development shall not be commenced until a detailed Travel Plan has been submitted to and approved in writing by the Local Planning Authority. No part of the new development shall be occupied prior to implementation of those parts identified in the approved Travel Plan as capable of being implemented prior to occupation. Those parts of the approved Travel Plan that are identified therein as capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

Reason: In the interests of sustainable development in accordance with Policy A2 of the Taunton Deane Adopted Site Allocations and Development Management Plan

Notes to applicant.

1. In accordance with paragraph 38 of the National Planning Policy Framework 21 the Council has worked in a positive and creative way with the applicant and has negotiated amendments to the application 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 if the path is built on or otherwise interfered with.

3. Your attention is drawn to the agreement made under Section 106 of the Town and Country Planning Act 1990, relating to this site/property.
4. **WILDLIFE AND THE LAW.** Any activities undertaken on trees must take into account the protection afforded to wildlife under UK legislation.

**BREEDING BIRDS.** Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed. If works are to be carried out in the breeding season (February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

**BATS.** The applicant and contractors must be aware that all bats are fully protected by law under the Conservation of Habitats and Species Regulations 2017 (as amended), also known as the Habitats Regulations, and by the Wildlife and Countryside Act 1981 (as amended). It is an offence to damage, deliberately destroy or obstruct access to structures or places of shelter or protection used by bats, or recklessly or intentionally disturb bats while they are using these places.

**TREES** with features such as rot and woodpecker holes, split branches or gaps behind loose bark, or covered with ivy with stems over 50mm may be used as roost sites for bats. Should a bat or bats be encountered while work is being carried out on the tree(s), work must cease immediately and advice must be obtained from the Government's advisers on wildlife, Natural England (tel. 0300 060 3900). Bats should preferably not be handled (and not unless with gloves) but should be left in situ, gently covered, until advice is obtained.

5. The developer must agree a point of connection to the foul sewerage network with Wessex Water.
6. The applicant will be required to secure an appropriate licence for any works within or adjacent to the public highway required as part of this development, and they are advised to contact Somerset County Council to make the necessary arrangements well in advance of such works starting.



Application Details	
Application Reference Number:	13/22/0003
Application Type:	Retention of Building/Works etc.
Earliest decision date:	15 April 2022
Expiry Date	13 May 2022
Extension of time	17 July 2022
Decision Level	Committee
Description:	Erection of timber garden shed at 1 Yeas Cottage, Cushuish (retention of works already undertaken)
Site Address:	YEAS COTTAGE, 1 CUSHUISH ROAD, COTHELSTONE, TAUNTON, TA2 8AP
Parish:	13
Conservation Area:	N/A
Somerset Levels and Moors RAMSAR Catchment Area:	Within
AONB:	N/A
Case Officer:	Mrs M Pike
Agent:	N/A
Applicant:	MR B THORPE
Committee Date:	
Reason for reporting application to Committee	Applicant is partner of a SWT staff member.

## 1. Recommendation

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

## 2. Executive Summary of key reasons for recommendation

2.1 The purpose of the shed is for garden storage. Its design and scale are subservient to the main dwelling, with a simple pitch roof of natural clay tiles and clad in natural timber. Its position is well away from the main dwelling and the access to the highway. It is well screened by mature trees and a high bank from the road. The shed is built upon raft foundations which will not cause harm to the nearby tree roots and no trees or hedges have been removed or pruned to enable the works subject of this application. For these reasons it is considered that the shed complies with policies DM1 (General requirements) and CP8 (Environment) and is considered to have no unacceptable impact upon the listed building.

## 3. Planning Obligations and conditions and informatives

### 3.1 Conditions (full text in appendix 1)

3.1.1 Approved plans

3.1.2 Materials

### 3.2 Informatives (bullet point only)

### 3.2.1 Proactive Statement

### 3.3 Obligations

N/A

## 4. Proposed development, site and surroundings

### 4.1 Details of proposal

This application seeks approval for the erection of a fairly substantial timber garden shed measuring 5.08 metres wide x 3.76 metres deep, 1.8 metres to the eaves and 3.1 metres high to the apex. Its purpose is for storage of garden equipment etc. It has timber clad walls with timber door on the front elevation under a pitched roof of clay tiles. The shed is set within the domestic curtilage, in the rear garden of the dwelling. The application site is close to the south eastern boundary of Yeas Cottage with Cushuish Lane, but screened from view by the high roadside bank and mature trees.

### 4.2 Sites and surroundings

Yeas Cottage is a Grade 2 listed, two storey semi-detached dwelling finished in pink coloured render under a pitched thatched roof. The application site is within the rear garden of the dwelling and separated from the boundary of the Quantock Hills AONB by Cushuish Lane, but is completely screened from view from the road by a high bank and mature trees lining the roadside.

## 5. Planning (and enforcement) history

None.

## 6. Environmental Impact Assessment

N/A

## 7. Habitats Regulations Assessment

N/A

## 8. Consultation and Representations

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

8.1 Date of consultation: 24 March 2022

8.2 Date of revised consultation (if applicable): N/A

8.3 Press Date: N/A

8.4 Site Notice Date: 31 March 2022

8.5 **Statutory Consultees** the following were consulted:

Consultee	Comment	Officer comment
BISHOP LYDEARD &	Support	Noted

COTHELSTONE PARISH COUNCIL		
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - TRANSPORT DEVELOPMENT GROUP	No observations	Noted
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
PLANNING ENFORCEMENT	No comment received	Noted

8.6 **Internal Consultees** the following were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
Arboricultural Officer	No objection	Noted
Conservation Officer	<p>In assessing the harm on the setting of the listed building this has been balanced against the location, scale, design and use of materials. In this respect the shed measures at 5.08m x 3.76m, constructed in timber with clay tiles, located within the south-east corner of the garden, set behind the mature hedgerows that define Cushuish Road.</p> <p>On balance the shed is of a sizable scale however in considering the use of traditional materials, location and verdant nature of the garden and surrounding area, the proposal would continue to preserve the contribution the setting makes to the significance of the listed building.</p> <p>In summary the proposed works erection of a timber garden shed, to the south-east corner of the rear garden of No.1 Yeas Cottage, would continue to preserve the contribution the setting makes to the significance of the listed building in accordance with Policy 206 of NPPF21.</p> <p><b>Recommend approval with a</b></p>	

	<b>materials condition.</b>	
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## 8.7 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement. No neighbour letters have been received in response.

## 9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications 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).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a local plan within 5 years of vesting day.

Relevant policies of the development plan in the assessment of this application are listed below:

EN2 - TDBCLP - Sites of Special Scientific Interest,  
CP8 - Environment,  
DM1 - General requirements,

### 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:

Bishops Lydeard and Cothelstone

### 9.1 National Planning Policy Framework



The proposal is considered to comply with the requirements as set out within the NPPF.

## **10. Material Planning Considerations**

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

### **10.2.1 *The principle of development***

The shed is for garden storage purposes, set at a considerable distance from the main dwelling in the south east corner of the rear garden where mature trees enclose the garden and where the application site is screened from the road. The simple pitched roof design and natural materials of timber and clay roof tiles are harmonious with the character and appearance of the main dwelling. For these reasons the shed is considered to meet the requirements of policy DM1 in terms of the appearance and character of any affected landscape, settlement, building or street scene. The proposal is therefore considered to be acceptable in principle.

### **10.2.2 *Listed building***

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act requires that special regard is paid to the desirability of preserving the listed building, its setting and any feature of historic or architectural interest when deciding whether to grant planning permission.

The shed is finished in natural materials of wooden shiplap cladding over a timber frame under a pitch roof of clay tiles. It is considered to be acceptable in form, character and appearance and will not harm the listed building, its setting or architectural and historic interest or the Quantock Hills AONB.

### **10.1.2 *Protected species* - CP8 (Environment)**

The Borough Council will conserve and enhance the natural and historic environment, and will not permit development proposals that would harm these interests or the settings of the towns and rural centres unless other material factors are sufficient to override their importance.

The shed is built upon raft foundations which are shallow and will not cause harm to the nearby tree roots. No trees or hedges have been removed or pruned in order to carry out the works. It is considered that no unacceptable harm or significant disturbance to trees or to protected species habitat results from this application.

## **11 Local Finance Considerations**

### **11.1 Community Infrastructure Levy**

N/A

## **12 Planning balance and conclusion**

12.1 The general effect of paragraph 11 of the NPPF is that, in the absence of

relevant or up-to-date development plan policies, the balance is tilted in favour of the grant of permission, except where the policies within the NPPF that protect areas or assets of particular importance provides a "*clear reason for refusing the development proposed*" or where the benefits of the proposed development are "*significantly and demonstrably*" outweighed by the adverse impacts when assessed against the policies in the NPPF taken as a whole.

12.2 For the reasons set out above, having regard to all the matters raised, including having no unacceptable impact upon the listed building, it is therefore recommended that planning permission be GRANTED subject to conditions.

In preparing this report the planning 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

### Conditions

1. The development hereby permitted shall be retained as shown on the approved plans:

(A4) Location Plan  
(A4) Block Plan  
(A3) Scale Elevation

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

2. The external finishes of the outbuilding hereby permitted shall be of timber walls and clay roof tiles as specified on the Application form and the A3 Scale Elevation drawing received 09 March 2022 and shall remain as such. Photographs of the hereby approved storage shed to be submitted to the Local Planning Authority prior to completion.

Reason: To safeguard the character and appearance of the setting of the listed building.

### Notes to applicant.

1. In accordance with paragraph 38 of the National Planning Policy Framework 21 the Council has worked in a positive and creative way and has imposed planning conditions to enable the grant of planning permission.



Application Details	
Application Reference Number:	49/21/0030
Application Type:	Full Planning Permission
Earliest decision date:	01 July 2021
Expiry Date	14 July 2021
Extension of time	30 September 2022
Decision Level	Committee
Description:	Erection of an agricultural building for the rearing of calves on Simons Holt Farm retained land, Whitefield, Wiveliscombe
Site Address:	SIMONS HOLT FARM RETAINED LAND, WHITEFILED, WIVELISCOMBE, TA4 2UU
Parish:	Wiveliscombe
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment Area:	Within
AONB:	NA
Case Officer:	Briony Waterman
Agent:	NA
Applicant:	T & L CHERRY
Committee Date:	23/06/2022
Reason for reporting application to Committee	Ward member objection

## 1. Recommendation

1.1 That planning permission be GRANTED subject to conditions set out in the Planning Committee agenda, dated 23 June 2022 and an additional condition to limit the total number of animals on the site.

## 2. Introduction

2.1 The Planning Committee held on 23 June 2022 resolved to defer this application so that further information could be obtained. The original officers report is appended, and this addendum presents the additional information requested relating to the following matters:

1. A noise assessment;
2. Further clarification on the phosphates issue;
3. Whether a planning condition could be imposed to limit the number of livestock in the building; and
4. How slurry was going to be dealt with.

Each of these are dealt with below.

### **3 Additional Information**

#### **Noise assessment**

Following the Committee meeting further advice was sought from the Environmental Health team who have provided the following:

“I understand that queries were raised at the Planning Committee about the requirement for a noise report to accompany the application.

In my first email, I mentioned that when Environmental Health are asked to comment on noise this is normally because there is a noise assessment and so a more specialist comment is needed. However, many applications do not have, or require a noise report.

I am not aware of Environmental Health being asked to comment on a noise report for any agricultural buildings, other than much larger developments (such as large chicken sheds). It would be difficult to produce a noise assessment for this type of development as the source of noise would be so varied (depending on the number of animals, how often they make noise, the time of day etc).

I can also confirm that Environmental Health have not received any complaints about noise from this type of operation. As there are a number of agricultural buildings housing animals in the area, with some closer to residential properties than this application site, it indicates that the noise from this type of activity is not likely to have an unreasonable impact on any nearby properties.”:

The applicant has also provided additional information and stated:

“There is very little noise from our calf rearing operations and I have never received any complaints from neighbours. I have checked back through my previous planning applications for both calf rearing sheds at our Spring Grove site and note no objections relating to noise. Application 03/19/0001 was for a second identical barn at Spring Grove, submitted two years after the first barn had been built and utilised at full capacity for that time. Spring Grove residents are within 100 metres of these barns.

Noise assessments are not usually required for this type of development, and I have never been asked to provide one for my previous livestock barn applications 03/15/0005, 03/18/0006 and 03/19/0001. I have also noted that a similar application (3/24/21/003) for a stand-alone larger calf rearing barn within 100 metres of the village of Beggearn Huish was passed by the Planning Committee on 21st October 2021 without a noise assessment.

We also operate two rented calf rearing sites, one at Maundown 50 meters from the nearest residential house and 900 metres from the village of Langley Marsh. The other is in the centre of the village of Ford 50 metres from residential properties. Both sites hold around 100 calves and we have never had any complaints”

On the basis of the information provided by Environmental Health, together with the information supplied by the applicant it is considered that there are no grounds to require a noise assessment and to do so would be unreasonable.

### ***Phosphates issue***

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 as the proposed development is to house cattle which can be located in the field the barn does not increase nutrient loadings at the catchment's waste water treatment works.

The Council is satisfied that there will be no additional impact on the Ramsar site (either alone or in combination with other plans or projects) pursuant to Regulation 63 (1) of the Habitats Regulations 2017. The application has been therefore been screened out for needing phosphate mitigation as the livestock are already in the field. The erection of the barn would not intensify the use beyond what can be accommodated within the field, and a condition to limit the number of animals to the existing level is also proposed. The field is currently being used for calf rearing utilising a portable hutch system.

### ***Imposition of a planning condition***

The number of calves permitted in the barn is restricted by the size of the barn and legal stocking densities, information submitted by the applicant states that the proposed barn would have 8 pens of 30m<sup>2</sup> holding 12 calves at a stocking density of 2.4m<sup>2</sup>, Red Tractor stocking densities for calves to 200kg is 2.4m<sup>2</sup>. The remainder of the shed will be utilised by a feeding passage, handling area, isolation pen and feed bin, the proposal is within the legal baseline for stocking density for the size of the 4.6hectare site. However, a condition has been included restricting the number to 100 calves at any given point.

### ***Slurry***

As mentioned as part of the application and as part of the applicant's response it should be noted that there will be no slurry produced as the calves are bedded with straw daily. The manure is cleared out between batches and spread on local arable fields.

## **4 Conclusion**

The Committee is referred to the report contained within the agenda for the meeting held on 23 June 2022 which is attached to this report. Having taken into account the additional information, and for the reasons set out in the previous report the application is recommended for approval, subject to the imposition of an additional condition (Condition 4) which is set out below restricting the number of animals on the site.

## Appendix 1 – Planning conditions and Informatives

### Conditions

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:

(A4) Site Plan  
(A3) DrNo PJA/SR/4161/001 North & South Elevations  
(A4) Location Plan  
(A3) DrNo PJASR4161002 East & West Elevations  
(A3) DrNo PJA/SR/4161/003 Proposed Floor Plan

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

3. The roof of the barn is to be anthracite grey.

Reason: To ensure the proposal does not have a significant impact upon the wider landscape.

4. The number of calves housed within the barn should not exceed 100 at any given time.

Reason: To ensure the proposal does not result in over intensification of the use of the site and consequential adverse impacts.

### Notes to applicant.

- . In accordance with paragraph 38 of the National Planning Policy Framework 21 the Council has worked in a positive and creative way and has imposed planning conditions to enable the grant of planning permission.





Application Details	
Application Reference Number:	49/21/0030
Application Type:	Full Planning Permission
Earliest decision date:	01 July 2021
Expiry Date	14 July 2021
Extension of time	30 September 2022
Decision Level	Committee
Description:	Erection of an agricultural building for the rearing of calves on Simons Holt Farm retained land, Whitefield, Wiveliscombe
Site Address:	SIMONS HOLT FARM RETAINED LAND, WHITEFILED, WIVELISCOMBE, TA4 2UU
Parish:	Wiveliscombe
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment Area:	Within
AONB:	NA
Case Officer:	Briony Waterman
Agent:	NA
Applicant:	T & L CHERRY
Committee Date:	23/06/2022
Reason for reporting application to Committee	Ward member objection

## 1. Recommendation

1.1 That planning permission be GRANTED subject to conditions

## 2. Executive Summary of key reasons for recommendation

2.1 The proposal is for a barn to house cattle, the size, scale and location are considered acceptable in principle.

## 3. Planning Obligations and conditions and informatives

### 3.1 Conditions (full text in appendix 1)

3.1.1 Time Limit

3.1.2 Drawing Numbers

3.1.3 Roof colour to be grey

3.1.4 Lighting for bats

3.1.5 Landscaping

### 3.2 Informatives (bullet point only) \_

3.2.1 Proactive Statement

- 3.2.2 Nesting bird
- 3.2.3 Badger

## **4. Proposed development, site and surroundings**

### **4.1 Details of proposal**

Erection of an agricultural building for the rearing of calves.

The building is to measure approximately 30.5m long by 15.2m with a ridge height of 6.4m

### **4.2 Sites and surroundings**

The barn is to be located to the south west of an agricultural field laid to pasture. There is an existing access to the east of the site. The field is bounded by hedging and is located to the north of Langely Marsh, surrounded by other agricultural fields.

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

No relevant planning history.

## **6. Environmental Impact Assessment**

NA

## **7. Habitats Regulations Assessment**

The site is located within the catchment of 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 as the animals are on site and the barn would not lead to an intensification above the legal base line it therefore considered that the proposal would not increase nutrient loadings at the catchment's waste water treatment works. The Council is satisfied that there will be no additional impact on the Ramsar site (either along or in combination with other plans or projects) pursuant to Regulation 63 (1) of the Habitats Regulations 2017.

## **8. Consultation and Representations**

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

8.1 Date of consultation: 25/05/2021

8.2 Date of revised consultation (if applicable): NA

8.3 Press Date: NA

8.4 Site Notice Date: 10 June 2021

8.5 **Statutory Consultees** the following were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
WIVELISCOMBE TOWN COUNCIL	No concerns regarding the location and visual appearance of the barn. there are a number of mature trees to the south of the barn - retention of these is vital to screen noise and potential visual impact condition protecting tree and or additional planting scheme. applicant has stated there will be no slurry or liquid waste produced from a calf rearing using a straw bed system issue of phosphates leaking into the water. condition used for the proposed use only and that further consent would be required to change the use to house any other livestock or the system used for housing livestock.	conditions added
SCC - ECOLOGY	within catchment, any vegetation to be removed/lighting added?	condition added
SCC - TRANSPORT DEVELOPMENT GROUP	No observations	
WESSEX WATER	no comments received	

8.6 **Internal Consultees** the following were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
Environmental Health - all Areas including Housing Standards	normally expect a noise and odour assessment however not aware the Council requires one for a building in this size and location, animals are not a type of noise source that is easy to assess note the nearest property is 200m away and there are other farms that are closer concerns over watercourse	

### 8.7 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

39 letters have been received making the following comments (summarised):

- Impact on amenity of neighbouring properties
- Size is disproportionate to the pasture area
- Indication from the size that the building could house 200+ calves
- Application is thin end of the wedge, a home will be required for the carer's of the calves as it will be unsustainable for this amount of calves to be left alone from a security and welfare point of view.
- Site unsuitable and unnecessary for general storage
- Stand alone position unnecessarily spoils a piece of important rolling countryside for the community and is visible from the tourist attraction of the Wivey Way.
- No indicated clear economic or environmental benefits in the building to the parish, economic downside's are evident.
- No resident accommodation on the site to manage the operation.
- Increasing traffic flow.
- Size and scale of the application
- Noise and smell of so many livestock near to Langley Marsh will be an issue given the proximity.
- Contamination of the water course would be an ecological disaster
- Well within 400m curtilage of domestic curtilage
- Size of the cattle lorries required would be hazardous on small country lanes
- According to the Town and Country Planning (General Permitted Development) (England) Order 2015 (page 62 clause B.1 d), this construction should not be permitted as within 400m
- Concerns over air pollution
- No mention in the application on how the storage of slurry or sewage sludge will be managed to avoid contamination of the nearby stream
- A building of 6.4m high will present a degradation of the landscape
- Concerns over no observations from highways there will be an increase in heavy traffic on the difficult roads
- No consideration give to safety, site is constricted due to the width of the lane
- Other farm buildings in the area which could have been adapted
- No excuse to build on green field sites when existing alternatives exist
- Fail to see clear economic imperative for building a new shed
- If it is found permanent care for the animals a future dwelling might be proposed
- No plan for disposal of waste or slurry
- Light pollution and impact upon bats
- There have been no planning applications at the end of the 'new drive' why?
- Two thirds of all properties within Langley Marsh are within 400m of the site
- Water into the existing watercourse
- Farmer lives off site and might not be available if something goes wrong.
- Nutrient neutrality must be considered and mitigated
- Visual impact
- Detrimental to general wellbeing of the people who live nearby
- Detrimental to the environment
- Animal welfare
- Other places the barn could have gone
- Site notice not displayed correctly
- Too close to residents
- Impact upon the sale price of house
- Impact on wildlife
- Not against farming but needs to be sustainable and of a type suited to a location
- Intensive farming is not sustainable, location is a DEFRA priority for reducing the

damage

- An area for Countryside Stewardship Water Quality Priority Area (red), Surface water nitrate issues priority area (red), surface water pesticide issues priority area (red), fecal indicator organisms issues priority area (red), phosphate issues priority area (Red) and former catchment sensitive farming priority areas 2011-2015 (priority catchment).
- This area cannot sustain intensive livestock farming
- Support farming enterprises in general object to this one over concerns of lack of info
- Conflict with policy DM2 unit is 4.61 hectares
- Inappropriate and premature to determine the application without regard to the need for a dwelling
- 49/21/0008/AGN shows piecemeal development of the land and is to be avoided
- No odour management plan has been submitted
- Impact on the listed building
- Layout and density of the building, site is not part of a farm, no farm buildings
- 25m manure heap
- Applicant provides a good level of welfare for his animals

Cllr Mansell

- Concerns over the need for a worker dwelling
- New building would allow more intensive use of the land
- Impact on phosphates
- Potential for noise and odours from intensive calf rearing
- Impact on narrow roads, and no information submitted on expected vehicle movements.
- No farmhouse or dwelling associated with the site, important to establish where the workers would reside.

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

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications 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).

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 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.

Relevant policies of the development plan in the assessment of this application are listed below:

DM2 - Development in the countryside,  
CP8 - Environment,

#### 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)

### 9.1 National Planning Policy Framework

The proposal accords with the general principle of the NPPF.

## **10. Material Planning Considerations**

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

10.2.1 Principle of development

10.2.2 Visual amenity

10.2.3 Highways

10.2.4 Noise and odour

10.2.5 Additional matters

10.2.6 Phosphates

### 10.2.1 The principle of development

The proposal is for a livestock barn within the open countryside, as such Policy DM2 is considered relevant. The policy states that "*new non residential agricultural and forestry buildings commensurate with the role and function of the agricultural or forestry unit.*" may be considered acceptable. Within the Nutrient Neutrality Statement it is noted that the area for the application site is 3.2ha with the total area included within the blue line is 4.6ha with the total amount of land in the It is considered that the proposed barn is of a suitable size and scale for the holding and is considered acceptable in principle.

### 10.2.2 Visual amenity

The proposal is for a 15.24m x 30.48m barn to be constructed of concrete panels with wood space boarding above, the roof is to be fibre cement, a condition has been included to ensure that the colour is anthracite grey to minimise the long range impacts of the proposal. It is considered that the scale and materials are appropriate for the use and area. The barn is to be located in the south west corner of the site

which is well screened by existing hedging and trees which are in part coniferous, which would help screen the proposal all year round. The barn is to be located in the lowest point of the field. It is therefore considered that the proposal would not have a significant impact upon the visual amenity in that it is well screened and any glimpses would be of an agricultural barn which is an expected feature with the rural landscape. The proposal is considered to be acceptable in terms of scale, siting and design and therefore complies with Policy CP8.

### 10.2.3 Highways

There are no alterations proposed to the access and the addition of a barn on the site is not considered to significantly exacerbate the existing vehicle movements to and from the site as the livestock are currently within the field. The proposal is therefore considered acceptable in terms of highway safety.

### 10.2.4 Noise and Odour

Concerns have been raised about the noise and smell of the animals. Following discussions with Environmental Health who are "unaware of any noise assessments being required for a unit of this size, or how a noise assessment would fit with the type of operation as animals are not a type of noise source that is easy to assess" The comments go on to say historically there are some complaints relating to odour from slurry spreading however none have been bad enough to cause a statutory nuisance and no records of noise complaints from animals in agricultural premises." It is noted that the site is over 200m from the nearest residential premises and there are a number of other farms in the area, some of which are much closer to other properties.

Given the comments from the Environmental Health Team it is considered that the proposal would not have a significant impact from noise and odour on the neighbouring properties. The livestock currently occupy the field in an agricultural landscape.

### 10.2.5 Additional matters

A number of comments received raised concerns over the future need for an agricultural workers dwelling to manage the herd, however the application must be determined on its own merits and speculation as to what may or may not occur in the future is not a material planning consideration.

A number of objectors raised that the development was contrary to the GPDO as the proposal was within 400m of a protected building. This is the case and due to the location of the barn it would not have been considered permitted development which is why a full application has been submitted.

Comments received from a neighbour stated that a site notice was not displayed correctly, a site notice was erected to the entrance to the site on the 10th June 2021.

In response to the comments raised the applicant has confirmed that To calculate stocking rate and N produced I have used standard tables published in the Red Tractor Farm Assurance Standards book. One calf to 6 months of age requires



0.005 hectares of land per month.

The proposed shed will have 8 pens of 30m<sup>2</sup> holding 12 calves at a stocking density of 2.4m<sup>2</sup>. Red tractor stocking density for calves to 200kg is 2.4m<sup>2</sup>. The remainder of the shed is utilised by a central feeding passage, handling area, sick/isolation pen and feed bin. Calves arrive on average 14 days of age and are sold at an average of 100 days (3 months rearing). There would be approximately one month between batches for cleaning and resting of the shed.

The proposed shed will therefore be within the legal baseline for stocking density for the size of the 4.6 hectare site.

#### 10.2.6 Phosphates

As mentioned above the proposal for the barn is not considered to exacerbate the existing situation and the barn is to house the stock currently on the field. The number of stock in the field will not increase with this proposal, which has been confirmed by correspondence with the applicant.

### **11 Local Finance Considerations**

#### 11.1 Community Infrastructure Levy

Not applicable.

### **12 Planning balance and conclusion**

12.1 The general effect of paragraph 11 of the NPPF is that, in the absence of relevant or up-to-date development plan policies, the balance is tilted in favour of the grant of permission, except where the policies within the NPPF that protect areas or assets of particular importance provides a "*clear reason for refusing the development proposed*" or where the benefits of the proposed development are "*significantly and demonstrably*" outweighed by the adverse impacts when assessed against the policies in the NPPF taken as a whole.

12.2 For the reasons set out above, it is considered that taking into consideration the number and nature of the objections raised and the policies within the Development Plan and within the NPPF that on balance the proposal is considered to be acceptable and it is recommended that planning permission be granted subject to conditions.

In preparing this report the planning 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

### Conditions

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:

(A4) Site Plan

(A3) DrNo PJA/SR/4161/001 North & South Elevations

(A4) Location Plan

(A3) DrNo PJASR4161002 East & West Elevations

(A3) DrNo PJA/SR/4161/003 Proposed Floor Plan

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

3. The fibre cement roof shall be anthracite grey in colour. Any changes to the colour of the roof would need to be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area.

4. A landscaping scheme shall be submitted to and approved in writing by the local Planning Authority prior to such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted.

(ii) The scheme shall be completely carried out within the first available planting season (1 October to 31 March) from the date of commencement of the development. Written confirmation of the completion of the landscaping scheme shall be submitted to the Local Planning Authority.

(iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow or are uprooted shall be replaced by trees or shrubs of similar size and species.

Reason: To ensure that the proposed development does not harm the character and appearance of the area.

5. Prior to the 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 or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the 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 and in accordance with Taunton Deane Core Strategy 2011-2028: Policy CP8 Environment

Notes to applicant.

- . In accordance with paragraph 38 of the National Planning Policy Framework 2012 the Council has worked in a positive and creative way and has imposed planning conditions to enable the grant of planning permission.





# APPEAL DECISIONS – 21 JULY 2022

**Site:** Land adjacent to Chilcombe House, 30 Trendle Lane, Bicknoller, TA4 4EG

**Proposal:** Application for approval of reserved matters following outline application 3/01/20/016 for the appearance, landscaping, layout and scale for the erection of 1 No. dwelling and garage

**Application number:** 3/01/21/005

**Reason for refusal:** Appeal – Allowed  
Costs - Allowed

**Original Decision:** Committee Decision – Refused



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## Appeal Decision

Site visit made on 27 April 2022 by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

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### Appeal Ref: APP/W3330/W/21/3289008 Land adjacent to Chilcombe House, 30 Trendle Lane, Bicknoller TA4 4EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Mr & Mrs J Bridgland against the decision of Somerset West and Taunton Council.
  - The application Ref 3/01/21/005, dated 2 July 2021, sought approval of details pursuant to condition No 1 of a planning permission Ref 3/01/20/016, granted on 13 April 2021.
  - The application was refused by notice dated 16 November 2021.
  - The development proposed is erection of one dwelling and garage with access off Trendle Lane.
  - The details for which approval is sought are: appearance, landscaping, layout and scale.
- 

### Decision

1. The appeal is allowed and the reserved matters are approved, namely appearance, landscaping, layout and scale details submitted in pursuance of condition No 1 attached to planning permission Ref 3/01/20/016, granted on 13 April 2021, subject to the conditions in the attached schedule.

## **Application for costs**

2. An application for costs was made by Mr & Mrs J Bridgland against Somerset West and Taunton Council. This application is the subject of a separate Decision.

## **Main Issues**

3. The main issues are:

- The effect of the proposal on the character and appearance of the area, including the Quantock Hills Area of Outstanding Natural Beauty (AONB); and
- Whether the proposal would represent a sustainable form of development, with particular regard to design aspects to minimise carbon emissions and reduce the impact on climate change.

## **Reasons**

### **Character and appearance**

4. The appeal site currently forms part of the garden area of Chilcombe House and lies within an area of rural character, within the Quantock Hills AONB. The locality is predominantly characterised by individually designed dwellings, set within spacious and verdant plots. The appeal proposal seeks approval of reserved matters, following the grant of outline planning permission for the construction of a dwellinghouse as part of a previous appeal.
5. The appeal site is considered spacious enough to accommodate a large dwelling such as the proposal. The new house would sit comfortably within its plot, and would not appear as a disproportionate addition within the wider street scene. The design approach of the proposed dwelling draws on the architectural style of Chilcombe House and is also characterised by its Georgian influence. Whilst this architectural style does not appear to prevail in the locality, I am satisfied that the development would not harmfully detract from its surroundings, given that the area includes a range of varying architectural styles, as well as a wide palette of colours and materials.
6. For the foregoing reasons, the proposal would not cause unacceptable harm to the character and appearance of the surrounding area. There would consequently be no conflict with Policy NH13 of the adopted West Somerset Local Plan to 2032 (LP), section 12 of the National Planning Policy Framework (the Framework) and the aims of the Council's emerging Design Guide. These notably seek to ensure that development proposals meet the highest standards of design and make a positive contribution to the local environment.
7. Furthermore, the proposed dwelling would be situated within the built envelope of the village, and would not therefore unduly stand out within the landscape. As a result, I am satisfied that the development would conserve the landscape and scenic beauty of the Quantock Hills AONB.

### **Whether sustainable development**

8. As noted above, the principle of development on the site has been established as part of an earlier outline planning permission. Concerns have however been raised by the Council regarding the lack of information to demonstrate how the appeal development would minimise carbon emissions and reduce the impact on climate change.
9. The appellants' submissions confirm that the appeal scheme would incorporate a number of measures as part of the construction of the dwelling, such as a timber frame, underfloor heating and insulation to reduce heat loss through the walls. The orientation of the dwelling and large size of the windows would maximise solar gain



and reduce the need for artificial lighting, but also cut heating and energy consumption. The appeal scheme would also have to comply with the requirements of latest Building Regulations, including in respect of water efficiency of new dwellings.

10. Having regard to the available information, and in the absence of substantive evidence to the contrary, I am satisfied that the appeal scheme would represent sustainable development, having particular regard to its environmental credentials. Accordingly, the proposal would accord with Saved Policy BD/9 of the West Somerset District Local Plan 2006 and LP Policy NH13 which, amongst other things, require development proposals to incorporate measures to minimise carbon emissions and reduce the impact on climate change. Furthermore, the proposal would largely accord with the aims of the Council's Climate Positive (Interim Guidance) and emerging Design Guide, but also paragraphs 154 and 157 of the Framework.

## **Conditions**

11. I have considered the conditions suggested by the Council, making minor amendments where necessary, to ensure compliance with the relevant tests as set out in paragraph 56 of the Framework and the national Planning Practice Guidance<sup>1</sup>. A condition specifying the relevant drawings which the development must accord with is considered necessary, in order to provide certainty and clarity. The appellants have confirmed their agreement in respect of precommencement conditions.
12. As the site is sensitively located, it is necessary to request further details of the external materials, to preserve the character and appearance of the area. This is consistent with the condition that had been imposed as part of the outline permission, and is considered to be more precise than the condition suggested by the Council. Furthermore, conditions are needed to protect biodiversity, including in respect of details of a lighting scheme.
13. Conditions regarding the provision of parking and turning areas are required to preserve highway safety, and the installation of electric car charging points, in the interests of sustainability. I have however not imposed the condition seeking to restrict the use of the garage to the parking of vehicles, as it would not meet the test of reasonableness.

## **Conclusion**

14. For the reasons given above, I conclude that the appeal should be allowed.

*S Edwards*

INSPECTOR

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<sup>1</sup> Paragraph: 003 Reference ID: 21a-003-20190723.

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: (A3) DrNo 21-063/LP1 Location Plan  
(A1) DrNo 21-063/2 A Proposed Elevations  
(A2) DrNo 21-063/G1 Proposed Garage  
(A2) DrNo 21-063/1 Proposed Plans  
(A2) DrNo 21-063/SP1 Proposed Site Plan  
(A2) DrNo 21-063/TPP1 Tree Protection Plan
- 2) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 3) To avoid hazel dormice and nesting birds getting harmed, the removal of hedgerow shall proceed in accordance with the following prescriptions. Prior to any works, including groundworks, commencing on site, vegetation clearance shall be carried in strict accordance with the following procedure, either:
  - a) Between April and August, a licensed dormouse ecologist will check the site for nests immediately before clearance. If there are no nests, then the hedgerow can be removed. If nests are present, then their removal shall proceed as per b) or c) below. The results shall be communicated in writing to the Local Planning Authority by the licensed dormouse ecologist within 1 week of the inspection.
  - b) In September or October, when dormice are still active but avoiding the breeding and hibernation seasons. A licensed dormouse ecologist shall supervise the work checking the site for nests immediately before clearance and, if needed, during clearance. All work shall be carried out using handheld tools only. If an above-ground nest is found it shall be left in situ and no vegetation between it and the adjacent undisturbed habitat shall be removed until dormice have gone into hibernation (December) as per method b). The results will be communicated in writing to the Local Planning Authority by the licensed dormouse ecologist within 1 week; or
  - c) Between December and March only, when dormice are hibernating at ground level, and under the supervision of a licensed dormouse ecologist: The hedgerow, scrub and/or trees will be cut down to a height of 30cm above ground level using hand tools. The remaining stumps and roots will be left until the following mid-April / May before final clearance to allow any dormouse coming out of hibernation to disperse to suitable adjacent habitat.

No vegetation clearance will be permitted between June and September inclusive, when females have dependent young. Written confirmation of the operations will be submitted to the Local Planning Authority by a licensed dormouse ecologist within one week of the works.

- 4) Prior to construction above damp-proof course level, a lighting scheme for bats, in accordance with the Guidance Note 08/18 and artificial lighting in

the UK (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme 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 be disturbed or

prevent bats using their territory. The scheme shall accord with Step 5 of Guidance 08/18, including submission of contour plans illustrating Lux levels, which should remain below 0.5 Lux. All external lighting shall be installed in accordance with the specifications and locations set out in the lighting scheme, and these shall thereafter be maintained in accordance with the approved details. Under no circumstances should any other external lighting be installed without the prior written consent of the Local Planning Authority.

- 5) Prior to construction above damp-proof course level, details of the specification for the parking and turning areas, including details showing how they would be drained and surfaced, shall be submitted to and approved in writing by the Local Planning Authority. These areas shall be constructed and surfaced in accordance with the approved details prior to occupation of the development, and thereafter retained permanently and kept available for the occupiers of the dwelling at all times.
- 6) Prior to first occupation of the development hereby permitted, facilities for the charging of electric vehicles shall be provided on site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 7) Details of the proposed hedge to the western boundary shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the location of the planting and details of the mix of species shown in a scaled plan. The planting shall be carried out in accordance with the approved details, prior to the first occupation of the dwelling hereby permitted.

**END OF SCHEDULE**



## Costs Decision

Site visit made on 27 April 2022 by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

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### Costs application in relation to Appeal Ref: **APP/W3330/W/21/3289008 Land adjacent to Chilcombe House, 30 Trendle Lane, Bicknoller TA4 4EG**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr and Mrs J Bridgland for a full award of costs against Somerset West and Taunton Council.
  - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- 

### Decision

1. The application for an award of costs is allowed in the terms set out below.

### Reasons

2. The national Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG adds that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case.
3. The applicants consider that the Planning Committee's decision to refuse the Reserved Matters contrary to the Case Officer's recommendation, has led to unnecessary or wasting expense through another appeal, as the outline application had already been subject to an appeal. It is argued that Members were against the principle of an additional dwelling on the site, and would have refused the application regardless of the proposal's design.
4. Members of the Planning Committee raised concerns regarding the design of the proposed dwelling, referring to its "excessive size, scale" and "incongruous appearance", and the effect that this would have on the character and appearance of the area. The Case Officer's report highlights the absence of cohesive design between the existing dwellings, and the proposed materials were found to be in keeping with other properties in the area.

5. Members also refused the application by reason of the lack of information regarding measures to minimise carbon emission and reduce the impact of the development on climate change. However, the matter was addressed within the Case Officer's report, which notably refers to the measures proposed by the applicants in the Design and Access Statement submitted in support of the application.
6. Members of the Planning Committee are entitled to reach a different decision to the Case Officer's recommendation, but they have to do so whilst relying on substantive planning grounds. The PPG stresses that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. In this instance, very limited information has however been presented by the Council to substantiate its position, either in terms of an explanation of the harm, conflicts with development plan policies or justification for its conclusions.
7. For these reasons, I find that the Council has relied on vague and generalised assertions, which are unsupported by objective analysis, and conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. A full award of costs is therefore justified in this instance.

### **Costs Order**

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Somerset West and Taunton Council shall pay to Mr and Mrs J Bridgland, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Somerset West and Taunton Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*S Edwards*

INSPECTOR

**Site:** FOURWAYS, LANDLORDS HILL, HOLYWELL LAKE, WELLINGTON, TA21 0EH

**Proposal:** Change of use of land from agricultural to domestic curtilage at Fourways, Holywell Lake, Wellington

**Application number:** 21/21/0021

**Reason for refusal:** Appeal – Allowed

**Original Decision:** Chair Decision – Refused



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## Appeal Decision

Site visit made on 3 May 2022 by **O Marigold BSc DipTP**

### MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17<sup>th</sup> June 2022

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### Appeal Ref: APP/W3330/W/22/3291983 Fourways, Landlords Hill, Holywell Lake, Wellington TA21 0EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Dr Bernard Newmarch against the decision of Somerset West and Taunton Council.
  - The application Ref 21/21/0021, dated 6 September 2021, was refused by notice dated 19 November 2021.
  - The development proposed is change of use of land from agricultural to domestic curtilage.
- 

### Decision

1. The appeal is allowed and planning permission granted for the proposed change of use of land from agricultural to residential use, at Fourways, Landlords Hill, Holywell Lake, Wellington TA21 0EH in accordance with the terms of the application, Ref 21/21/0021, dated 6 September 2021, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: EX01 Rev A Location Plan.

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any order revoking and re-enacting that Order with or without modification, no building incidental to the enjoyment of the dwellinghouse Fourways, or any gate, fence, wall or other means of enclosure shall be erected, nor any caravan sited, within the extended domestic area as outlined in red on plan EX01 Rev A Location Plan.

## **Preliminary Matters**

2. In the banner heading above I have used the description of the proposed development set out in the Council's Decision Notice, because this is more concise than that used in the planning application form. The appellant has used the revised description in the appeal form and therefore I am satisfied that no parties would be prejudiced as a result. I also note that 'curtilage' is not a land use, and I have determined the appeal as being for residential use.
3. The appellant seeks to use the land for gardening activities such as a smallscale domestic vegetable plot and planting fruit trees to create a small orchard. Although some of those activities may not be development<sup>2</sup>, permission is sought for a residential use of the land, which is a material change of use and therefore requires planning permission.

## **Main Issue**

4. The main issue is the effect of the proposal on the character and appearance of the area.

## **Reasons**

5. The surrounding area is predominantly rural in character. Though pleasant, the gently undulating landscape has no particular defining features or specific landscape designation. The appeal site consists of an agricultural field or paddock at the edge of the village. It has an attractive, natural appearance and views of the site are available from the road and the adjacent farm track and footpath.
6. Nevertheless, as a relatively small strip of land enclosed on one side by a track and on the other by Fourways and a tree-lined stream, the site makes little meaningful contribution to the wider landscape. When approaching the site from the north, it is visible in conjunction with the village to a greater extent than the surrounding landscape (where it is fleetingly visible despite hedgebanks). Public views of the site are already somewhat filtered by those trees and vegetation that form the site's boundaries, further limiting the visibility and contribution of the site to the surrounding landscape's character.
7. The track adjacent to the site provides vehicular access to a water infrastructure plant. The plant's physical effects, including gates, bollards and its use by lorries, mean that there is already a degree of urban influence on the site. This influence is also found by its close proximity to the appellant's dwelling and its garden, as well as from the well-used country lane that the site fronts onto, and the nearby village itself.

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<sup>2</sup> Under provisions of section 55(2)(e) of the Town and Country Planning Act 1990 as amended

8. It is common ground that Policy SP1 of the Taunton Deane Borough Council Adopted Core Strategy 2012 (CS) provides no defined settlement boundary for the village. However, the farm track's position forms something of a 'natural', physical edge to the settlement. Taking these factors together, I find that the site makes little meaningful contribution to the wider landscape's quality or character, or the setting of the village.
9. Although not part of the appellant's proposal, the Council is concerned that, if permission is granted for domestic residential use, there may be further consequential changes. These might include ornamental gardens, children's play equipment and other paraphernalia, and the potential suburbanising effects of such changes. I accept that this may occur to some extent, and that insensitively sited buildings in particular may be detrimental to rural character here, albeit that residential use of the land would not be inherently harmful.
10. I have reasoned above that the contribution of the site to landscape character is limited on account of its layout, visibility, relationship to the village and to surrounding features. Furthermore, as suggested by the Council, a planning condition can be used to prevent any structures, buildings or means of enclosure that might otherwise be permitted development from being undertaken without requiring a further planning application. Moreover, Fourways would sit in a substantial plot, so were permission to be allowed, the potential for the proliferation of domestic paraphernalia throughout the site would be limited.
11. For the above reasons, I conclude that the proposal would not unduly affect the character and appearance of the area. Given the particular nature of the site and its context, it would suitably conserve the natural environment in compliance with CS Policies CP8 and DM1(d) and Policy SB1 of the Taunton Deane Site Allocations and Development Management Plan adopted 2016.
12. For similar reasons, the proposal would meet the National Planning Policy Framework's guidance that development should be sympathetic to local character. CS Policies CP1(h) and DM2 have been referenced in the evidence before me but given their particular focus they are not relevant to my reasoning above.

## **Conditions**

13. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance (PPG).
14. As well as the standard time limit for commencement, a condition requiring adherence to the approved plans is necessary for certainty. As I have already identified above, a condition is required (and justified within the terms of the PPG) in respect of the removal of permitted development rights for outbuildings and similar structures within the extended area, in the interests of the landscape's character and appearance. For this condition, I have slightly amended the Council's suggested wording, to ensure compliance with the relevant tests for the use of conditions.

## **Conclusion**

15. For the reasons given above, having had regard to the Development Plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions set out above.



*O Marigold*

INSPECTOR

**Site:** Appeal A - FIELD B, NEW ENGLAND, CURLAND COMMON ROAD,  
CURLAND, TA3 5SB  
Appeal B - Field B, Curland, Somerset, TA3 5SB

**Proposal:** Appeal A – Application for prior notification for the erection of a general purpose agricultural fodder storage building at Field B, Curland  
Appeal B - Application for prior notification for the formation and continuation of an access track at Field B, Curland

**Application number:** Appeal A – 15/21/0004/AGN  
Appeal B – 15/21/0005/AGN

**Reason for refusal:** Appeal A – Dismissed  
Appeal B - Dismissed  
Costs - Dismissed

**Original Decision:** Appeal A – Delegated Decision – Prior Approval Refused  
Appeal B - Delegated Decision – Prior Approval Refused



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## Appeal Decisions

Site visit made on 27 April 2022 by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 June 2022

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### Appeal A Ref: APP/W3330/W/21/3289971 Field B, Curland, Somerset TA3 5SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr William Allen against the decision of Somerset West and Taunton Council.
  - The application Ref 15/21/0005/AGN, dated 10 September 2021, was refused by notice dated 1 December 2021.
  - The development proposed is described as "Application for prior notification for the formation and continuation of an access tract at Field B, Curland".
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### Appeal B Ref: APP/W3330/W/21/3289972 Field B, Curland, Somerset TA3 5SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by Mr William Allen against the decision of Somerset West and Taunton Council.

- The application Ref 15/21/0004/AGN, dated 14 September 2021, was refused by notice dated 8 December 2021.
  - The development proposed is described as "Application for prior notification for the erection of a general purpose agricultural fodder storage building at Field B, Curland".
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## Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

## Applications for costs

3. Applications for costs were made by Mr William Allen against Somerset West and Taunton Council. This application is the subject of a separate Decision.

## Preliminary Matters

4. Whilst I have considered each proposal on its individual merits, I have dealt with both appeals in a single document, given that they relate to the same site and raise similar issues, and in the interests of brevity.
5. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits works for the erection, extension or alteration of a building or any excavation or engineering operations which are reasonably

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necessary for the purposes of agriculture on units of 5 hectares or more. As set out in the GPDO, the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building, and the siting and means of construction of the private way. The local planning authority is required to give the applicant notice within 28 days following the date of received the applicant's application of their determination that such prior approval is required.

6. Four decisions are before me. There are firstly decisions dated 7 October 2021 for Appeal A and 13 October 2021 for Appeal B, confirming that prior approval is required, and then decisions dated 1 December 2021 for Appeal A and 8 December 2021 for Appeal B, refusing permission for the prior approval applications. In each case, it is the first of these decisions which must comply with the timescales set out in Part 6 of the GPDO (e.g.28 days). The period is exclusive so that day 1 is the day following the application date, and the clock stops at midnight on day 28.
7. The decisions stating that prior approval is required were therefore issued within the specified timescales, and indeed the appellant confirmed that the decisions were received shortly afterwards. Based on the evidence before me, I am therefore satisfied that the Council notified the appellant of its determination within 28 days as set out in the GPDO, and prior approval is subsequently not deemed to be granted.
8. There is a lengthy planning history associated with the appeal site. Following recent appeal decisions, the Council accepts that the agricultural unit exceeds 5 hectares. However, there is a dispute between the main parties regarding the size of the appeal site. Although the Council appeared to have previously accepted that this parcel of land was more than 1 hectare in area, the matter has been discussed by both parties as part of the appeal process. Furthermore, the parties disagree on whether the

proposed building is reasonably necessary for the purposes of agriculture within that unit, having particular regard to its size.

9. In *New World Payphones Ltd v Westminster City Council* [2019] EWCA Civ 2250, the Court of Appeal held that “on an application to an authority for a determination as to whether its “prior approval” is required, the authority is bound to consider and determine whether the development otherwise falls within the definitional scope of the particular class of permitted development”. Accordingly, I am required to determine whether the proposals comply with the relevant conditions, limitations and restrictions, before considering whether to grant prior approval for the siting, design and external appearance of the building, and the siting and means of construction of the track.

## **Main Issues**

10. The main issues are:

- Whether the proposals would be permitted development under Schedule 2, Part 6, Class A of the GPDO; and
- If so, the effect on the character and appearance of the area, including the setting of the Blackdown Hills Area of Outstanding Natural Beauty (AONB).

## **Reasons**

### **Whether the proposals would be permitted development**

11. As noted above, it is agreed by the main parties that the appeal site forms part of a larger agricultural unit exceeding 5 hectares in size. The appellant owns the appeal site and a nearby piece of land known as Field A, and has lease agreements elsewhere. The appellant stated on the application forms that the agricultural unit is approximately 5.5 hectares, but I understand that additional lease agreements have enabled the size of the unit to be increased to around 10 hectares.
12. The Council has raised concerns regarding the size of the parcel upon which the building would be constructed. The appellant’s submissions include detailed notes and calculations, suggesting that the appeal site is larger than 1 hectare. For this exercise, a large part of the site has been subdivided into smaller parcels, and in that regard, the calculations appear relatively straightforward. However, it remains unclear how the smaller areas around the stream have been calculated.
13. The Council has provided its own measurements of the site using different sources, which seem to indicate that the site is in fact noticeably smaller than 1 hectare. Even when accounting for the gradient, I have been presented with limited information to explain the considerable difference between the appellant’s and Council’s measurements.
14. The appellant has referred to additional land contiguous with the appeal site, which he is currently farming. However, this is not supported by detailed evidence, for example in the form of a lease agreement, and I am unable to ascertain whether this area of land forms part of the agricultural unit. Overall, the information submitted by the appellant is not sufficiently precise and unambiguous. In the absence of further substantive evidence to the contrary, there is therefore no certainty that the site exceeds the 1 hectare threshold and meets the relevant requirements of Part 6, Class A.

15. There are also concerns regarding the size of the proposed building and whether it is reasonably necessary for the purposes of agriculture within that unit, due to the current scale of the enterprise. As part of the previous appeals, the Inspector found that "the quantum of development proposed would, on balance, be commensurate with the role and function of the agricultural unit in this case, having regard to the intentions of the unit". That said, she also noted that "any further development necessary to expand the enterprise as suggested would, in all likelihood, be subject to further scrutiny".
16. Cost information and projections have been supplied as part of the appeals, but this evidence is by no means comprehensive, and does not appear to be substantiated by verified accounts or returns. Whilst I have no reasons to doubt that the appeal building would be used for agriculture, insufficient evidence has been presented to demonstrate that it would be used for the purposes of a trade or business.
17. The appellant has indicated that the building is required for the storage of hay bales and other fodder, and that the footprint of the proposed building reflects that of the various piles of hay currently stored on the land. I appreciate that there may be a need for the storage of hay bales, which would otherwise carry on being stored outside.
18. However, as the structure would be constructed within 400 metres of the curtilage of a protected building (which is defined as a permanent building normally occupied by people), it could not be used for the accommodation of livestock. Even accepting that there is a need for the proposed building, insufficient evidence has been presented to justify its footprint and height. This is to my mind critical, given that the site lies in a sensitive location, within proximity to the Blackdown Hills AONB.
19. In the absence of further substantive evidence to the contrary regarding the existence of a trade or business, and information to justify the size of the building, other than for hay and fodder storage, I am not satisfied that the developments meet the requirements of Schedule 2, Part 6, Class A of the GPDO. There is firstly no certainty that the parcel of land forming part of the unit is more than 1 hectare in area, secondly that the proposed building is reasonably necessary for the purposes of agriculture and would be so used for the purposes of a trade or business. On this basis, I am not satisfied that the proposals can be regarded as permitted development.

### **Character and appearance**

20. As the proposals fail to accord with the requirements of the GPDO, it is not necessary for me to consider whether to grant prior approval for the proposals, particularly in respect of their effect on the character and appearance of the area, including the Blackdown Hills AONB.

### **Other Matters**

21. My attention has been drawn to other agricultural buildings which appear to have been constructed recently in the area. However, I do not have the full details of the circumstances which led to these proposals being accepted, and cannot therefore be certain that they represent a direct parallel to the proposals before me.

### **Conclusion**

22. For the reasons detailed above, I conclude that both appeals should be dismissed.

*S Edwards* INSPECTOR



## Costs Decisions

Site visit made on 27 April 2022 by S

**Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 June 2022

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### Costs application in relation to Appeal A Ref:

#### **APP/W3330/W/21/3289971 Field B, Curland, Somerset TA3 5SB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr William Allen for a full award of costs against Somerset West and Taunton Council.
  - The appeal was against the refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for "Application for prior notification for the formation and continuation of an access tract at Field B, Curland".
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### Costs application in relation to Appeal B Ref:

#### **APP/W3330/W/21/3289972 Field B, Curland, Somerset TA3 5SB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr William Allen for a full award of costs against Somerset West and Taunton Council.
  - The appeal was against the refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for "Application for prior notification for the erection of a general purpose agricultural fodder storage building at Field B, Curland".
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### Decisions

1. The applications for an award of costs are refused.

### Reasons

2. The Planning Practice Guidance<sup>1</sup> (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. Paragraph 049 of the PPG lists different types of behaviours which may give rise to a substantive award against local planning authorities.

3. The applicant has referred to the lengthy planning history associated by the appeal site. It is argued that the Council has acted unreasonably in refusing to grant approval for developments which are required to meet the needs of the applicant. No rebuttal has been provided by the Council.
4. Prior approval applications have to be determined in accordance with the requirements set by the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). As reflected by the

Paragraph: 030 Reference ID: 16-030-20140306.

correspondence between the main parties, it is clear that the applicant was given the opportunity to submit additional information to meet the requirements of the GPDO.

5. The Council determined the applications within the prescribed timescales and its submissions clearly outline their concerns in respect of the development proposals, and there is nothing before me suggesting that the Council acted unreasonably as part of the appeal process.
6. For these reasons, I find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. On this basis, awards of costs are not justified.

*S Edwards*

INSPECTOR

**Site:** CREECH MILLS, MILL LANE, CREECH ST MICHAEL, TAUNTON, TA3 5PX

**Proposal:** Alleged breach of planning control of operation of crane hire business at Creech Mills, Mill Lane, Creech St Michael

**Application number:** E/0150/15/19

**Reason for refusal:** Dismissed & Enforcement Notice Upheld

**Original Decision:**



The Planning Inspectorate

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## Appeal Decision

Site visit made on 21 June 2022 by Jessica Graham BA

(Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 6 July 2022

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### Appeal Ref: APP/W3330/C/21/3289195 Land at Creech Paper Mills, Mill Lane, Creech St Michael, Taunton, TA3 5PX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("the 1990 Act"). The appeal is made by South West Crane Hire against an enforcement notice issued by Somerset West and Taunton Council.
- The notice was issued on 2 November 2021.
- The breach of planning control as alleged in the notice is "the use of land as a crane hire depot".
- The requirements of the notice are to:
  - Cease the use of the Land for the operation of a crane hire company
  - Remove from the Land all plant, vehicles, storage containers and machinery connected with the use of the Land for the operation of a crane hire company. • The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld, with correction and variation, in the terms set out below in the Formal Decision.**

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## Background

1. The appeal site is a wedge-shaped area of land at the western end of Creech Mills Industrial Estate. In January 2020 an application<sup>1</sup> for planning permission for the change of use of the land to a crane hire depot was refused by the Council. This refusal was subsequently upheld at appeal (“the 2021 appeal”) <sup>2</sup>.
2. The appeal site was previously occupied by Upstream Pipeline Services. The Appellant contends that this former occupier used the land as a “sui generis vehicle depot” between 2001 and 2016 such that, the time limit available for taking enforcement action having expired, that use became lawful.<sup>3</sup> This contention is the subject of an application for a certificate of lawfulness of existing use (LDC), submitted by the Appellant to the Council on 2 November 2021.<sup>4</sup> That application has not yet been determined. However, since the Council’s decision on the LDC application does not - for reasons I shall come to below - affect the outcome of this appeal against the enforcement notice (and vice versa), this need not delay my determination of the appeal. \_\_\_\_\_

<sup>1</sup> Ref 14/20/0008

<sup>2</sup> Ref APP/W3330/W/21/3274593

<sup>3</sup> Per the time limits for enforcement action set out at s.171B of the 1990 Act. <sup>4</sup> Ref 14/21/0040/LEW

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## The terms of the notice

3. The breach of planning control alleged by the notice is “the use of land as a crane hire depot.” However, *use* of land is not in and of itself development, such as would necessarily require planning permission: for development (and thus, potentially, a breach of planning control) to have taken place, there must have been “the making of a material change in the use of the land” <sup>3</sup>. I appreciate that this may appear a somewhat arid and pedantic point, but it is important that the allegation should be properly framed, as this shapes the requirements that may legitimately flow from it.<sup>4</sup>
4. In this case, there is no dispute that irrespective of whether or not the previous use of the land as a “sui generis vehicle depot” was lawful, the change from that use to the current use as a crane hire depot was material. That was the conclusion of the Inspector who determined the 2021 appeal, and it is not challenged by the Appellant in this appeal. It is clear from the written representations before me that the Council is seeking to enforce against that material change of use, and that the Appellant’s professional representative has understood this point. I am satisfied that I can correct the wording of the notice accordingly, without prejudice to either party.

## The appeal on ground (f)

5. S.173 of the 1990 Act sets out the two purposes that the requirements of an enforcement notice can seek to achieve. The first is to remedy the breach of planning control which has occurred, and the second is to remedy any injury to amenity which has been caused by the breach. Here, the notice requires the cessation of the

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<sup>3</sup> Per the statutory definition of “development” set out at s.55 of the 1990 Act.

<sup>4</sup> It is not necessary (though can often be helpful) to specify the use *from* which the material change is made.

unauthorised use and the removal from the land of items associated with that use, so it is clear that the purpose of the notice is to remedy the breach of planning control.

6. The Appellant's case is that the requirements of the notice exceed what is necessary to remedy the breach of planning control, since there is currently a lawful use that can be continued within the site; that use being the previous use as a "sui generis vehicle depot" which is currently the subject of the LDC application. The Appellant seeks the variation of the notice to require that "the use of the site return to that of a lawful sui generis vehicle depot."
7. I am not persuaded that any such variation is needed. The requirements of the notice cannot go beyond remedying the breach; there is no scope to require reversion to the lawful use, or to any other specified use. In any event, the notice does not operate to prevent any existing lawful use of the appeal site. It simply requires the current unauthorised use – for the operation of a crane hire company – to cease. Further, protection for any existing lawful use is provided by s.57(4) of the 1990 Act, which states: *Where an enforcement notice has been issued in respect of any development of land, planning permission is not required for its use for the purpose which (in accordance with the provisions of this Part of this Act) it could lawfully have been used if that development had not been carried out.*
8. The question of whether or not the appeal site does have a lawful use as a "sui generis vehicle depot" is not before me, but will be decided by the Council in its determination of the LDC application. The important point is that if that use is indeed lawful, then by operation of s.57(4) the fact that an enforcement notice has been issued in respect of the subsequent material change of use means that it could be resumed, without any need to obtain planning permission. It is perhaps worth noting here the contrast with the situation that would exist had the enforcement notice NOT been issued: any existing lawful use as a "sui generis vehicle depot" would have been lost upon the undisputed material change of use of the site to a crane hire depot.
9. For these reasons, the Council's decision on the LDC application does not have any bearing on my determination of this appeal. Any lawful use of the appeal site which subsisted immediately prior to the material change of use here enforced against may resume, whatever that lawful use turns out to have been. Similarly, my decision on this appeal does not have any bearing on the Council's determination of the LDC application. That will turn on the unrelated question of whether the time for taking action against the previous use (as a "sui generis vehicle depot") had expired by the date of the LDC application.
10. I conclude that the requirements of the notice do not exceed what is necessary to remedy the breach of planning control. The appeal on ground (f) fails.

### **The appeal on ground (g)**

11. The ground of appeal is that the six month compliance period specified by the notice falls short of what should reasonably be required. The Appellant seeks an extension of time to 24 months.
12. In cases involving business operations, it is necessary to weigh the interests of the business and its employees against the harm caused by the activities that are the

subject of the notice. There is no indication that ceasing the use of this depot would necessitate the closure of the business, but the Appellant's undisputed evidence is that it would nevertheless have significant adverse impacts. Suitable alternative sites would be difficult to locate, and would require appropriate planning permission. The specialist crane operators employed by the Appellant are from the Taunton area, and would not want to drive a 60 mile round trip to Exeter before they start work in the Somerset region. Moving away from the Somerset area would have a huge financial impact on the business, with increased fuel bills and wages, and the need for cranes to travel longer distances to reach projects would adversely affect the environment.

13. On the other hand, the use of the appeal site for crane hire operations involves a substandard access road and junction which, according to the reasons given by the Council for issuing the notice, results in an unacceptable risk to the safety of road users and pedestrians. I note that the Inspector who determined the 2021 appeal also concluded that the development has "an unacceptable adverse impact on highway safety".
14. Taking all of this into account I conclude that the period for compliance should be extended, but to 8 months rather than the 24 sought. The additional two months will provide the Appellant with more time to assess alternative sites, and if necessary explore with the Council the potential for appropriate planning permission at such sites, without blunting the urgency of taking action. I consider that a compliance period of eight months would strike the right balance between the interests of the business, and the public interest in bringing the harm caused by the unauthorised development to an end.
15. To the extent that the human rights of the employees might be interfered with as a consequence of my decision to uphold the notice, that has to be weighed against the wider public interest. On balance, I consider that a period of eight months to comply with the requirements of the notice would not have a disproportionate effect on the business, its employees or its customers.
16. I conclude that the compliance period should be increased from six months to eight, and to that limited extent the appeal on ground (g) succeeds.

## **Conclusion**

17. For the reasons given above, I conclude that the requirements of the notice are not excessive to remedy the breach of planning control, but that the period for compliance with the notice falls a little short of what is reasonable. I shall vary the notice prior to upholding it.

## **Formal Decision**

18. It is directed that the enforcement notice is corrected by:

The deletion of the phrase "The use of the land as" and the substitution of the phrase "The material change in the use of the land to use as" in paragraph 3 and varied by:

The deletion of the word "Six" and the substitution of the word "Eight" in paragraph 6.

Subject to this correction and variation, the enforcement notice is upheld.

*Jessica Graham* INSPECTOR

**Site:** The Queens Head Inn, Holloway Street, Minehead, TA24 5NR

**Proposal:** Replacement of outbuildings with the erection of 5 No. apartments with associated refuse facilities and infrastructure (amended scheme to 3/21/20/072)

**Application number:** 3/21/21/051

**Reason for refusal:** Dismissed

**Original Decision:** Delegated Decision – Refused



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## Appeal Decision

Site visit made on 10 May 2022 by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 July 2022

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### Appeal Ref: APP/W3330/W/22/3291511 The Queens Head Inn, Holloway Street, Minehead TA24 5NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Barry Richards against the decision of Somerset West and Taunton Council.
  - The application Ref 3/21/21/051, dated 21 May 2021, was refused by notice dated 29 July 2021.
  - The development proposed is demolition of outbuildings to construct 5 no. apartments with associated refuse facilities and infrastructure.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. As part of the appeal, the appellant has provided amended plans, including an additional window in the living room of Flat 4; clarification regarding its proposed rooflights and a change to the cycle parking arrangements. The Council has confirmed that it has no objection to the amended plans being considered at this stage.
3. Given the minor nature of the changes, I do not consider that the interests of any party would be prejudiced if I take these amended plans into account. I shall therefore determine the appeal based on the amended plans.
4. The Council's first reason for refusal refers to the effect of the proposal in terms of the amount of accommodation, the access to daylight for future occupiers of the

proposal, and privacy in respect of future occupiers of the adjacent Julian's Laundry. The Council's Planning Officer's Report also refers to the effect on the character and appearance of the area. Its subsequent evidence refers additionally to the effect of the proposal on outlook for future occupiers of the proposal, the size of the accommodation with regard to the Nationally Described Space Standard (NDSS) and the limited nature of the external amenity area.

## **Main Issues**

5. The main issues are therefore:

- Whether future occupiers of the proposed development would be provided with satisfactory living conditions, in respect of daylight, outlook, internal living space and external amenity space;
- The effect of the proposal on the living conditions of future occupiers of residential development at Julian's Laundry in respect of privacy;
- The effect of the proposal on the character and appearance of the area, including the Wellington Square Conservation Area (CA) and nearby listed buildings; and
- The effect of the proposed car-free development on on-street parking in the locality.

## **Reasons**

### **Living Conditions**

6. Flat 4 would have rooflights serving its bedroom and a window in its gable end within its living room. In terms of daylight, the evidence before me is that the proposed rooflights would provide a greater amount of daylight than vertical windows of the same size. Their high-level position is intended to prevent overlooking to Julian's Laundry which has permission<sup>5</sup> to be replaced with apartments and other uses. However, this elevated position means they would provide very little outlook to the occupiers of the bedroom.
7. The gable end window would provide some daylight and outlook to Flat 4's living room, but this would be restricted to some extent by the proposed roof above Flat 1. Other than the bedroom rooflights, Flat 4 would have no alternative source of daylight or outlook, including for its other rooms. Although adequate for the rest of the proposal, the limited number and type of windows serving Flat 4 would result in a poor living environment in terms of daylight and outlook for its occupiers.
8. Planning permission<sup>6</sup> has been granted for the erection of three residential units on the site. I see no reason to doubt that this could be implemented and that it represents a realistic fallback. Compared to this previous permission, the proposal would result in a greater built floor area, mass and bulk, with more people using a smaller courtyard area for recreational open space within the site.
9. However, I have considered the proposal on its own merits. The site is close to public outdoor spaces such as parks and the seafront. It is not uncommon for flatted development to have little or no external amenity space and I have been provided with no Planning Policy stating a minimum requirement for such space. I therefore consider the proposal to be acceptable in this respect.

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<sup>5</sup> LPA reference 3/21/19/034

<sup>6</sup> LPA reference 3/21/20/072

10. The Council's Appeal Statement says that some of the flats would be cramped internally and would fall below the NDSS. However, this differs from the Council's findings within its Planning Officer's Report and the Council has not stated which flats it considers to be sub-standard and in what way. On the basis of the plans and the evidence before me, I am satisfied that the flats would have sufficient internal living space, and would appear to comply with the NDSS, so would not be cramped.
11. I have considered whether the proposal's upper floor windows, in particular the rooflights serving Flat 4, would harm the privacy of future occupiers of the residential development at Julian's Laundry. However, I am satisfied that the sloping form of the rooflights, and their position above head height, would significantly restrict the views available from Flat 4 into the adjacent development, preventing any harmful loss of privacy.
12. The proposal also includes other first floor windows. The window serving the communal landing and staircase could, if necessary, be obscurely glazed and fixed shut to prevent any overlooking. Meanwhile, Flat 5's window positions, perpendicular to the Julian's Laundry development, would be similar to those previously approved and so would cause no greater harm. The existing boundary wall means that none of the proposed ground floor flats would be harmfully overlooked or cause any loss of privacy. As such, the proposal would ensure adequate living conditions for future occupiers of the residential development at Julian's Laundry in respect of privacy.
13. Nevertheless, the proposal would not provide satisfactory living conditions for the future occupiers of Flat 4, because of its lack of outlook and daylight. As such, this element of its design would fail to respond positively to its context and so would be contrary to Policy NH13 of the West Somerset Local Plan to 2032 (WSLP) adopted 2016.

### **Character and Appearance**

14. The site is within the Wellington Square CA. Part of the area's significance is its tight, closely built-up appearance, reflecting the development of the commercial character of the surrounding town centre. When viewed from the road, the proposed front elevation would be very similar to the previous approval and reflects the CA's urban nature.
15. The proposed design uses blocked-in windows at first floor. Although somewhat contrived in design, they would be within the site and largely hidden from public view by the frontage development. On this basis, these windows would not harm the area's character or appearance. Reference has been made to the proposal representing an overdevelopment of the site. However, given the closely built-up nature of the area, I am satisfied that the scale, mass and bulk of the proposal would not appear out of place or harmful to the character and appearance of the area.
16. It is common ground between the parties that there would be no adverse effect on the CA and I concur that the character and appearance of the CA as a whole would be preserved. The site is close to a number of listed buildings. These include The Haven, Southways, The Market House and Market House Cottage, as well as the National Westminster Bank and Offices to the corner of Parade and Bancks Street. All are Grade II listed.
17. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of special

architectural or historic interest. In determining the application, the Council did not identify any harm to the listed buildings or their settings. Given the nature of the appeal site and proposal, and their relationship to the listed buildings, I have no reason to disagree.

18. I conclude that the proposal would not harm the character and appearance of the area including the Wellington Square Conservation Area and nearby listed buildings. As such, in these respects it would comply with Policy NH13 of the WSLP which requires development to respond positively to its context.

## **Parking**

19. Market House Lane is a narrow, one-way street, with car parking restricted by means of single and double yellow lines. During my morning site visit, I found a few parking spaces available in nearby streets, but this represents only a snapshot in time, and parking restrictions are in force on many streets locally. This suggests that there is existing pressure on on-street parking in the area.
20. The proposal would result in an intensification of the number of occupiers but makes no provision for car parking. The Highway Authority suggests an amendment to the existing Traffic Regulation Order (TRO) on Market House Lane, to prevent vehicle parking at all times near to the site access.
21. The provision of no car parking would be below the maximum number of spaces sought by Saved Policy T/8 and Table 4 of the West Somerset District Local Plan 2006 (DLP). However, as the policy states a maximum number of spaces, rather than a minimum requirement, I see no conflict with this policy. Whilst the provision of no parking is also below the optimum number of spaces sought by Somerset County Council's Parking Strategy 2013 (SPS), both Policy T/8 and the SPS allow deviations below the standard, where the site is welllocated to public transport or cycling or walking links.
22. In this case, the site is in the centre of Minehead, the main service and employment centre in West Somerset. As a result, future occupiers of the proposal would be well-located for access to services and facilities. Cycle parking is proposed within the site, which also has a reasonably regular public transport provision within easy walking distance.
23. Sustainable travel opportunities would not therefore be limited, and occupiers of the flats would have a range of transport options for day-to-day activities. Therefore, despite the increase in the number of flats above the previous approval, in the context of the site and given the alternative transport options available, it seems to me unlikely that the proposal would generate additional informal parking on the local highway network to cause undue pressure on existing on-street parking.
24. Regardless of any change to the TRO, I note that the Council has not raised any objections to the proposed site access and for the above reasons the proposal would not result in undue pressure on existing on-street parking. As such, there would be no conflict with Policy T/8 of the DLP, or the SPS.

## **Planning Balance and Conclusion**

25. The appellant states that the Council cannot currently demonstrate a five-year housing land supply, and this has not been disputed by the Council. Even if I were to accept the appellant's position with regard to the scale of the Council's deficit, it is necessary for me to determine whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits inherent in providing

additional dwellings to assist the Council in addressing its undersupply, as set out in paragraph 11 of the Framework.

26. The proposal would make a modest contribution to the supply of housing in the area, on a site within the town centre and close to a range of services and facilities. There would also be modest economic benefits resulting from both the construction phase and from future occupiers contributing to the local economy. Some limited ecological enhancement is also proposed.
27. However, although the proposal would contribute five additional dwellings to the Council's housing supply, the site already has planning permission for three dwellings. The net increase is therefore for two additional dwellings, and as such the benefits of the proposal would be reduced.
28. Weighed against these modest benefits is the harm that I have identified to future occupiers of Flat 4 in respect of living conditions. I therefore consider that, in this case, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
29. Although I have found that there would be no harm to the character and appearance of the area and no undue pressure on on-street parking, there would be harm to the living conditions of future occupiers. The proposal is therefore contrary to the Development Plan, read as a whole. No material considerations have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. I therefore conclude that the appeal should be dismissed.

*O Marigold*

INSPECTOR



**Site:** Land to the south of Higil Lea, Crowcombe,TA4 4BF

**Proposal:** Erection of 2 No. glamping pods, 1 No. shepherds hut and an implement shed on land for use as a tourist site (resubmission of 3/07/20/015)

**Application number:** 3/07/21/010

**Reason for refusal:** Appeal – Dismissed  
Costs - Dismissed

**Original Decision:** Chair – Refused



The Planning Inspectorate

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## Appeal Decision

Site visit made on 27 April 2022 **by S Edwards BA MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 July 2022**

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### Appeal Ref: APP/W3330/W/21/3289579 Land to the south of Higil Lea, Crowcombe, TA4 4BF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Andrew Ware against the decision of Somerset West and Taunton Council.
- The application Ref 3/07/21/010, dated 29 June 2021, was refused by notice dated 26 August 2021.
- The development proposed is tourist development comprising: 2no. glamping pods, 1no. shepherds hut (and an implement shed).

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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Andrew Ware against Somerset West and Taunton Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are:

- Whether the proposal would be suitably located, having particular regard to national and local planning policies, which seek to restrict development in the countryside; and
- The effect of the proposal on the character and appearance of the area, including the Quantock Hills Area of Outstanding Natural Beauty (AONB).

# Reasons

## Location

4. The appeal site is located outside of any settlements limits and therefore lies, for planning purposes, in the open countryside which, as set out in Policy OC1 of the West Somerset Local Plan to 2032 (LP), includes all land outside of existing settlements. In such locations, Policy OC1 advises that development is not generally appropriate, and will therefore only be permitted in a set number of exceptions. The appeal scheme is for the erection of two glamping pods, a shepherd hut and an implement shed, and would therefore not meet any of the exceptions listed in Policy OC1.
5. LP Policy EC9 supports tourism developments outside settlements, but only in restrictive circumstances. The proposed development is modest in scale, and is therefore unlikely to adversely affect the vitality and viability of neighbouring settlements. However, limited evidence has been presented to demonstrate that the proposed location is essential to a business and could not be located elsewhere.
6. As the site lies in a relatively remote location, away from Crowcombe, it is highly likely that the development would give rise to new unsustainable transport patterns. The lack of street lighting and continuous footpath connecting the site to the nearest settlement would discourage pedestrians and cyclists from using alternative modes of transport to the private car. Whilst the development may not generate significant additional traffic movements, there is nevertheless a high likelihood that visitors would rely on the private car for the majority of trips to access services and tourist attractions, for the simple reason that other modes of transport would not represent attractive propositions.
7. Whilst it is argued that there is a bus stop near the site, and that the development could therefore be served by regular services running between Minehead and Taunton, this has not been supported by further evidence to demonstrate the frequency of the services. Having regard to the available evidence, I cannot therefore be certain that public transport could assist as an effective alternative to private motor vehicles.
8. As set out in paragraph 85 of the National Planning Policy Framework (the Framework), there are circumstances where sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. However, I have been presented with limited information to demonstrate that the appeal scheme would fulfil such needs. The appellant refers to local businesses within and around Crowcombe, but without further details, I cannot be certain that the appeal scheme would be beneficial for the community and the local economy. There is also limited evidence before me regarding the existence of a need for this type of tourist accommodation. Whilst it is accepted that glamping pods and shepherd huts may not be considered appropriate within the built envelope of a settlement, it is unclear whether other more suitable and less sensitive locations have been considered.
9. Given the above, I find that there are no exceptional circumstances in this instance which weigh in favour of the development, and conclude that the proposal would not be suitably located, having regard to national and local planning policies, which seek to restrict development in the countryside. Accordingly, the appeal scheme would conflict with LP Policies OC1, SD1, EC9 and TR2, which promote sustainable forms of development and seek to reduce reliance on the private car.

## **Character and appearance**

10. Located within the Quantock Hills AONB, the appeal site is adjacent to a modest residential development and comprises an open field set to pasture, which is partially enclosed by soft landscaping, with a relatively narrow track of land running along the western boundary. It forms part of an undulating rural landscape providing far reaching views, which give the locality a pleasant and tranquil feel.
11. Despite the screening provided by the existing vegetation, the proposed change of use would alter the character and appearance of the site significantly. The access and parking area would result in the introduction of an urbanising feature, which would be evident within the public realm, notably from the site's entrance on Higil Lea. The installation of the proposed structures, together with the paraphernalia which would be associated with the tourism use, such as outdoor furniture, would add clutter to what is otherwise a largely undeveloped area.
12. Furthermore, the proposed use would increase the level of activity, noise and disturbance, which would detract from the sense of tranquillity in the surrounding area. As a result, the development would erode the contribution which the site currently makes to its surroundings and fail to conserve and enhance the landscape and scenic beauty of the AONB.
13. The proposal is supported by a Landscape Statement which found that in carefully selected views, the appeal scheme would have a neutral visual impact on the surrounding area. These findings rely to a large extent on significant tree and hedgerow planting to mitigate the visual impact of the development. However, the vegetation would inevitably take time to mature, and there is also no certainty that it would remain in place for the lifetime of the development, as planting could disappear for a number of reasons, such as disease, weather or accidental damage.
14. Given the above, the appeal scheme would cause unacceptable harm to the character and appearance of the area, and would fail to conserve and enhance the landscape and scenic beauty of the Quantock Hills AONB, to which I ascribe great weight, in accordance with paragraph 176 of the Framework. The proposal would therefore be contrary to LP Policies NH5 and NH14, which seek to protect the quality and integrity of local landscape character areas, and nationally designed landscape areas such as the Quantock Hills AONB. It would also conflict with the aims of the Framework, which seek to protect and enhance valued landscapes, and recognise the intrinsic character and beauty of the countryside.

## **Other Matters**

15. The appellant has drawn my attention to several schemes, which have been either approved by the Council or allowed on appeal. Having considered the presented information, these developments do not however appear to represent a direct parallel to the proposal before me, particularly in respect of the circumstances and location of the cases. Furthermore, I note that where conflicts with the development plan were identified, these were found to be outweighed by other considerations. For these reasons, very limited weight has been afforded to these approved schemes.

## **Conclusion**

16. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*S Edwards*

INSPECTOR



## Costs Decision

Site visit made on 27 April 2022 by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 July 2022

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### Costs application in relation to Appeal Ref: **APP/W3330/W/21/3289579 Land to the south of Higil Lea, Crowcombe TA4 4BF**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Andrew Ware for a full award of costs against Somerset West and Taunton Council.
  - The appeal was against the refusal of planning permission for tourist development comprising: 2no. glamping pods, 1no. shepherds hut (and an implement shed).
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. The national Planning Practice Guidance<sup>1</sup> (the PPG) advises that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG identifies different types of behaviours, which may give rise to a substantive award local planning authorities.
3. The applicant considers that the appeal was unnecessary as the proposal complies with the development plan, and the Council acted unreasonably in failing to substantiate its reasons for refusal and interpret the development policies and guidance contained within the National Planning Policy Framework (the Framework) correctly. It is also argued that the Council did not determine similar cases in a consistent manner.
4. The Council's reasons for refusal as set out in the decision notice are complete, precise, specific and relevant to the planning application. Whilst a landscape statement was submitted in support of the resubmission, this was not found to overcome the concerns of the Case Officer and Landscape Planning Officer regarding the effect of the development on the Quantock Hills Area of Outstanding Natural Beauty. Furthermore, the Council's submissions have sought to address the comments made by the applicant regarding the application and interpretation of development plan policies in other applications and appeals.

5. As set out in my decision and having considered the available evidence, I have found that the circumstances and context of each scheme were different and did not represent a direct parallel to the appeal proposal. These issues largely raise matters of planning judgment, and I am satisfied that, in the context of this appeal, the Council appropriately substantiated its concerns about the proposal within its submissions, having regard to the particular circumstances of the case. It follows that the Council did not act unreasonably in deciding to refuse planning permission for the development.
6. Given the above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. On this basis, an award of costs is not justified.

*S Edwards*

INSPECTOR