

## SWT Planning Committee

Thursday, 15th September, 2022,  
9.30 am

The logo for Somerset West and Taunton, featuring the text "Somerset West and Taunton" in white on a teal background with a white swoosh.

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 - 12)

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

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|--|-------------------|
| <b>5. Tree Preservation Order SWT54 40 Newlands Road, Ruishton</b>   | (Pages 13 - 16)   |
| <b>6. 14/21/0047/HYB Application for a Hybrid Planning application for Outline planning permission wit all matters reserved, except for access related to the A38, for the second phase of the Monkton Heathfield development comprising of a residential and mixed use Garden Neighbourhood including up to 1210 No. dwellings, up to 4.83 hectares of land for strategic employment uses, 8 hectares of land for a through school, mixed use district centre, community facilities, green infrastructure, drainage works, land for a 600 No. space 'Bus and Ride' facility, relief road (EER2) and associated works and for Full planning permission for the erection of 240 No. dwellings with access, including temporary access arrangements, and associated infrastructure works on land east of the A38, south of Walford Cross, Monkton Heathfield</b> | (Pages 17 - 104)  |
| <b>7. 25/21/0038 Change of use of land with additional works to playing fields, Stembridge Way, Norton Fitzwarren</b>  | (Pages 105 - 122) |
| <b>8. C/32/22/001 Modification of Schedule 17 of S106 Agreement dated 27 January 2012 in relation to planning permission 3/32/10/037. Hinkley Point C, Stogursey, Bridgwater</b>   | (Pages 123 - 304) |
| <b>9. 3/39/22/006 Conversion of buildings of part of former print works into a mixed use development. North Street</b>   | (Pages 305 - 330) |
| <b>10. Latest appeals received</b>   | (Pages 331 - 342) |



**ANDREW PRITCHARD**  
**CHIEF EXECUTIVE**

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Any requests need to be received by 4pm on the day that provides 1 clear working day before the meeting (excluding the day of the meeting itself). For example, if the meeting is due to take place on a Tuesday, requests need to be received by 4pm on the Friday prior to the meeting.

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## SWT Planning Committee - 21 July 2022

Present: Councillor Simon Coles (Chair)

Councillors Marcia Hill, Mark Blaker, Ian Aldridge, Roger Habgood, John Hassall, Mark Lithgow, Craig Palmer, Vivienne Stock-Williams, Ray Tully, Brenda Weston and Loretta Whetlor

Officers: Alison Blom-Cooper, Roy Pinney (Shape Legal), Sarah Stevens, Sarah Wilshire, Gareth Clifford, Darren Roberts, Briony Waterman and Tracey Meadows

(The meeting commenced at 1.00 pm)

### 20. Apologies

Apologies were received from Councillors Firmin, Griffiths, Wheatley, and Wren.

### 21. Minutes of the previous meeting of the Planning Committee

(Minutes of the meeting of the Planning Committee held on 23 June 22 circulated with the agenda)

**Resolved** that the minutes of the Planning Committee held on 23 June be confirmed as a correct record.

Proposed by Councillor Hill seconded by Councillor Habgood

The **Motion** was carried.

### 22. 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 I Aldridge	All Items	Williton	Personal	Spoke and Voted
Cllr M Blaker	49/21/0030	Ward Member	Personal	Spoke and Voted
Cllr S Coles	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr J Hassall	53/21/0010	Ward Member	Personal	Spoke and Voted
Cllr Mrs Hill	All Items	Taunton Charter Trustee	Personal	Spoke and Voted

		Was the previous Ward Member of the Woolaway development Project 38/21/0345	Personal	Spoke and Voted
Cllr M Lithgow	All Items	Wellington	Personal	Spoke and Voted
Cllr C Palmer	All Items	Minehead Ward Member for application 3/21/0345	Personal Personal	Spoke and Voted Spoke and Voted
Cllr R Tully	All Items	West Monkton	Personal	Spoke and Voted
Cllr B Weston	All Items	Taunton Charter Trustee. Ward Member for the Woolaway development Project. 38/21/0345	Personal  Personal	Spoke and Voted  Spoke and Voted
Cllr L Whetlor	All Items	Watchet	Personal	Spoke and Voted

All Councillors declared that they had received correspondence for application 53/21/0010.

23. **Public Participation**

Application No	Name	Position	Stance
53/21/0010	Mr S Berry Mr K Hutson	Local Resident Cotford St Luke PC	Opposed Opposed
	Mr L Dungworth	Applicant	In favour
49/21/0030	A Bridgden J Hopkins C Farrington (read out by the Clerk)	Local Resident Local Resident Local Resident	Opposed Opposed In favour
	Cllr Mansell (read out by the Clerk)	Ward Member	Opposed

24. **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**

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

- Concerns that the loss of the garage would increase parking on the street;

Councillor Habgood proposed, and Councillor Aldridge seconded a motion that planning permission be **GRANTED** subject to conditions.

The motion was carried.

25. **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**

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

- A very worthy development in the right place;
- Pleased to be replacing homes that were not fit for purpose with homes that were;
- This development would benefit the town;
- Congratulations to the Officers on the ground that worked on this with residents and looking forward to seeing the finished article;

Councillor Lithgow proposed and Councillor Habgood seconded a motion to **GRANT** planning permission subject to Conditions and a Legal Agreement.

The motion was carried.

26. **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**

**Comments from members of the Public included;**  
(summarised)

- This was a Greenfield Site that lies outside of the areas indicated for development within the Site Allocations and Development Management Plan of the Development Plan, and outside of the settlement boundary for Cotford-St-Luke;
- Cotford-St-Luke was designated as a Minor Rural Centre in policy SB1 of the SADMP which explains that, "In order to maintain the quality of the rural environment and ensure a sustainable approach to development, proposals outside of the boundaries of settlements identified in Core Strategy policy SP1 will be treated as being within open countryside and assessed against Core Strategy policies CP1, CP8 and DM2 unless: A. It accords with a specific development plan policy or proposal; or B;
- 53/21/0010 goes significantly outside the boundaries of the settlement and does not meet exceptions A or B. The proposal should therefore be assessed against CP1, CP8 and DM2 and failed to meet all of those criteria;

- The application failed against CP1 because of a lack of transport options such as regular bus services, meaning there were not sustainable transport links that residents will require to use facilities beyond the limited facilities available in the village itself. Policy A5 sets out appropriate travel times to facilities such as shopping and education via public transport and the development does not meet these. It fails CP8 as this is development of Greenfield Land which that policy seeks to “protect and where possible enhance” and states development within such areas will be strictly controlled in order to conserve the environmental assets and open character of the area which this application does not do. It fails policy DM2 which sets out appropriate uses for development in rural areas and it clear that residential development is not one of them;
- If the councils position remains that its local plan has an adequate 5 year housing supply then they must reject this proposal, which makes only vague assertions about housing supply uncertainty but has no concrete evidence to suggest that the councils Local Plan does not adequately provide for this. No convincing argument has been provided to suggest that the council does not have an adequate 5-year housing supply. Even if there is a need to go beyond the areas indicated to secure an adequate 5-year housing supply then Cotford-St-Luke as a Minor Rural Centre, with limited transport links and facilities and having already had significant development in recent years, is not a suitable location for this;
- Approval of this application would be tacit acceptance that the local plan does not contain an adequate 5-year supply, setting a precedent that opened the council to any number of unsuitable applications in rural villages like Cotford-St-Luke across the former Taunton Deane Council Area. Given the very clear and demonstrable conflict with numerous policies of the Development Plan and that there are no other material considerations that have been identified to outweigh such conflict, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act, planning permission should be refused;
- Concerns with the landscape impact with intrusive build in the open countryside;
- The building of a village centre would not be in keeping with the village rural settlements and would rip the heart out of the actual centre of the village where the shop, public house and Church were located;
- Flooding concerns for the lower part of the village;
- The Parish Council were against this intrusive development;
- Previous site allocated for 30 homes had lapsed;
- This was a sustainable site with the delivery of 80 family homes that would benefit from a local centre, allotments and extensive community orchard play area and associated drainage and highways infrastructure;
- The development would include much needed 20 affordable homes;
- The development would increase job opportunities on the village thus increasing the sustainability of the village;
- Bio-diversity would be increase by a minimum of 10% with more sustainable modes of transport by providing each dwelling with an electric charging point and fund an electric car club which would be available to all residents in the village;

- The phosphate mitigation strategy which accompanied the application had been approved by Natural England and would provide nutrient neutrality which would potentially involve permanently fallowing land within our ownership, however should credits become available in the first five years of the development consultees had agreed that this land could be returned to agricultural use, this would enable the scheme to deliver much needed homes in the short term and make an important contribution towards restoring the Council's five year land supply which currently was in deficit of around 600 dwellings;
- The scheme was the result of a significant amount of engagement with Officer's and we had worked hard to develop a sympathetic and well-designed scheme going beyond the level of detail which one would normally expect from an Outline application with lower densities and new planting around the periphery of the site creating a soft edge;
- There were no technical objection from Consultees to the planning application. Highways, drainage and landscape and other consultees were satisfied;
- County education had confirmed that there was capacity in the primary school and the scheme would make a financial contribution towards primary healthcare provision in the local area in order to mitigate the impact from additional residents;

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

- Concerns with the expectations of the electric vehicle hire scheme and how you would encourage the villagers to use it;
- Concerns with how you increase the biodiversity of a green field site by building on it;
- Concerns with the lack of a five-year land supply and did this application trump the lack of it;
- Undermines the local plan;
- A new village centre would fragment the village;
- Highway and local public transport concerns;
- Concerns that this development was out of the development boundary;
- Concerns with the loss of affordable homes;
- Concerns that we were being asked to approve a site that we would not normally approve;

Councillor Lithgow proposed and Councillor Whetlor seconded a motion for the application to be REFUSED;

Reasons – The wording for the REFUSAL of this application would be decided with the Chair, Vice-Chair, and lead planner.

The motion was carried.

At this point in the meeting a 10 minute break was proposed.

27. **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**

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

No salient points were raised on this application.

Councillor Hill proposed and Councillor Weston seconded a motion for planning permission to be **GRANTED** subject to Conditions.

The motion was carried.

28. **49/21/0030 Erection of an agricultural building for the rearing of calves on Simons Holt Farm retained land, Whitefield, Wlveliscombe**

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

**Comments from members of the Public included;**  
(summarised)

- Langley Marsh was mostly surrounded by fields laid to pasture or crops. Our nearest farms are approximately 650 metres away: A mixture of sheep and some beef cows;
- The animals make some noise during the daytime but settle at night. This is because they are kept mostly on the fields, not contained in barns. This is a crucial difference to the planning application in question;
- We are well used to living with the daily noise from agriculture. Cultivating can go on until after dusk, especially in the summer, but there is no noise at night. Noise is one of the main factors for many of us opposing this application;
- Calves cry loudly for days, especially when just taken from their mothers and also when scared or ill. This is well-known and well-documented in the farming community. Mr Cherry states that new batches of calves will arrive regularly. This means that for local residents, the noise could be fairly continuous – both from the animals and the vehicles bringing them;
- Noise from the calves and from machinery;
- Smell from so many animals, particularly when it is hot;
- The living conditions of the animals and the impact on the natural ecology from the slurry;
- Concerned with the impact on the wildlife. Currently there are nesting owls, woodpeckers, and treecreepers – to name but a few. The impact of this development on the existing wonderful habitat would be irreversible;

- As the calves were not already on the land, I believe this meant that the application should be re-considered for Phosphate neutrality;
- Noise disturbance and odour;
- Phosphate increase. The application had been screened out for needing phosphate mitigating as the livestock were already in the field. This has been disputed by a close neighbour of the Langley Marsh site who stated that for thirty years the field had never been used for calve rearing on this scale;
- Requirement for a worker dwelling. No information on the location of the workers dwelling for the Langley Marsh site had been provided by the applicant. Previously stated that it was essential to the operation of a similar barn;
- T&L Cherry had rented a building in our farmyard at Ford Farm for the past five years. The building had been used to rear batches of 100-150 calves. My family has never been disturbed by noise from the calves despite living with 70 meters of the calf building. We have neighbours within the proximity that have never had any complaints about calves. The manure from the building was used on our arable crops as part of a crop nutrient plan to help reduce artificial fertiliser use. Agricultural business was an important part of the rural economy in the Wiveliscombe area and should be supported;

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

- Concerns with the lack of a Phosphate Mitigation, odour and noise assessments;
- Concerns with the lack of verification for the number of calves purported to be in the field at any given time;
- This application should be for a change of use as there were now going to be calves in the field;
- Concerns with the higher output of waste in the field due to the amount of calves in the field;
- Evidence was needed from the applicant for the movement of the calves in the field;
- Concerns that the straw base system would not prevent slurry getting into the watercourse;
- 

Councillor Lithgow proposed and Councillor Whetlor seconded a motion for the application to be **DERERRED** to require the applicant to provide evidence of livestock levels within the unit. An assessment of the consequences of the proposal in terms of Phosphate loading. If no information was forthcoming the deferment would fail and would not come back to committee.

The motion was carried.

29. **Appeals decisions**

Appeal decisions noted.

(The Meeting ended at 4.35 pm)



**REPORT FOR THE SOMERSET WEST AND TAUNTON PLANNING COMMITTEE,  
15<sup>th</sup> SEPTEMBER, 2022**

**Objection to Somerset West and Taunton (Ruishton No.1) Tree Preservation  
Order SWT54, served 17<sup>th</sup> March 2022**

**The Tree Preservation Order protects one oak tree that is growing to the rear of 40 Newlands Road, Ruishton.**

**RECOMMENDATION**

It is recommended that Tree Preservation Order SWT54 is CONFIRMED, unmodified.

**Background**

1. Tree Preservation Order (TPO) SWT54 was served on 17<sup>th</sup> March 2022. The grounds for serving SWT54 were stated on the Notice as follows:

*Tree Preservation Order SWT54 is intended to replace TPO TD1051, the validity of which has been brought into question due to an administrative error in serving and confirming TD1051. The oak tree has amenity value, being a mature specimen that is widely visible.*

2. The original TPO, TD1051, was served in 2008. Its validity was brought into question during and after the processing of TPO applications 31/21/0021T (registered 12<sup>th</sup> November 2021) and 31/21/0022T (registered 3<sup>rd</sup> December 2021). Application 31/21/0021T was to carry out management works to the tree, whereas 31/21/0022T was an application to fell.

3. The decisions for the above applications were determined by the planning committee on 8<sup>th</sup> February 2022. The committee resolved to approve the application to crown-reduce the tree but to refuse the application to fell.

4. Following the planning committee meeting a formal complaint was made by the neighbour Mr Sawyer at 36 Newlands Road, who stated that he should have been informed of TD1051 when it was served and confirmed in 2008. After re-consideration of this it was agreed by the council that Mr Sawyer should have been notified of TD1051 and that TD1051 was therefore invalid. Given that the planning committee had resolved to refuse the application to fell the tree, a new TPO, SWT54, was served and this report now seeks confirmation of that order.

5. The council's decision to refuse the felling of the tree under application 31/21/0022T has been appealed by the applicants. A decision from the Planning Inspectorate is still pending.

## **Procedure**

6. A Tree Preservation Order comes into force on the day that it is served for a period of 6 months. The TPO lapses after that date unless it has been confirmed by the Council. If there are no objections to the TPO, it can be confirmed. If any objections are received, the points raised must be considered and a decision made as to whether to confirm the TPO, either with or without modification. The decision whether to confirm a TPO that raises objections is taken by members of the Planning Committee.

7. When deciding whether to serve and confirm a TPO, the present or future public amenity value of the trees must be considered. Tree Preservation Orders are served to protect selected trees if their removal would have a significant impact on the local environment. TPO trees should therefore be visible from a public place, such as a road or footpath.

8. In assessing a tree's amenity value, consideration must be paid to its visual impact, its health and structural integrity, its life expectancy and its suitability to the location. The tree's potential impact on highways, services and structures should be considered.

## **Representations**

9. Two objections to the TPO have been received, one from the owners of the tree at 40 Newlands Road and one from a neighbour at 36 Newlands Road.

### **The reasons given for the objections can be summarized as follows:**

10. a) The tree is dangerous due to its size in relation to its proximity to the adjacent houses and gardens, the potential for further shedding of branches due to 'summer branch drop' and due to the potential effects of winter storms.

b) The tree's size is inappropriate in this residential location.

c) The rear access to number 36 will be reduced as the tree grows. The access should be at least 1200mm in width but is currently 740mm. The tree's roots have raised the ground, making it more difficult to pass.

d) Because of errors in the serving of the original TPO, TD1051, the ability of the planning committee to determine applications 31/21/0021T and 31/21/0022T were compromised.

e) The boundaries on the TPO plan are not accurate.

f) The tree drops acorns and 'small to large branch-ends'.

11. It should be noted that the council received objections to the felling of the oak tree under application 31/21/0022T from some neighbours, including 19 Coronation Close where the branch that fell landed.

## **Determining Issues and Considerations**

12. The tree is a mature English Oak, well over 100 years old. It is growing to the rear of 40 Newlands Road, outside of the rear fence line but in a shared access corridor that runs between the rear of properties in Newlands Road and Coronation Close. Due to its size and location it therefore overhangs (to varying degrees) 36, 38, 40 and 42 Newlands Road and 17, 18 and 19 Coronation Close. It has now been confirmed that the tree is entirely within the boundaries of land relating to 40 Newlands Road.

13. Because of its size and age, the tree is widely visible from numerous neighbouring and nearby properties. It is also visible from public roads Newlands Road, Newlands Crescent, Coronation Close and beyond. It is therefore considered to have a high public amenity value.

### **In response to the points raised by the objectors to the TPO:**

14. a) In September 2021 the tree shed a large primary limb. It was concluded at the time by the agent (arborist) for applications 31/21/0021T and 31/21/0022T that the reason the tree shed the limb was most likely due to a phenomenon known as 'summer branch drop'. No significant decay was found in the wound, or at the base of the tree, where tests were carried out by Arboricare using a Resistograph. There were no obvious signs of disease or decay in the tree, and the tree appeared to be essentially a healthy specimen, a view echoed by the agent for the TPO applications, RFP Tree Services, as well as Arboricare and the council's Open Spaces Arboricultural Manager.

15. A small amount of Armillaria (Honey Fungus) mycelium was identified in the soil during the initial assessment by Arboricare, but there was no evidence that it was having a detrimental effect on the oak tree.

16. The TPO application was not supported by an arborist's report that explained the reasons why the tree was unsafe and needed to be felled. A Quantified Tree Risk Assessment could be undertaken by an arborist qualified to carry out such tests, but this would be initiated and paid for by the owners.

17. The risk of further branch losses could be mitigated by carrying out crown-reduction of the tree by approximately 3-4 metres, as recommended and approved in the decision for 31/21/0021T.

18. b) The tree is approximately 17 metres from the conservatory of 40 Newlands Road (21.5 metres from the house), and 28 metres from the nearest house in Coronation Close. Under the current guidance for trees in proximity to development (BS5837), the houses would be considered far enough away from the tree and sufficiently outside its notional Root Protection Area, using the British Standard's guidance. In urban and suburban areas, it is not unusual for large trees to overhang private gardens and to be in close proximity to buildings. Crown-management, such as crown-lifting and crown-reduction, can lessen the overhang, as was approved

under TPO application 31/19/0018T in 2019 and has been approved under 31/21/0021T. Application 31/19/0018T was made on the basis that the tree was casting excessive shade, not on the grounds of safety.

19. c) The width of this tree's trunk will increase very slowly. The gap between the tree and the current fence line of 38 Newlands Road, which extends beyond 40 Newlands Road, is unlikely to decrease significantly for decades. It is currently easy for able people to pass between the tree and the fence. The raised path caused by the tree's roots could be improved by modifying the surface materials, and possibly cutting some root, subject to further detailed investigation.

20. The suggestion that the shared access should be at least 1200mm in width, and that this is the legal minimum, has not been supported with evidence. The case officer's legal advice is that there is no maximum or minimum width of a private right of way as defined in law. The minimum width may be specified in the title deeds for the properties served by it.

21. d) Errors in the serving and confirming of TD1051 have been acknowledged, and apologies given. The matter now under consideration is the new Tree Preservation Order SWT54 and whether it should be confirmed. Whether the original TPO was valid or not would not alter the arguments presented to the planning committee for and against the felling of the tree, such as tree health, safety, size, location and access. These were considered by the committee and a conclusion reached, that the tree should be retained and crown-reduced.

22. e) The TPO plan has been created from the current 'Mapinfo' GIS mapping system that the council uses. The purpose of the plan is to make it clear which tree is protected by the TPO. It is not necessary for the TPO plan to accurately depict the current spread of the tree's canopy. It is also not necessary for the TPO plan to show land-ownership information, as set out on Land Registry maps. It is clear from the plan for SWT54, in combination with the TPO schedule, that it is the oak tree to the rear of 40 Newlands Road that is protected.

23. f) The shedding of acorns, leaves, twigs and larger branch pieces is a natural occurrence with oak trees. Removal of significant deadwood is permissible under the TPO legislation, subject to giving the council 5-days' written notice of this. The crown-reduction granted approval under application 31/21/0021T would, in a modest way, lessen the amount of 'debris' falling from the tree.

## **Conclusion**

24. In conclusion, the planning committee resolved to refuse the felling of this oak tree at its meeting in February 2022 as there was insufficient evidence to justify its removal under application 31/21/0022T. No further information or evidence has been provided that is thought to alter this conclusion. It is therefore recommended that the new Tree Preservation Order SWT54 is confirmed, unmodified.

<b>Application Details</b>	
Application Reference Number:	<u>14/21/0047/HYB</u>
Application Type:	<u>Hybrid Application</u>
Earliest decision date:	18 March 2022
Expiry Date	<u>18 March 2022</u>
Extension of time	30 September 2022
Decision Level	Committee
Description:	Application for a Hybrid Planning application for Outline planning permission with all matters reserved, except for access related to the A38, for the second phase of the Monkton Heathfield development comprising of a residential and mixed use Garden Neighbourhood including up to 1210 No. dwellings, up to 4.83 hectares of land for strategic employment uses, 8 hectares of land for a through school, mixed use district centre, community facilities, green infrastructure, drainage works, land for a 600 No. space 'Bus and Ride' facility, relief road (EER2) and associated works and for Full planning permission for the erection of 240 No. dwellings with access, including temporary access arrangements, and associated infrastructure works on land east of the A38, south of Walford Cross, Monkton Heathfield
Site Address:	<u>LAND EAST OF THE A38, SOUTH OF WALFORD CROSS, MONKTON HEATHFIELD</u>
Parish:	14
Conservation Area:	None
Somerset Levels and Moors RAMSAR Catchment Area:	Yes
AONB:	No
Case Officer:	<u>Darren Roberts</u>
Agent:	One Eleven
Applicant:	REDROW HOMES/PERSIMMON HOMES SOUTH LTD
Committee Date:	15 September 2022
Reason for reporting application to Committee	Major application, EIA

## 1. Recommendation

- 1.1 That planning permission be REFUSED for the reasons set out in the report.

## 2. Executive Summary of key reasons for recommendation

- 2.1 The proposal would deliver a significant area of the Monkton Heathfield development allocation with new 1450 dwellings, including affordable dwellings,

land for the delivery of community uses and facilities and employment which is the subject of strategic policies SP1, SP2 and SS1. The current situation in respect of the Council's requirement to provide a five-year housing land supply (5YLS) is challenging, but applying reasonable assumptions, the Council considers that it can demonstrate this requirement. Whilst granting permission for dwellings would assist in the delivery of housing, in this instance a phosphate solution would be required, and to date this has not been proposed. This is a significant issue that weighs against the grant of planning permission. It is unlikely that delivery of these parcels of development would make a meaningful contribution to the 5 year housing land supply of deliverable sites.

- 2.2 In favour of the development is that it would include the creation of construction jobs during the development phase, and thereafter jobs in employment estimated in supporting material as an additional 751 full time equivalent (FTE) jobs on the site together with a further 338 FTE jobs in the south west of which 188 will be in the Somerset West and Taunton area, within the proposed education, employment and commercial areas and will add to economic activity in the area. There would also be financial contributions towards infrastructure and the provision of facilities although these matters are primarily intended to address the impact of the development itself. The development will also generate CIL receipts towards infrastructure and New Homes Bonus.
- 2.3 However, as the report demonstrates there are a range of significant and fundamental policy conflicts arising from the proposed development and substantial harm would arise were planning permission to be granted. This harm is in respect of serious impacts upon an irreplaceable habitat of European significance (contrary to policies CP8, SS1 and DM1c of the adopted Taunton Deane Core Strategy together with paragraphs 180-182 of the NPPF). The application will also result in a place that is not well designed, poor in quality, unsustainable, car and road dominated with poor coordination and connectivity, a dormitory development that is not attractive, locally distinctive, healthy or with a sense of place and has insufficient provision for sustainable transport, walking and cycling.
- 2.4 An inadequate approach to the District centre will mean that it will not fulfil its intended function or meet the needs of the development in order to deliver a mixed, sustainable community. Critical infrastructure such as the bus and ride facility is not secured by the development in accordance with policy requirements. Phasing proposals would deliver key facilities and infrastructure intended to serve not only this application area but also the wider allocation after the delivery of further phases of residential development. This would leave existing and future residents without these facilities for an unacceptable period. As presented the application is not considered to comply with affordable housing requirements, meet need and the extent of affordable housing provision across the wider site is uncertain. In combination this would result in an unacceptable place, living conditions, amenities for residents that do not meet the quality standards or housing needs expected for a Garden Town or the Vision as set out by this Council. (Contrary to policies CP3, CP4, CP5, CP6, SP2, SS1, DM1, DM4 (Taunton Deane Core Strategy); A1, A3, A5, D7 and D9 (Taunton Deane Site Allocations and Development Management Plan); CSM1, CSM4 and CSM6 (Creech St Michael Neighbourhood Plan); Policy T1 (West Monkton and Cheddon Fitzpaine Neighbourhood Plan); is contrary to the Districtwide Design Guide SPD, Garden Town Public Realm Design Guide SPD

and the Vision for Taunton Garden Town. It is also considered contrary to the National Planning Policy Framework paragraph 125 and sections 2, 8, 9 and 12 and national design guidance including the National Design Guide and National Model Design Code, the Ministerial Statement of 24 May 2021 and Planning Policy Guidance 2021).

- 2.5 Policy conflict has been identified in that the application does not demonstrate an acceptable approach to sport and recreation to meet the demand arising from the development. This results in harm to health and well-being considerations. (Contrary to policy SS1 of the Core Strategy and Policies C2 and C5 of the Adopted Site Allocations and Development Management Plan).
- 2.6 Policy conflict and harm has also been identified due to failure to demonstrate that it will sufficiently incorporate sustainable design features to reduce its impact on the environment, mitigate and adapt to climate change, and particularly help deliver reduction in CO2 and other greenhouse gas emissions. It fails to demonstrate that it will result in a development which minimises the use of energy, or to holistically consider the energy strategy for the site as a whole (which might include use of an energy centre to provide locally generated electricity to the new development), or how the development can realistically meet current or future national standards likely to apply within the development's lifetime. (Contrary to policies SS1, CP1 and DM5 of the Core Strategy and provisions within the Districtwide Design Guide SPD, and provisions within the National Planning Policy Framework sections 2 and 14).
- 2.7 Policy conflict has also been identified in relation to significant transport matters due to insufficient information having been submitted to fully understand the impact of the development on the strategic highway network; specifically, the safe and efficient operation of the M5 motorway and its assets. Furthermore, the transport assessment is not considered in accordance with published guidance and a range of possible outcomes have not been evaluated. It is therefore not possible to determine the impact of the development upon the local highway network, the range of transport interventions that may be required in order to address those transport impacts, their triggers for provision in relation to the phases of development and their delivery has not been secured. This results in the potential for significant harm to highway safety. In respect of the strategic highway network this is demonstrated by the current holding objection issued by National Highways with the effect of preventing the grant of planning permission. (Contrary to policies CP6 and DM1b of the Taunton Deane Core Strategy and provisions within the National Planning Policy Framework section 9).
- 2.8 Policy conflict arises from no suitable means for securing the delivery of the proposed park and ride site required by SS1, and it has not been proven that this is the optimum location for this facility in order to maximise its use and effectiveness. No bus strategy has been put forward within the planning submission, and the application is not considered to comprehensively plan for public transport. This results an unsustainable approach to transport planning to the detriment of the occupiers of the development and the environment. (Contrary to policies SP2, SS1, CP6 and CP7 of the Taunton Deane Core Strategy; A5 of the Taunton Deane Adopted Site Allocations and Development Management Plan and policy CA1 of the West Monkton and Cheddon Fitzpaine Neighbourhood Plan and the National Planning Policy Framework sections 9

and 12).

- 2.9 The proposal will result in dwellings subject to significant levels of road transport noise, necessitating suitable mitigation measures. It has not been demonstrated that the amenity of the occupiers of these proposed dwellings has been safeguarded from noise arising from the development nor the suitability of proposed mitigation measures. This results in potential harm to the amenity of occupiers. The application does not demonstrate that the requirements of policy DM1e of Taunton Deane Core Strategy nor paragraphs 174 and 185 of the National Planning Policy Framework have been met.
- 2.10 Potential harm to heritage assets and policy conflict have been identified in that insufficient information has been submitted to understand the site's archaeological value or significance and the likely effects of the development upon it; together with the absence of comprehensive assessment of the impact of the development upon the setting of Monkton Elm, a grade II heritage asset. (Contrary to policies CP8 and D9 Taunton Deane Core Strategy, ENV4 Taunton Deane Site Allocations and Development Management Plan and the National Planning Policy Framework section 16 including paragraphs 199-204 and 206).
- 2.11 Insufficient information has also been submitted to demonstrate the adequacy of the proposed approach to water management and drainage of the site and therefore compliance with requirements within policies CP1, SS1 and I4 of the Taunton Deane Core Strategy and paragraph 169 of the National Planning Policy Framework. There is therefore potential associated harm to the occupiers of the development and the environment arising from inadequate water management.
- 2.12 In the absence of a signed S106 agreement a range of other policy conflicts have been identified. Whilst the provision of signed S106 agreement would secure and thereby resolve many of these issues, in its absence policy conflict arises in respect of the delivery, timing and funding of a range of critical facilities and infrastructure required to meet the needs of the development or to mitigate for its impact including affordable housing, education, community facilities, employment, open space and sports provision, highway improvements including sustainable transport and the park and ride site, ecological enhancement, public rights of way and the phasing of development. Policies CP4, CP5, CP7, CP8, SP1, SP2, SS1, DM1 of the Taunton Deane Core Strategy, policies A2, I4, C2 and C5 of the Taunton Deane Site Allocations and Development Management Plan and provisions within the National Planning Policy Framework apply, at present are not satisfied and currently weigh against the application. The lack of appropriate resolution of these key facilities and infrastructure raises the potential for significant harm if they remain unresolved.
- 2.13 The presumption in favour of sustainable development in paragraph 11 of the Framework is a material consideration. For decision taking this means approving development that accords with an up to date development plan without delay or, where a five year housing land supply cannot be demonstrated, Paragraph 11d, tilts the balance in favour of the grant of permission unless
- i. *"The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the*



- development; or*
- ii. *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

Although the position is challenging, this Council considers that applying reasonable assumptions, it is able to demonstrate a 5 year supply of deliverable housing sites. Accordingly, the Paragraph 11d tilted balance is not considered to be engaged.

- 2.14 However, even if it were, the lack of an agreed phosphate budget and mitigation means that the development is likely to lead to a significant adverse effect on the Somerset Levels and Moors Ramsar site. As such, the Council cannot ascertain beyond reasonable scientific doubt that the development would not affect the integrity of the Ramsar site which provides a clear reason for refusing the application. The application is also not considered to accord with the development plan taken as a whole and the benefits of the application, whilst substantial, do not outweigh this conflict. The overall adverse impacts and substantial harm that would arise if planning permission were granted are also identified in this report and are considered to significantly and demonstrably outweigh the benefits of the proposal, when assessed against the development plan policies, the National Planning Policy Framework and other material considerations. There are no other material considerations that are considered to outweigh that.

Having regard to all the matters raised, it is therefore recommended that planning permission is **refused**.

### **3. Planning Reasons for Refusal**

#### **3.1 Reasons (full text in Appendix 1)**

- 1) The development will add to phosphate levels and is likely to have a significant effect on the Somerset Levels and Moors Ramsar site. No information has been submitted to enable the Council to undertake an appropriate assessment and without mitigation measures the Council cannot be sure that the development will not lead to a significant adverse effect on the Somerset Levels and Moors Ramsar site to the detriment of its integrity.
- 2) The development is not well designed in that it is an unsustainable, car dominated, uncoordinated and unconnected, dormitory development that is not attractive, healthy, locally distinctive or with a sense of place. Furthermore, its car-based approach to placemaking results in road, car and parking domination that does not prioritise active travel and public transport. It has poor connectivity to the surrounding area.
- 3) The development does not secure affordable housing in accordance with policy requirements.
- 4) In the absence of a S106 agreement the application does not secure contributions towards education and health care and the provision of other critical and necessary aspects arising from the development in order to mitigate its impact.
- 5) The District Centre is considerably reduced from that set out in policy SS1 to the detriment of it successfully fulfilling its function, its contribution to successful

placemaking and meeting the needs of the wider Monkton Heathfield development.

- 6) The development does not deliver the park and ride or provide a bus strategy with inadequate planning for public transport.
- 7) The development fails to comprehensively address the need to respond to climate change, reduce carbon and promote energy efficiency measures.
- 8) Insufficient information has been submitted in respect of archaeology in the absence of trial trenching.
- 9) Insufficient information has been submitted in order to fully understand the impact of the development on the strategic highway network; specifically, the safe and efficient operation of the M5 motorway and its assets.
- 10) The transport assessment is not considered in accordance with published guidance and a range of possible outcomes have not been evaluated. It is therefore not possible to determine the impact of the development upon the local highway network, the range of transport interventions that may be required in order to address those transport impacts, their triggers for provision in relation to the phases of development and their delivery has not been secured.
- 11) The application does not demonstrate an acceptable approach to the provision of on-site and off-site sport facilities including built sports provision to meet the demand arising from the development.
- 12) Insufficient information has been submitted in respect of sustainable urban drainage systems.
- 13) The proposal will result in dwellings subject to significant levels of road transport noise. The application does not demonstrate that the requirements and the amenity of the occupiers of the proposed dwellings has been safeguarded from noise arising from the development and demonstrated the suitability of proposed mitigation measures.
- 14) The impact of the development upon the setting of Monkton Elm, a grade II heritage asset has not been comprehensively assessed, such as to understand the effect of the development upon its significance and setting, nor considered ways to enhance, better reveal or preserve the setting of that heritage asset.

### 3.2 Informatives

Proactive Statement

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

### **4.1 Details of proposal**

- 4.1.1 The application has been submitted in hybrid form. Firstly, as an outline application for the majority of the site with all matters reserved (except for access) for a new garden neighbourhood including up to 1210 dwellings, up to 4.83 ha of employment land, 8 ha of land for a through school, district centre, community uses, a bus and ride facility, new eastern relief road, and landscaping and infrastructure required for the development.
- 4.1.2 The dwellings are proposed in several blocks, accessed via the Central Boulevard or minor access roads. All housing is proposed to the west and north of the relief road and is shown in the indicative masterplan as being interspersed with areas of play. The proposed employment area is situated in the eastern portion of the site, adjacent to the M5 motorway, accessed via the spine road. In the same portion of the site is the proposed bus and ride facility;

this borders existing housing and farm buildings to the North and East at Walford Cross.

- 4.1.3 Directly off the main roundabout is the proposed mixed use district centre. This includes health and community facilities as well as the retail units for the Monkton Heathfield development. It is intended to act as the focal point for the community. The proposed central boulevard runs through the district centre to the through school, which sits in grounds which extend to the existing A38 to the north. This includes land proposed to be used as playing fields.
- 4.1.4 Finally, the east and south of the proposed new relief road (known as the Eastern Relief Road, or ERR) is an area of green infrastructure, comprising tree planting, open space, allotments, and attenuation features. In policy SS1 this area is referred to as a green necklace.
- 4.1.5 The application seeks full planning permission within the area in the south and west of the site, in two distinct areas which are adjacent to the existing A38 and opposite the Monkton Elm Garden Centre. 240 homes are proposed in these two land parcels and together they are referred to as phase 1 of the development.
- 4.1.6 The houses in the detailed application are shown generally arranged in a series of cul-de-sacs, either with garages or parking to the front of properties. There are also some apartment buildings with rear parking courts. Affordable housing is also shown, within parts of the site. Attenuation ponds are shown facing the existing A38 in the southern portion.

## **4.2 Site and surroundings**

- 4.2.1 The site covers approximately 100 hectares and is located to the northeast of Taunton and north of the existing recent housing development, known as 'Monkton Heathfield 1'. Most of the site is situated to the north and east of the existing A38 which runs between Taunton and Bridgwater. It comprises of agricultural fields, which contains hedgerows and woodlands. A small brook runs across the site from north to south and two main footpaths traverse the fields. It slopes gently from north to south. Apart from the A38, the site is bordered by buildings in the small hamlet of Langaller to the south, the M5 to the east, with industrial and agricultural buildings at Walford Cross to the north.
- 4.2.2 A further part of the site is situated opposite the Monkton Elm Garden Centre. This is also agricultural land bordered by roads, other agricultural land and the rear gardens of houses.
- 4.2.3 Whilst the site is not within any statutory designations, it is close to the Hestercombe House Special Area of Conservation, is within the Bat Consultation Zone and contains trees protected by a Tree Preservation Order.

## **5. Planning history**

- 5.1 There is no planning history within the site itself, however residentially-led development has been delivered on land to the east under earlier phases of development within the SS1 Monkton Heathfield allocation area. This existing

development to the east comprises Monkton Heathfield phase 1 (MH1), together with residential development at Hartnells Farm and Aginhills Farm.

- 5.2 Outline planning permission was granted on appeal in March 2009 for a mixed-use urban extension comprising 900 dwellings, employment development, a local centre, primary school, A38 relief road and public open space, under ref 48/05/0072. Subsequent reserved matters approvals were granted for just under 900 new units together with the first section of the eastern relief road under application references 48/10/0036, 48/13/0081, 48/14/0007, 48/14/0009, 48/14/0016, 48/14/0028, 48/15/0018 and 48/15/0030.
- 5.3 A further full permission for a local centre including 5 retail units, 18 apartments and 69 dwelling units within this 'Phase 1' was approved in August 2016 (48/15/0053) with approval for a new 420 place primary school given in December 2015 (48/15/0027).
- 5.4 Further permissions have been granted at Aginhills (48/10/0072, full permission for 136 dwellings) and Hartnells Farm (48/16/0033, outline permission for 320 dwellings together with subsequent grant of reserved matters).

## **6. Environmental Impact Assessment**

- 6.1 The application is accompanied by an Environmental Statement. The proposal constitutes Schedule 2 development under the Environmental Impact Assessment (EIA) Regulations. It is an urban development infrastructure project due to its size and number of dwellings.
- 6.2 Two EIA scoping opinions have previously been issued by the Council for the application site, under references 48/17/0013/SCO and 48/19/0003/SCO.
- 6.3 Both opinions were sought on a similar basis to the submitted application, i.e., as a mixed-use new neighbourhood, although the amount of housing at 2100 homes was in excess of that proposed in the current application. The comments of the Local Planning Authority (LPA) included that the proposed numbers of housing would result in an excessive density and was not likely to be achievable within the policy requirements of the local plan. The LPA confirmed the scope of the future application and the subjects that would be required to be included within an environmental statement. These are specifically, ecology/biodiversity, historic environment, transport and highways, flood risk and drainage, landscape and visual impact, air, noise and vibration, ground conditions and contamination, and socio-economic impacts. The applicant has also included a chapter on climate change within the Environmental Statement, reflecting the declaration of a climate change emergency by the Council. In the opinion of the case officer, the submitted Environmental Statement has met the requirements set out in the scoping report.

## **7. Habitats Regulations Assessment**

- 7.1 Natural England has advised the Council that in determining planning applications which may give rise to additional phosphates within the catchment of the River Tone they must, as a competent authority, undertake a Habitats Regulations Assessment and an appropriate assessment where a likely significant effect cannot be ruled out. Natural England identify certain forms of

development affected including residential development, commercial development, infrastructure supporting the intensification of agricultural use and anaerobic digesters.

- 7.2 The proposed development will result in additional phosphate output and the foul water discharge and surface water in combination from the development will add to the phosphate levels within the Somerset Levels and Moors Ramsar Site ('the Ramsar Site'). The foul water pathway is via the Taunton wastewater treatment works. Therefore, the surplus in the phosphate output would need to be mitigated in order to demonstrate phosphate neutrality and ensure no significant adverse impact on the affected designated area. The consultation response from Natural England indicates that appropriate assessment should demonstrate through an agreed phosphorus budget that the proposals can achieve phosphorus neutrality through the implementation of appropriate permanent offsetting measures. The consultation response requests a phosphorus budget for the scheme together with details of the permanent mitigation measures that will be applied to secure phosphorus neutrality. No such budget or permanent mitigation measures to this issue have been put forward within the application.
- 7.3 This Monkton Heathfield application also has potential effects on the lesser horseshoe bat colony at Hestercombe House Special Area of Conservation. The development boundary is bordered with the Hestercombe House Ecological Zone of Influence. Policy SS1 of the Core Strategy requires off-site woodland habitat to be provided in accordance with the recommendations of the Hestercombe House SAC Appropriate Assessment to compensate for the loss of habitat and for this to be functional prior to the commencement of any development north of the A3259.
- 7.4 The Hestercombe House SAC Appropriate Assessment recommended mitigation is embedded into policy SS1. Mitigation and screening of the site are required, including woodland buffer planting and specification of directional street lighting. The submitted Environmental Impact Assessment (EIA) identifies an equivalent of at least 5.24 ha of accessible habitat suitable for lesser horseshoe bats would be provided at appropriate light levels to function as alternative habitat for at the appropriate stage of development. It predicts that there would be no long-term loss of habitat available for lesser horseshoe bats associated with Hestercombe House SAC and concludes that there would be no likely significant effect on the favourable conservation status of the SAC bat population, with the effect of the application development being neutral.
- 7.5 At time of writing this report, no advice has been received from the Somerset County Ecologist, nor does the consultation response from Natural England refer to the Hestercombe SAC, in the context of the application. The Council as competent authority therefore cannot formally conclude at this time on the significance of the effect, nor the effectiveness of the proposed mitigation. Similarly, no advice has to date been received over the contents of the EIA on other European protected sites in screening them in or out, the extent and significance of any other impacts of the development and the need (or otherwise) for mitigation.
- 7.6 In the absence of information on phosphates and wider advice, there is no certainty that the integrity of the international site(s) will not be affected, and it

is not possible for the Local Planning Authority as competent authority to conclude a favourable Habitats Regulations Assessment and fulfil its statutory duty under Regulation 63 the Conservation of Habitats and Species 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: 24/12/2021

8.2 Press Date: 03/01/2022

8.3 Site Notice Date: 03 January 2022

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

Consultee	Comment	Officer comment
WEST MONKTON PARISH COUNCIL	Objects. District Centre insufficient, phasing issues, community facilities, design of estates, crossing points needed	See Section 18
Consultee	Comment	Officer comment
CREECH ST MICHAEL PARISH COUNCIL	Objection. Inadequate consultation, lack of infrastructure, impact on CSM village, phasing.	Consultation was undertaken in line with guidance. Period for comments was extended at request of residents
Consultee	Comment	Officer comment
HOUSING ENABLING	<p>The proposed tenure mix for the Outline and the Full Planning permission should be amended to reflect the affordable housing policy tenure requirement of 25% First Homes, 60% Social Rent and 15% Intermediate housing in the form of shared ownership.</p> <p>The type and size of the affordable housing units to be provided should fully reflect the distribution of property types and sizes in the overall development and the housing need requirements. To reflect this the overall affordable housing mix for both the Outline and Full Planning permission should be amended to:</p> <ul style="list-style-type: none"> <li>• 10-15% 1b2p</li> </ul>	See Section 15

	<ul style="list-style-type: none"> <li>• 40% 2b4p</li> <li>• 35-40% 3b 5/6p</li> <li>• 10% 4b6p</li> </ul> <p>1b2p dwellings should be in the form of maisonette style properties with their own access and garden area and should be for social rent.</p> <p>Any low-cost home ownership housing including First Homes and intermediate housing should be in the form of 2b4p and 3b5p houses.</p> <p>As the Planning Application triggers over 25 affordable housing requirements, the scheme should provide 10% of the total affordable housing provision to be in the form of fully adapted disabled units in accordance with Part M4, Category 3: Wheelchair user dwellings of the Building Regulations 2010.</p> <p>For the Full Planning Permission being sought on 240 dwellings, including 60 affordable homes this would equate to a requirement of 6 fully adapted disabled units in accordance with Part M4, Category 3: Wheelchair user dwellings of the Building Regulations 2010</p> <p>To reflect local housing need the requirement is for the fully adapted units to be in the form of 2b4p and 3b5p dwellings for social rent.</p> <p>The disabled specification requirements are to be submitted and agreed in writing.</p> <p>Whilst no indication of the location of the affordable units has been provided at this stage for the Outline provision it should be noted the affordable housing should be an integral part of the development and should not be visually distinguishable from the market housing on site.</p> <p>In addition, the affordable housing is to be evenly</p>	
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	<p>distributed across the site with the practicalities of managing and maintaining units being considered when agreeing the appropriate spatial distribution of affordable housing on site. Service charges should reflect the necessity to keep these properties affordable. It is also recommended that any service charges should be calculated on a per metre square basis rather than per unit.</p> <p>The affordable housing scheme for each parcel /phase must be submitted to and approved in writing. Continuing engagement to agree the affordable housing provision is recommended.</p> <p>It is noted two layouts have been submitted for the 240 dwelling Full Planning Application including the tenure mix and location of the affordable homes. These plans will need to be updated to incorporate the comments above regarding the proposed affordable housing tenure and unit sizes.</p> <p>The developer should seek to provide the Housing Association tied units from the Councils preferred affordable housing development partners list.</p>	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LANDSCAPE	<p>A number of concerns raised regarding location of school, connections to the district centre, demand for employment units, car dependency, lack of crossings and integration of SuDs schemes, width of boulevard, connections to public rights of way, links to green necklace, biodiversity, location of allotments</p>	See Sections 13 and 14
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
HERITAGE	<p>The heritage assessment submitted identifying the change in significance of</p>	See Section 19



	Monkton Elm a Grade II heritage asset is <u>barely perceptible</u> as a result of the design and layout of Phase 2, fails to fully address the impact of the development on the setting. In addition, the adopted layout and design detail for Phase 2, needs further considering regarding the local and distinctive character of Somerset's vernacular.	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LEISURE DEVELOPMENT	No response	-
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
ARTS TAUNTON	Poor design. Too many parking spaces, poor parking layout, road widths too large, materials should be specified, permeable materials should be used, employment land is poorly connected, lack of connection between walking and cycling routes, roundabout should not be enlarged, poor district centre	See Sections 11, 12, 14, 18
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
TAUNTON AREA CYCLING CAMPAIGN	Active travel proposals are inadequate; roundabouts are too large and not compliant with guidance; lack of cycle provision on new road	See Sections 12 and 14
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
ARBORICULTURAL OFFICER	The concept layout generally has regard to high category protected trees. Concern is expressed over the extent of hedgerow removal with amendment requested to allow for greater retention. A detailed Arboricultural Method Statement will be required to show how the retained trees and hedgerows will be protected.	See section 13

	Recommendations are made over the approach to landscaping and planting, but recognition that these can be addressed by condition.	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
ENVIRONMENTAL HEALTH	<p>Noise and vibration- the proposed layout and configuration is subject to significant levels of road transport noise. The application does not sufficiently demonstrate good acoustic design approach in accordance with standards. Given the layout and configuration of the site is a key and fundamental element of the design process, object to the application.</p> <p>Contamination- additional detailed risk assessment should be submitted to the Local Planning Authority for approval. Where contaminants have been encountered, the applicant needs to provide a detailed option appraisal, remediation strategy and verification plan prior to commencement of the development.</p>	See section 21
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
NATIONAL HIGHWAYS	Recommend that planning permission not be granted- further information required on the impact of the development on the M5	See Sections 10 and 11
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
NATURAL ENGLAND	Further information required on phosphorous budget for the scheme, and proposed mitigation	See Sections 7 and 10
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>

BRITISH TELECOM	No response	-
<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 objection subject to conditions	See section 17
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
NHS SOMERSET, SOMERSET PRIMARY CARE TRUST	<p>The CCG's concern is that the combined surgeries of Creech Medical Centre, Lyngford Park Surgery and Crown Medical Centre, a community facility, are already over capacity within their existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The surgeries already have 21,063 patients registered and this new development will increase the local population by a further 3,377 persons.</p> <p>Total contribution required = £838,912</p> <p>a. Total space (m2) required x premises cost = final contribution calculation</p> <p>b. 262.16m2 x £3,200 = £838,912 (£579 per dwelling).</p>	See Section 23
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
PLACEMAKING TEAM MANAGER	Extensive comments on design and placemaking matters with particular reference to context and character, movement, built form, layout, parking, density and the district centre. A series of deficiencies of the application approach are identified.	See sections 12, 14 and 18

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
POLICE ARCHITECTURAL LIAISON OFFICER	Difficult to make comments at this outline stage. Observations on layout of roads and footpaths, communal spaces, orientation of dwellings, rear access footpaths and vehicle parking, landscaping, climbing aids, street lighting and security.	See Section 22
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
THE RAMBLERS ASSOCIATION	No comments	-
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LEAD LOCAL FLOOD AUTHORITY	Further information needed – drainage plan, details of sustainable drainage system. Details for the full application area may be conditioned.	See Section 17
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - ECOLOGY	No comments received	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - COUNTY ARCHIVIST	Further information required on any archaeological remains.	See Section 20
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - CHIEF EDUCATION OFFICER	Requires education contributions for early years, primary, secondary and SEN.	See Section 18.1
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - RIGHTS OF WAY	No objection, but applicant must apply for a diversion order	See Section 24
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - TRANSPORT DEVELOPMENT GROUP	This response is an update to the those made by Highways Development Management on 4 <sup>th</sup> February and on 10 <sup>th</sup> June 2022. No further information has been provided in support of the planning application at this time, and the planning authority has now confirmed their intention to make a planning decision and that the scheme will be considered at Planning Committee in due course. Given the current	See Sections 10.1, 11, 12 and 14

	<p>planning position, and due to the issues detailed in the earlier highway consultation responses, the highway authority objects to the application and recommends the following reasons for refusal.</p> <ul style="list-style-type: none"> <li>•• <b>Sustainable connections.</b> The proposal is contrary to policy since the planning submission presents no suitable analysis or details of the required pedestrian and cycle connections, including to a standard that fulfils the requirements of LTN 1/20 guidance and the Somerset County Council Local Cycling and Walking Infrastructure Plan, through the areas surrounding and connecting to the application site.</li> <li>•• <b>Bus access.</b> The proposal is contrary to policy since the planning submission does not present a viable public transport strategy for the application scheme.</li> <li>•• <b>Phase 1 layout.</b> The layout of the proposed development layout is unacceptable in terms of the pedestrian and cycle access</li> <li>•• <b>Phase 1 access.</b> The proposal is contrary (to policy) since the formation of an access together with the introduction of conflicting traffic movements onto and from the Monkton Heathfield Road would be prejudicial to highway safety.</li> <li>•• <b>Highway impact.</b> The proposal is contrary to policy since insufficient information is provided to demonstrate that the impacts of development would not have a severe impact on the wider operation of the highway network.</li> <li>•• <b>Parking.</b> The proposed parking layout would be likely to result in parking on the</li> </ul>	
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	<p>highway, with consequent additional hazard to all users of the road and interference with the free flow of traffic</p> <p>•• <b>Travel Plan.</b> The proposal is contrary to policy since the planning submission does not present a suitable Travel Plan in support of the application scheme.</p> <p>•</p>	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SOUTH WESTERN AMBULANCE SERVICE	No response received	-
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SPORT ENGLAND SOUTH WEST	<p>Sport England has no objection in principle to housing growth but we OBJECT regarding the lack of planning for sport on-site and/or financial contribution off-site to create new sports facilities including built sports provision. The proposal does not deliver for sport and recreation what the policy SS1 and other development plan policies require, including planning policies C2 &amp; C5. And this proposal is inadequate in terms of sport and recreation in line with adopted neighbourhood plans. We have highlighted a number of issues in this response including the lack of dedicated community sport playing fields, a sports hub with multiple playing pitches to meet the future needs or a number of sports. We recommend that further discussions and amendments are made to the proposals to take on board the comments above before the application is determined. We can then confirm Sport England's position if the sporting needs can be addressed, either through on-site provision, and/or off-site contributions for outdoor and</p>	See Section 18

	indoor sport and recreation. And the principles of Active Design can be demonstrated/use of the checklist proven	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SOMERSET WASTE PARTNERSHIP	No comments	-
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
WESTERN POWER DISTRIBUTION (BRISTOL)	No comments	-
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SOMERSET WILDLIFE TRUST	No comment	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - GYPSY LIAISON OFFICER	No comment	-
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - MINERAL & WASTE	No comment	-
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SEDGEMOOR DISTRICT COUNCIL	No comment	-

## 8.6 Local representations

Neighbour notification letters were sent in accordance with the Council's Statement of Community Involvement.

13 letters have been received (12 objections, one making general comments) making the following comments (summarised):

Material Planning Considerations	
<b>Objections</b>	<b>Officer Comment</b>
Does not make sufficient provision for ecology	See Sections 7 and 13.
Risk of rat running	See Section 11
Right turn onto A3259 should be banned	See Section 11
Opposed to a bus gate	See 11
Landscaping not up to standard	See Section 13.2
Risk of flooding	EA has not objected. See Section 17
Impact on heritage assets	See Sections 19 and 20
Density not in keeping with village	See Sections 10.1, 14
Impacts on bat roost in centre	See Section 13

Concern over relationship with housing on Phase 1	See Sections 12, 14 and 15
Loss of wildlife	See Section 13
Not local vernacular	See Section 14
Insufficient infrastructure	See Section 18
Application proposes bat roosts and ecological mitigation on land outside of their control	See Section 13
Should use the existing road not a new relief road- existing relief road a racetrack	See Sections 10.1, 11 and 12
Langaller should not be used as access	This is not part of the proposals
Doctor's surgery should be provided	See Section 23
Increased light pollution would disturb protected species	See Section 13
Insufficient parking	See Sections 11, 12 and 14
Should use new energy technology	See Section 16
New roundabout at Walford is unsafe	See Section 11
Moving of gas main is not acceptable	No comments have been received from the energy company
Location of park and ride not acceptable	See Section 10.1, 11 and 14
No details of phosphate mitigation	See Section 7 and 13
Needs a noise bund between existing development	See Section 21
Need to connect to existing facilities, e.g. retail parks and health centres – could a new railway station be built	See Sections 12, 14 and 18 A railway station has not been identified in the Policy SS1. Site lies some distance from the railway line making this not realistic
No confidence that PV panels, grey water recycling, heat pumps etc. will be installed	This would be made a condition of any planning permission See section 16
New homes not needed	See Section 10.1
<b>Support</b>	Officer comment
Allotments and mini farm have been dropped from scheme	Noted. Allotments are proposed within the green infrastructure area
<b>General Comments</b>	
Relief Road must be built before any residential development	See Section 18.5
Materials should fit in with the village	See Section 14
MH1 has not been delivered	See Section 18
ERR should have no street lighting	This would be a matter for the Highway Authority at adoption

## 8.7 Summary of objections - non planning matters

- Application driven by profit
- Consultation period too short



- Plan does not include all new houses
- Links to documents do not work

## 8.8 Summary of support - non planning matters- NONE

## 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 Deane 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) together with made Neighbourhood Plans for West Monkton and Cheddon Fitzpaine (2017) and Creech St Michael (2019).
- 9.2 Whilst the Somerset Minerals Local Plan (2015) and Somerset Waste Core Strategy (2013) form part of the development plan, they are not considered to be primary plans against which the application will be determined.
- 9.3 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.
- 9.4 Relevant policies of the Development Plan in the assessment of this application are listed below:

### Taunton Deane Core Strategy

- 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,
- CP8 - Environment
- SP1 - Sustainable development locations,
- SP2 - Realising the vision for Taunton,
- SS1 - Monkton Heathfield,
- DM1 - General requirements,

- DM4 - Design,
- DM5 - Use of resources and sustainable design,

#### Taunton Deane Site Allocations and Development Management Plan Policies

- C2 - Provision of recreational open space,
- C5 - Provision of Community Facilities,
- A1 - Parking Requirements,
- A2 - Travel Planning,
- A3 - Cycle network,
- A5 - Accessibility of development,
- I1 - Powerlines,
- I4 - Water infrastructure,
- ENV1 - Protection of trees, woodland, orchards and hedgerows,
- ENV2 - Tree planting within new developments,
- ENV4 - Archaeology
- D2 - Approach routes to Taunton and Wellington,
- D7 - Design quality,
- D8 - Safety,
- D9 - A Co-Ordinated Approach to Dev and Highway Plan,
- D10 - Dwelling Sizes,
- D12 - Amenity space,
- D13 - Public Art,
- TC3 - Local shopping

### 9.5 Neighbourhood plans

#### – **Creech St Michael 2019**

The majority of the application site (outline area) is located within the area covered by the Creech St Michael Neighbourhood Plan which was made in 2019. Section 4 of the Plan deals with the Monkton Heathfield urban extension and at 4.1.5 and 4.1.6 confirms that due to the requirement that the neighbourhood plan be in conformity with Somerset West and Taunton Council's Development Plan (including allocation policy SS1), the neighbourhood plan does not propose any specific policies for the Monkton Heathfield site.

The plan contains a series of relevant general policies including

- CSM1 – Cycle and Footpath Network
- CSM2 – Parish Traffic Management Plan
- CSM3 – Housing to meet local needs
- CSM4 – Quality of Design
- CSM5 – Employment
- CSM6 – Community Cohesion

#### – **West Monkton and Cheddon Fitzpaine 2017**

The neighbourhood plan was made in 2017 and relates to the part of the site

north of Monkton Heathfield Road between Blundell's Lane and Doster's Lane and the further parcel on the western corner with the A38. These parts of the site form the full application elements (phase 1) of the proposal.

This contains the following policies relevant to the application:

H1 Housing Suitable for Older People  
H2 External Materials for Residential Development  
H3 Refuse Bin Storage for Residential Development  
H4 Affordable Housing  
T1 Development a Comprehensive and high-quality footpath and cycle network  
E1 Starter Workshop Units  
E5 Wider Rollout of Broadband Connectivity  
R1 Dark Skies  
R2 Green Space and Wildlife  
R3 Flood Alleviation  
R4 Recreation and Community Facilities  
CA1 Developing high quality bus infrastructure

The Neighbourhood Plan for West Monkton and Cheddon Fitzpaine is in the process of being updated, with a revised Plan due to go to referendum on 22 September 2022 following the independent examination. If more than 50% of those voting are in favour of the plan it will then go forward to full Council to be made (i.e adopted). Due to its advanced stage, this revised plan is a material planning consideration and weight should therefore be given to it.

#### **9.6 Supplementary Planning Documents**

- Public Realm Design Guide for the Garden Town, December 2021
- District Wide Design Guide, December 2021
- Affordable Housing 2014

#### **9.7 Other relevant policy documents and guidance**

- Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (March 2022) and the SWT Net Zero Carbon Toolkit
- Somerset Climate Emergency Strategy
- SWT Carbon Neutrality and Climate Resilience Action Plan
- Taunton Design Charter and Checklist
- Taunton: The Vision for Our Garden Town (2019)
- Connecting our Garden Communities (consultation draft, 2022)
- Guidance notes on First Homes, recreational open space and community halls

#### **9.8 National Planning Policy Framework**

Although read as a whole, relevant sections and in some instances, paragraphs are cited in relation to the key issues.

### **10. Material Planning Considerations**

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

- Policy framework, the principle of development and land supply
- Strategic and local highway network
- Sustainable transport
- Natural Environment and Green Infrastructure
- Design and placemaking
- Housing and Residential Amenity
- Climate Change
- Ecology and Biodiversity
- Sustainable Drainage and flood risk
- Infrastructure Requirements
- Phasing
- Heritage
- Archaeology
- Air quality, noise and contamination
- Safety and crime
- Health and wellbeing
- Public rights of way
- Local finance considerations

These are dealt with in the following sections

## **10.1 Policy framework, the principle of development and land supply**

- 10.1.1 The spatial policy for the District, outlined in Policy SP1 of the Core Strategy, is to focus development on the most sustainable locations, notably Taunton and Wellington. As a result, several strategic locations have been identified for growth as new sustainable communities. The Vision for Taunton within the Core Strategy confirms that the major new neighbourhoods are to be well connected to Taunton and known as exemplars of quality placemaking, mixed use where people can meet their daily needs locally and an environment in which people are proud to live. Monkton Heathfield has specific mention as one of those major new neighbourhoods.
- 10.1.2 Policy SS1 of the Core Strategy identifies Monkton Heathfield as one of these strategic communities. The land which is the subject of this application is included within this allocation. The principle of development is therefore established by this policy.
- 10.1.3 In respect of housing provision across the District, the Council published a snapshot of the situation most recently in May 2022. This demonstrated that the former Taunton Deane area has 4.04 years of supply within its five-year housing land supply (5YHLS) target, calculated using the standard method. However, following the resolutions of the Phosphates Planning Sub-Committee on the 21 July 2022, which approved a scheme of phosphates credits in connection with interim measures in the catchment area, it is expected that more development schemes are deliverable and can be included in the 5YHLS. It is expected that between 150 – 780 homes within the catchment will be able to be released. Accordingly, although still a challenging position, it is now estimated that the 5YHLS within the former Taunton Deane area is at the upper end of a range between 4.25-5.13 years

and the Council is able to meet requirements applying reasonable assumptions over the number of homes likely to be released. Further guidance is expected shortly following the July 2022 Written Ministerial Statement over how development held up by phosphates may in some circumstances still be counted as deliverable. This can only improve the Council's supply position.

10.1.4 Delivery of housing at this site is dependent firstly upon achieving a solution in terms of phosphate mitigation, and in any case is unlikely to be completed within five years, due to the requirements to sign legal agreements, comply with any imposed conditions, and timescales for the construction of infrastructure. Due to the scale of the proposal, it is also expected that it would take more than five years to build out. The latest published position in May 2022 did not include any dwellings within this Monkton Heathfield phase 2 application site as being occupied within 5 years. Even if permission were granted and the 240 dwellings within the full part of the application were included, this would only contribute 0.33 years to the 5YHLS calculation.

10.1.5 Policy SS1 identifies a series of criteria which need to be considered for this policy to be met. A number of these criteria do not apply to this application – either they have already been delivered or addressed elsewhere (for example West Monkton cricket club and the first part of the relief road) or they do not relate to this part of the application (for example the provision of a country park within the green wedge between Monkton Heathfield and Priorswood/Nerrols).

10.1.6 There are several criteria which are relevant to this application and therefore are required to be met in order to satisfy the policy requirements of the Core Strategy. These are either addressed below or within subsequent sections of this report by material consideration topic. First, is the requirement for phased delivery of around 4,500 new homes at an overall average of 35-40 dwellings per hectare. The application site forms a significant part (Phase 2) of this allocation. Earlier phases at Monkton Heathfield also incorporate land at Hartnells Farm and Aginhills Farm which together provide 1,356 dwellings, most of which have been delivered. The applications submitted to date indicate a significant under-provision in housing numbers against the allocation. If granted, this application for 1,450 (of which 200 are in full detail) together with those granted to date would total 2,806. This is 1,694 houses less than the allocation with approximately 27.2 hectares yet to be subject to an application. Even with future applications on the remaining land parcels, this indicates an expected under delivery of housing on the allocation. Given this is a greenfield allocation it is particularly important that proposals make best use of land.

10.1.7 The issue of the amount of development coming forward on the Monkton Heathfield SS1 allocation site was considered at the meeting of SWT Executive on 15 September 2021. The report identified that the allocation will not deliver the 4500 originally envisaged, due to lower density development than was anticipated when the policy was adopted. This was at a time when national minimum density standards were in place. The report includes the consideration of the implications of this by the former TDBC Scrutiny Committee in January 2019. In order to address this likely shortfall in housing delivery at Monkton Heathfield, and delivery issues around employment land, TDBC resolved to release some of the employment land, south of Manor Farm, Langaller for residential use including affordable housing and the delivery of significant areas for green infrastructure. The September 2021 report goes on to identify land south of Manor Farm at Langaller as offering

opportunity to deliver additional housing within the SS1 Policy area, whilst securing the delivery of the employment land and that TDBC Scrutiny Committee resolved in January 2019 to support these principles. This previous consideration and Committee resolution on the amount of development in policy SS1 is relevant to the assessment of the quantum of development. No objection is raised to the number of dwellings proposed by this application.

- 10.1.8 There is a SS1 policy requirement for 25% of new homes to be affordable homes in line with policy CP4. This is addressed further within section 15 on housing.
- 10.1.9 Policy SS1 provides for a mixed-use district centre to support the development, specified as comprising a food store, convenience and comparison retail, financial and professional services, restaurants and cafes, drinking establishments, hot food takeaways and offices together with multi-functional community facilities. Floorspace figures are provided within the policy. The response of the application to this requirement is considered within section 18.4.
- 10.1.10 Policy CP2 of the Core Strategy sets out the employment strategy for the District. This includes 36.5 hectares of general employment space within the wider Taunton urban area, and at Wellington. Policy SS1 requires 10 hectares to be reserved for employment purposes for longer term release around Walford Cross. The outline part of this application provides 4.83 hectares of land for strategic employment adjacent to existing employment at Walford Cross. This is considered further in section 18.2 below.
- 10.1.11 Across the whole development allocation area, the policy sets out the need for 3 new primary schools and a new secondary school. Section 18.1 considers this in more detail.
- 10.1.12 Policy SS1 states that the development should include a suitably located energy centre to provide locally generated electricity to the new development. This does not form part of the application proposal. An energy report has been submitted to support the application and covers the first phase (full application) of the development rather than the wider site area of the whole application. It is stated that further energy assessments will be submitted at reserved matters stage for the remainder of the development. This approach compartmentalises the site and does not consider whether there is opportunity for a site wide approach to energy generation via a range of technologies. There is no comprehensive assessment of suitability for a district heating network. Instead, combined heat and power use for the full application area of the site only is considered and discounted due to insufficient scale and inconsistent load requirements for residential development. The report acknowledges that combined heat and power could be suitable for some of the commercial elements, but that these are all in the outline part of the site, thereby to be addressed at a later stage. The energy report states that a previous update on the project removes the need for district heating. This is not correct. The update on policy SS1 considered at the meeting of former TDBC Scrutiny Committee on 15 January 2019, whilst acknowledging that the experience of other Local Authorities suggests that the provision of energy centres or so called district heating may not deliver the carbon reductions anticipated when the Core Strategy was adopted; states that it will be for

developers to demonstrate that such provision within the Policy area is not viable and, to ensure carbon emissions can be reduced in line with National Guidance as an alternative.

The energy statement discounts the use of a biomass boiler due to the need to have a district heating network, it does not say why this is not possible. District heating networks have successfully been used on similar developments (e.g. at Cranbrook in Devon) and given the climate emergency this should be considered in this instance. A holistic review of options and opportunities is lacking and the proposal fails to fully assess and address this requirement of policy SS1 across the application area. Further assessment of the proposal in terms of sustainability and climate change is included in section 16 of this report.

10.1.13 Policy SS1 contains criterion requiring a range of highway matters be addressed across the whole allocation area of which this application forms a significant part. These include:

- i) The provision of a park and ride site south of the A38 west of Walford Cross;
- ii) The implementation of a A3259 corridor strategy
- iii) A new western development spine to connect the A38 and the A3259 t south-west of Monkton Heathfield;
- iv) Improvements to the A38 to transform it into an urban street;
- v) A new eastern development spine to the south and parallel to the A38;
- vi) Infrastructure for bus rapid transit

10.1.14 As submitted, the application proposes land for a 600 parking space bus and ride site at Walford Cross, but the laying out and delivery of the facility itself does not form part of the application with no assurance that the site can be delivered or accessed. Accordingly, the application does not meet the requirements of this policy criterion. The location for this facility also requires further consideration in order to maximise its use and effectiveness. At present residents from the SS1 allocation are required to travel in the opposite direction to their destination to access the facility, reducing its attractiveness. The site proposed is also behind existing employment development at Walford Cross with no presence on or close association with the A38. The policy refers to the site as being to the west of Walford Cross and the policy key diagram shows this, indicating an area more closely related to the residential development.

10.1.15 The western development spine connecting the A38 and the A3259 to the south-west Monkton Heathfield referred to in the policy criterion has been delivered in connection with earlier development phases and is not a matter for this application. No off-site highway works are proposed through this application save those required in connection with access to the site. The extent to which the application assesses and addresses its off-site highway and transport impacts upon both the strategic and local highway network is considered in the highway section below (section 11).

10.1.16 The policy requires a new eastern development spine road to the south and parallel to the A38. This is proposed to be delivered at a late phase of the development (but it is not clear precisely when). The eastern relief road is

proposed to form a new eastern edge to most of the development in the application, thereby separating it from the 'green necklace' green infrastructure area. The need and appropriateness of providing a new eastern spine road in addition to the existing A38 (dual carriageway as it abuts the north of the main area of the application site) is questioned due to reinforcement of a car based and car dominated approach to the development rather than the prioritisation of active travel and public transport. The scheme has been planned around the eastern spine road, its presence and location predating decisions on the wider layout, inhibiting a low carbon approach, connectivity and permeability. The need for this new road is questioned within the Transport Assessment, but without resolution from a technical assessment perspective and this questioning is not reflective in the rest of the submission. Further assessment is required to determine the need for the relief road, and other highway interventions that may be required in its absence. Quality placemaking considerations strongly suggest that this eastern spine road should be revisited.

- 10.1.17 The application references bus service provision through the scheme, but does not sufficiently consider service provision, connections or prioritisation. No bus strategy has been promoted as part of the submission and it is therefore unclear how the site can be adequately served by public transport. This is considered further in section 12 below.
- 10.1.18 Policy SS1 also states that the development should deliver Strategic sustainable urban drainage system (SuDS) infrastructure. The Lead Local Flood Authority sums up the proposed approach as 'pipe to pond' and recommends a sustainable drainage assessment due to a variety of SuDS types and techniques not being included. Further information is also recommended for drainage proposals relating to the full application area. Although some additional information has been provided, the applicant has therefore not currently demonstrated the adequacy of the proposed approach to water management to the satisfaction of the Lead Local Flood Authority and therefore compliance with these policy requirements.
- 10.1.19 A key tenet of Policy SS1 is the requirement for a multi-purpose green necklace of landscape and open space surrounding the settlement providing allotments, outdoor recreation and wildlife habitat. The policy also requires the green necklace to fulfil i) woodland planting requirements in connection with lesser horseshoe bat activity from Hestercombe House Special Areas of Conservation (SAC) together; ii) the provision of functional off-site offset woodland habitat to compensate for habitat loss prior to the commencement of any development north of the A3259 and iii) a landscaping belt between the motorway and the development areas. The Design and Access Statement identifies the provision of 43.6ha of green infrastructure of which 30.87ha is to be public open space. 20.76ha of this is to be provided as part of the green necklace which is described as informal recreation, linear country park/semi-natural parkland. Indicative proposals for the green necklace are referred to as informal kickabout, woodland, wildflower meadows, allotments, sustainable urban drainage attenuation ponds, public footpaths for recreation, habitat creation and community orchards.
- 10.1.20 Although shown within the indicative layout plan, there is a general lack of information over what is to be provided, where and how much within the 'green



necklace' green infrastructure area. The application refers to this area as subject to further discussion and no land budget for the green infrastructure has been provided. This uncertainty is further added to due to the absence of an agreed phosphate budget and phosphate mitigation. The applicants are known to be considering the potential for on-site phosphate mitigation within the green necklace area thereby raising further questions over how the area will be utilised and what types of green infrastructure will be provided. The green necklace and its facilities/green infrastructure types is considered vital to quality, healthy, biodiverse and sustainable place making.

- 10.1.21 In advance of national mandatory requirements coming into force, existing development plan policies including SS1 do not explicitly require biodiversity net gain. However, the Council will seek to negotiate to secure a 10% net gain in biodiversity from development proposals where possible through a combination of existing policies, the NPPF, the declaration of an Ecological Emergency and clear intent from the Environment Act including the incoming upgraded Natural Environment and Rural Communities Act duty for local authorities to conserve and enhance biodiversity. The National Planning Policy Framework refers to providing net gains for biodiversity through planning decisions (paragraphs 174 and 180). The application does not currently follow this approach.
- 10.1.22 The submitted phasing parameter plan indicates the delivery of the 20.76 hectare green necklace public open space in three tranches. The first section of green necklace is proposed with phase 3 housing with the second and third phases of the green infrastructure aligned with the delivery of the final two phases of residential development. Accordingly, a significant portion of the residential development (phases 1 and 2 and potentially much of phase 3) would be delivered in advance of any meaningful part of the green necklace. This is considered to the detriment of both the health, wellbeing and amenity of the residents and creation of a high quality, sustainable place.
- 10.1.23 Formal sport provision in the form of sports pitches is not indicated within the green necklace area. Instead, there is reference to 6.3ha of dual use sports pitches on the school site. There is no indication of the detail of this provision at this stage of the application and this would be the subject of further discussion. However, it is clear that the principle of dual use of the formal sports provision is sought given the lack of accommodation within other areas of public open space. An objection has been received from Sport England based on the lack of separate, adequate sports provision with reference to the lack of a community sports hub (or financial provision to deliver one) to meet the needs of the future population and that dual use playing fields are not supported. The need to achieve active design principles is also highlighted in the consultation response.
- 10.1.24 Two senior football pitches with changing facilities and parking were secured via the S106 agreement as part of the earlier outline permission for the first phase on land to the south of the western relief road (new A38) under application 48/05/0072. However, although the trigger for the provision was prior to the occupation of the 500<sup>th</sup> dwelling, the pitches are yet to be delivered. It is considered important that the current application comprehensively plan for sports pitch provision. Dual use of facilities between a school and the community is generally seen as sub-optimal, due to the limitations it places on

the availability of the pitches to different users and pressure of use on the facilities and may also raise issues of security and safeguarding for a school site. There is therefore a clear preference in pitch planning for separate provision and this should be sought in this instance in order to meet the needs of the future population. Local and national pitch standards together with an understanding of local provision and deficits will inform the number and type of pitches required. There are therefore concerns raised over the current approach of the application to the provision of sports pitches, coupled with a lack of clarity over what is to be provided. This is also considered in section 18.4.

10.1.25 Finally, in terms of SS1, the policy sets specific requirements for the form and layout for the Monkton Heathfield allocation in terms of design and placemaking with specific reference to variety of character areas reflective of existing landscape character and natural features to create a distinctive and memorable place; an accessible district centre with a mix of facilities and uses; a connected street network which accommodates pedestrians, cyclists and vehicles and promotes a viable public transport system; well-designed public open spaces enclosed and overlooked by new development; a positive relationship between new housing and existing communities; a well-defined green edge to the urban area protecting views from Hestercombe House and the Quantock Hills. Design and placemaking matters are addressed in section 14 of this report.

10.1.26 Whilst the proposal would result in the delivery of significant numbers of housing, employment and community uses within an allocated site identified as a focus for development, the application has not demonstrated that it meets the requirements of policy SS1. These are highlighted above and further through this report.

## **10.2 Other Core Strategy Policies**

10.2.1 Core policies CP1 – CP8 set out strategic policies reflective of the plan's strategic objectives. They set out the strategic approach to mitigating and adapting to climate change (CP1); the allocation approach to meet economic forecast need (CP2); that the district centre at Monkton Heathfield is to provide a complementary secondary focus for main town centre uses, functioning as an important service centre to meet localised catchment needs (CP3); strategic housing policy to maintain the supply of housing over the plan period (CP4); the promotion of socially inclusive, cohesive communities with accessibility to opportunities, facilities and services and inclusive housing. CP6 emphasises reducing the need travel, improved accessibility, mitigation and adaptation to climate change. It emphasises accessibility by public transport, cycling and walking to key destinations, using smarter choices measures to achieve modal shift and manage parking to encourage sustainable travel modes. Ensuring infrastructure is in place at the right time to meet need and support growth is recognised in policy CP7. CP8 sets out a strategic policy for the environment and addresses key issues. Together these policies articulate the high-level approach to core plan objectives. Assessment of the application against these policies is included in the context of the material considerations that follow within this report.

10.2.2 Policy DM1 sets out general development management requirements through

wide ranging criteria that all proposals are expected to meet and is used alongside other more detailed policies. Accordingly, it is referred to across several of the material consideration below. Policy DM4 (Design) encourages a sense of place by addressing design at a range of spatial scales via the use of planning documents appropriate to each scale (see section 14). No masterplan or design code has been adopted for the Monkton Heathfield site. Policy DM5 is also relevant to the determination of this application and deals with the use of resource and sustainable design, requiring *'all development, including extensions and conversions, to incorporate sustainable design features to reduce their impact on the environment, mitigate and adapt to climate change, and particularly help deliver reduction in CO2 and other greenhouse gas emissions'*. This is considered in section 16.

### **10.3 Taunton Deane Site Allocations and Development Management Plan (SADMP) Policies**

10.3.1 Policy TC3 sets out expectations for local shopping including within the allocation district centre, including generating footfall and being of general public interest or service with active ground floor frontages. Accordingly, the more strategic role of the proposed district centre is recognised. There are concerns over the application's approach to the district centre which are addressed within section 18.3.

10.3.2 Community policies address recreational open space and community facilities. Policy C2 requires recreational open space arising from new development meets relevant standards and subject to viability demonstrate how they are responding to them. In this instance the formal recreation proposals incorporate 6.3ha of sports pitches to be located at the school site for dual use. This is considered further in sections 10.1.23, 10.1.24 and 18.4. Policy C5 relates to community facilities and seeks to ensure increased demand for community halls is met in line with standards. Material supporting the application identifies the need to provide additional facilities to serve as a community hall/hub within the development to meet need, recommending a 1,000 sq m facility within the district centre. The application indicates an intent to provide up to 2,000sq m including a 1,000 sq m community hall and 500 sq m health centre, Creche/nursery facilities are also referred to.

10.3.3 Policy A1 sets out car and cycle parking requirements which are normally in accordance with Appendix E standards. However, the policy also recognises that in order to promote sustainable travel and make efficient use of land, car parking need will also be considered against the impact on urban design, accessibility of the development, proximity to employment and services and, the type and mix of proposed dwellings. There is therefore the opportunity to comprehensively assess parking in the wider context of planning for movement and sustainable transport, thereby reducing the current car-led approach and designing the scheme to achieve modal shift to move active and sustainable travel. A reassessment of car parking would need to be accompanied by a comprehensive approach to public transport provision and walking/cycle route planning. A comprehensive approach to travel planning is the subject of Policy A2. Both are considered with the highway and transport at section 11.

- 10.3.4 Policies A3 and A5 set out the need to plan for cyclists and accessibility via walking or public transport to employment, convenience and comparison shopping, primary and secondary education, primary and secondary health care, leisure and essential facilities specifying maximum travel time by public transport and acceptable walking distances. Assessment within sections 11, 12 and 14 indicate a lack of comprehensive consideration of accessibility and connectivity both within and without the development, in terms of the relationship with earlier phase and to wider facilities and services in the area. There are no offsite pedestrian and cycle improvements promoted as part of the development proposals.
- 10.3.5 Policy I4 requires adequate water infrastructure with surface water disposal via SUDS (sustainable drainage systems). The Lead Local Flood Authority has commented and at section 17 it is noted to have requested further information on the proposed drainage within the detailed area of the application.
- 10.3.6 SADMAP contains a range of relevant environment related policies. Policy ENV1 seeks to conserve and enhance biodiversity through the protection of existing site trees and hedgerows. Such features need to be recognised and safeguarded as part of the layout and design process and make a valuable contribution to the sense of place, legibility and quality of the resultant scheme in addition to biodiversity benefits. Policy ENV2 also seeks tree planting in communal areas, along streets, between buildings and on highway verges. Whilst some of this requirement would be expected to be addressed via a detailed landscaping scheme that could be conditioned, there are also layout implications meaning compliance with this policy needs to be addressed in the layout and design at the application stage. Although tree planting is proposed within the development, it is primarily within open space areas rather than genuinely and comprehensively incorporated within the design of the scheme.
- 10.3.7 Policy ENV4 relates to archaeology. The application does not to date demonstrate compliance with this policy, as based on the work undertaken to date, the extent of archaeological impact arising from the development remains uncertain in the absence of the recommended trial trenching. This is assessed further in section 20.
- 10.3.8 Policy D7 requires a high standard of design quality and sense of place and is referred to in more detail in section 14. The consultation response of the Placemaking Officer is relevant and raises serious concerns over the quality of the design response set out within this application. Policy D9 is also relevant to design considerations in respect of highway planning. Many of the design concerns raised relate to highway planning matters: legibility, accessibility, permeability, walking and cycling provision. This too is addressed within subsequent report sections where deficiencies in the approach of the application are identified.
- 10.3.9 Policies D10 and D12 set out requirements for dwelling size and amenity space that the application will need to meet and in the context of this application is of greatest relevance to the detailed planning of the first phase which has been submitted in full. The housing and residential amenity section 15 relates.

## **10.4 Neighbourhood plans**

## Creech St Michael Neighbourhood Plan 2019

- 10.4.1 The majority of the application site (outline area) is located within the area covered by the Creech St Michael Neighbourhood Plan which was made in 2019. Section 4 of the Plan deals with the Monkton Heathfield urban extension and at 4.1.5 and 4.1.6 confirms that due to the requirement that the neighbourhood plan be in conformity with Somerset West and Taunton Council's Development Plan (including allocation policy SS1), the neighbourhood plan does not propose any specific policies for the Monkton Heathfield site.
- 10.4.2 Section 4 of the Plan makes reference to garden town principles and that Parish residents existing and future will have high expectations of the new development with reference to criterion within Core Strategy policy SS1 and the following statement 'Creech St Michael Parish calls on all interested parties to work collaboratively to deliver a high quality development for Monkton Heathfield that reflects the Garden Town Principles'.
- 10.4.3 Nevertheless, the plan contains a series of relevant general policies dealing with the walking and cycling network; effects of the highway network and highway safety; delivery of housing that will help meet the local need; a high standard of design quality that complements and enhance the local character and rural context of the area; demonstrate how the new community will be positively integrated with the existing community in the Parish.

## West Monkton and Cheddon Fitzpaine Neighbourhood plan 2017

- 10.4.4 The neighbourhood plan was made in 2017 and relates to the part of the site north of Monkton Heathfield Road between Blundell's Lane and Doster's Lane and the further parcel on the western corner with the A38. These parts of the site form the full application elements (phase 1) of the proposal. The plan sets out a vision to successfully accommodate the significant growth planning and to ensure high quality design with the creation of sustainable places with excellent community facilities for local people to enjoy. The plan further articulates housing, transport, employment, recreation and environment objectives. Relevant to this application are a range of policies relating to older persons accommodation; materials; refuse bin storage; local housing need; footpath and cycle network and connections; employment starter units and social care employment; the protection of dark skies; green spaces and wildlife areas with specific reference to mitigating the impact upon bat foraging areas north of Monkton Heathfield Road; flood attenuation; recreation and community facilities and improving bus services and bus infrastructure. Many of these policy objectives are picked up within other parts of the development plan and are considered in the relevant section of this report.
- 10.4.5 The neighbourhood Plan for West Monkton and Cheddon Fitzpaine is in the process of being updated, with a revised plan having recently been at examination. It is due to be considered at referendum on 22 September 2022. Due to its advanced stage, this revised plan is considered to be a material planning consideration. Whilst most changes are considered minor, there are several material modifications to the plan that are yet to be examined: A new policy H5 Building and Climate and Change has been added requiring building styles and materials that address the climate change emergency to be included

in all new builds and highly energy efficient building development proposals should demonstrate a net emission rate of zero or below when performance monitored or are certified by a quality regime. Measures to reduce carbon emissions are supported (with reference to Part L of the Building Regulations). Policy T5 is amended to include a timing requirement for the provision of walking and cycling routes on major development such that they are delivered before or soonest after first occupancy.

### **Relevant local guidance**

#### **10.3 Supplementary Planning Documents**

- 10.3.1 The Council adopted a Public Realm Design Guide for the Garden Town and a District Wide Design Guide as SPDs in December 2021. Both are relevant to the application and are material planning considerations. The assessment of the application against these documents is included in section 14.

#### **10.4 Other local guidance**

- 10.4.1 Following the declaration of a climate and ecological emergencies, Somerset Climate Emergency Strategy and the Somerset West and Taunton Carbon Neutrality and Climate Resilience (CNCR) Action Plan were produced. In addition Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (February 2021) is relevant and provides specific interim guidance on how the climate emergency is to be addressed through the planning system and the relevance of existing policies. It was updated in March 2022. Climate Positive Planning sets out that the Sustainability Checklist and Energy Statement will be the means by which the Council considers how policy requirements (the majority of which remain valid) are met by proposals. It is further accompanied by the Somerset Climate Emergency Strategy, the Somerset West and Taunton Carbon Neutrality and Climate Resilience (CNCR) Action Plan and the Net Zero Carbon Toolkit. An assessment of the approach of the application on these matters is contained within sections 10.1.12 and 16.

#### **10.5 Relevant national guidance**

- 10.5.1 A range of national design and placemaking guidance is considered relevant to the consideration of this application. These include (but are not limited to) the National Design Guide and National Model Design Code; Manual for Streets 1 and 2. In addition, technical guidance such as LTN1/20 sets out the standards expected of cycle infrastructure. These contribute to setting out the design process, standards required and all need to inform the development.

#### **10.6 Taunton Garden Town**

- 10.6.1 The Monkton Heathfield allocation under policy SS1 and this application site forms part of the Taunton Urban Area designated as a Garden Town by the Government in 2017. The Government's Garden Communities Prospectus refers to the setting of clear expectation for the quality of development, how this can be maintained ('such as by following Garden City Principles'), to see vibrant, mixed-use, communities where people can live work, and play for generations to come. It sets an expectation of exemplar large new development

with high quality placemaking, embedding a series of key qualities: clear identity, sustainable scale, well-designed places, great homes, strong local vision and engagement, transport, healthy places, green space, legacy and stewardship arrangements and future proofed.

- 10.6.2 Somerset West and Taunton Council adopted a Vision for Taunton as a Garden Town in 2019 and has gone on to develop a Taunton Design Charter, Design Checklist, Taunton Garden Town public realm design guide SPD and Districtwide Design guide SPD. All these together with the garden town designation are considered material planning considerations, collectively setting out the vision, approach and high standards expected of development.

### **Detailed considerations and assessment**

## **11. Strategic and Local Highway Network**

- 11.1 It is proposed to access the site directly from the existing A38. This road was historically the main route between Exeter and Bristol but now forms a secondary, but still important link between Taunton and Bridgwater via North Petherton. The A38 extends from the Creech Castle junction into Bathpool and has in the past 10 years been diverted around the new development at Monkton Heathfield- here it is a single carriageway road linked by several large roundabouts, which form estate roads into the Monkton Heathfield Phase 1 (MH1) development. It is also linked to Creech St Michael via Langaller Lane to the north-east of the bypassed road. The A38 converges with Monkton Heathfield Road, the latter previously being the A3259 which connected to the northern part of Taunton and to Minehead. At this point the A38 becomes a short section of dual carriageway to the area known as Walford Cross, which is the junction with the A361 Taunton to Wells and Shepton Mallet road.
- 11.2 Part of the strategic highway network and a critical national highway asset is the M5 motorway which forms the eastern boundary to the site. The closest access to the M5 is at Junction 25 to the south, achieved via the Creech Castle junction and the A358 Toneway via the Hankridge Retail Park. National Highways is the statutory body with responsibilities for the strategic road network and has commented in some detail on this application. The review of the transport assessment (TA) submitted with the application by National Highways concludes that there are a number of key omissions that need to be addressed before the impact on M5 Junction 25 can be fully understood and accepted. The specific transport matters that need to be addressed are identified in some detail within the response and relate to traffic modelling methodology, assumptions and sensitivity testing in respect of predicting travel through M5 junction 25. National Highways recommends that the application not be granted and has issued and updated a holding direction to that effect (the most recent issue of this being July 2022). This is intended to provide time for the applicant to provide necessary details relating to the proposed development to enable Highways England to fully understand the impact of the development on the safe and efficient operation of the M5 motorway and its assets, and thereby provide the Local Planning Authority with fully informed advice. First raised in January 2022, to date the outstanding highway issues have not been addressed and in the face of the National Highways holding objection, the application cannot currently be granted. In relation to Junction 25 of the M5, and lack of information, the proposal is considered contrary to

policies CP6 and DM1b (Taunton Deane Core Strategy) and the National Planning Policy Framework.

- 11.3 Several references to the local highway network are made in Policy SS1. This includes the implementation of the A3259 corridor strategy, improvements to the A38 to transform it into an urban street, a new eastern development spine to the south and parallel to the A38, a connected street network which accommodates pedestrians, cyclists and vehicles and promotes a viable public transport system. The concept plan to this policy in the core strategy does indicate a new relief road to the east, although it retains the existing A38 as a 'primary route'.
- 11.4 Policy A1 sets out car and cycle parking requirements which are normally in accordance with Appendix E standards. However, the policy also recognises that in order to promote sustainable travel and make efficient use of land, car parking need will also be considered against the impact on urban design, accessibility of the development, proximity to employment and services and, the type and mix of proposed dwellings. There is therefore the opportunity to comprehensively assess parking in the wider context of planning for movement and sustainable transport, thereby reducing the current car-led approach and designing the scheme to prioritise sustainable transport and achieve model shift to more active and sustainable travel including public transport. A reassessment of car parking would need to be accompanied by a comprehensive, priority approach to public transport provision and walking/cycle route planning. A comprehensive approach to travel planning is the subject of policy A2.
- 11.5 A transport assessment (TA) has been submitted with the application. It is stated that the intention is to consider the transport and access issues in order to comply with Policy SS1 of the Core Strategy, NPPF paragraph 111, and the results of pre-application engagement with key stakeholders and residents. This included the need to provide a bespoke assessment of the traffic impact of the proposals. This includes the need to consider the impact on the wider transport network, such as the A358 Toneway and M5 Junction 25, and to consider the impact of new roads such as the MH1 relief road and the recently constructed link at Aginhills between the A38 and the A3259.
- 11.6 As set out in the consultation response, the Highway Authority has significant concerns relating to the traffic model approach, and the reliance on a manual assignment model. The Highway Authority requires that scenarios developed within the existing Toneway Traffic Model are used to assess the potential impacts of the application scheme. Given the assessment approach, multiple scenarios may be required. Furthermore, the submission states a reliance on a "decide and provide" approach to the transport assessment. The Highway Authority does not consider the assessment to be in accordance with the published guidance and a range of possible outcomes have not been evaluated. It is therefore not possible to determine the range of transport interventions that may be required, nor their triggers. It is therefore not known whether further transport interventions are required on the A3259 corridor, A38 or other parts of the local highway network (policy SS1 relates).
- 11.7 The approach within the TA has been described as 'decide and provide' by the Highway Authority. They are critical of this approach as it lacks a number of



scenarios which might be expected to be included in such analysis. The Highway Authority states that the scenarios should include a range of trip generation assumptions, and by using a dynamic traffic model, this may also influence the distribution of traffic across the highway network. In addition, the proposal lacks a monitoring and evaluation plan which would identify how the development impacts match the assessment scenarios presented within the planning application. The possible impact of the Park and Ride facility has also not been modelled within the calculations.

- 11.8 The TA acknowledges that the highway proposals which have already been delivered as part of the MH1 allocation is based on an outdated approach to road investment. The further diversion of the A38 (the Eastern Relief Road) is questioned within this document, stating that 'it should not be the intention to construct this to afford unnecessary additional road capacity that will inevitable attract traffic to the area rather than manage it'. An alternative strategy which retains the existing A38 is put forward.
- 11.9 Despite these concerns stated in the TA, the submitted proposal is to provide a new 'Eastern Relief Road' connecting and enlarging the existing roundabout which goes to Creech St Michael with a new roundabout which would emerge to the southwest of Walford Cross. It is proposed then to downgrade the existing A38 between these points, and to install a bus gate to prevent through traffic on this road. The enlarged roundabout would also provide access into the site. However, without the presentation of a viable public transport strategy the proposal is contrary to policies D9 and SS1, as it does not explain the purpose of the bus gate or indicate the movement of traffic displaced by it.
- 11.10 The proposed Boulevard crosses the development from east to west and splits the development into two areas. The section at the design statement document shows a 7.3m wide carriageway which is very wide. To prioritize pedestrians and cyclists, the width should be narrowed to a minimum and add measures to calm the traffic.
- 11.11 The Highway Authority response also considers the two parcels for which full planning approval is sought and comments that the northern land parcel is dominated by an internal access road which is routed along the southern boundary of the site. The Highway Authority raises significant concerns relating to the junction spacing, with the main junction with Monkton Heathfield Road being immediately adjacent. The alignment also raises significant concerns regarding headlight overspill into adjacent highway carriageways. In summary, their view is that the positioning of the access junction to the site, and the subsequent impact on the internal highway arrangements raises highway safety concerns. In general, the proposed layouts appear to be highway dominated and there would appear to be significant opportunities to reduce the areas of formal adopted highway. This should include better use of private drives and shared space, and turning spaces can be designed to ensure that they do not dominate the urban form and surrounding landscape areas.
- 11.12 The Highway Authority also considers that the approach to parking on these full application areas does not work, with a lack of clarity over whether unallocated spaces are associated with dwellings or provided as visitor only spaces and there are significant parts of the site where no spaces are shown which requires correction. The internal dimensions of all garages should be at least 6m x 3m,

and the applicant should clarify that this is the case for all garages to be provided. It is unclear from the submission how electric vehicle charging will be accommodated at each of the residential dwellings, and this needs to be clarified by the applicant. There are a number of spaces which are remote from the curtilage of the dwellings, and the charging provision at these locations needs particular attention. The submitted Persimmon Homes parking layout shows a rear parking area for Units 30 to 37, with several of these being affordable dwellings. The proposed parking layout is unworkable (the spaces could not be accessed) and this part of the site would need to be comprehensively reviewed. The proposed layout includes highway links that are shown to connect through the second phase of the future development. There is a concern that depending on how the adjacent land parcels are developed, and phased, the highway routes could become important access roads to the school and the proposed district centre. Whilst the submitted Access and Movement plan shows a hierarchy of green streets and shared spaces, the characteristics of the route are not clear, and the shared spaces need to be clearly defined.

- 11.13 Policy CSM2 of the Creech St Michael NP requires all proposals include measures to ensure any effects of the highway network are acceptable and will not adversely affect highway safety and demonstrate compliance with the Parish Traffic Management Plan.
- 11.14 In respect of highway and transport matters, the application has been identified as providing insufficient information to fully understand the impact of the development on the strategic highway network; specifically, the safe and efficient operation of the M5 motorway and its assets; the transport assessment is not considered in accordance with published guidance and a range of possible outcomes have not been evaluated. It is therefore not possible to determine the impact of the development upon the local highway network, the range of transport interventions that may be required in order to address those transport impacts, their triggers for provision in relation to the phases of development and their delivery has not been secured. Conflict has been identified with policies CP6 and DM1b of the Taunton Deane Core Strategy and provisions within the National Planning Policy Framework section 9.

## **12 Sustainable Transport – Bus and Active Travel**

- 12.1 In addition to the Transport Assessment, a Travel Plan has been submitted with the application. This is due to a requirement within the Local Plan Policy A2 which states that all development proposals which require a significant amount of movement require one. Action points identified within the travel plan include the appointment of a travel plan co-ordinator for residential development; provision of cycle parking; promotion of the health benefits of walking and cycling; incorporating pedestrian links through the site; providing bus timetable information; construction of a toucan crossing, and segregating pedestrians and cycle provision.
- 12.2 Taunton presents a major opportunity for tackling transport related emissions through a range of means, including prioritising public transport and active travel. Developments on the perimeter of the town such as Monkton Heathfield also present opportunities for better integrating external communities with active travel links. Active travel forms a key part of the Somerset West and

Taunton Council's Carbon Neutrality and Climate Resilience Action Plan, with a series of actions dedicated to it. In addition to this, enabling active travel provides numerous co-benefits of action including in relation to health and wellbeing through increased activity levels and reduced air pollution and the creation of more integrated and viable communities, not segregated by barriers to active movement or the necessity to travel by car. Targeting carbon neutrality and active travel are key aspects of the Garden Town Vision.

- 12.3 Amongst other things, Climate Positive Planning includes commentary and guidance in relation to the relevance of existing planning policies including Policy SS1 of the Core Strategy (which allocates this site for development) and policies A3, A5 and D9 of the SADMP in relation to active travel linkages. These policies, together with CP6, SP2 of the Core Strategy promote reducing the need to travel, improved accessibility by public transport, walking and cycling as part of a coordinated approach to transport planning.
- 12.4 The consultation response from the Highway Authority also references the publication of the Somerset Bus Service Improvement Plan in 2021. This details the service and infrastructure improvements that will be made across the county to improve bus patronage. There are a number of targets, including mode shift from the car to the bus for commuter trips. No bus strategy has been promoted as part of the planning submission, there is no detail of bus routing, the enhancement of services nor how the different phases of the site can be appropriately served by public transport as the development is delivered over time. The application is not considered to comprehensively plan for public transport. In addition to the policies referred to above, policy CA1 of the West Monkton Neighbourhood Plan supports measures to improve bus services and bus infrastructure.
- 12.5 Policy A3 of the SADMP requires that new development should not conflict with, and where relevant should provide for: five criteria around provision of a cycling network. Policy A5 states that provision should be made for cycling "between residential development and non-residential facilities, or between a non-residential development and its catchment area, where these lie within 5km of the development".
- 12.6 Policy T1 seeks the development of a comprehensive and high-quality cycle and footpath network proving safe and convenient connections both within the neighbourhood planning area and to wider adjoining networks, particularly the urban extension and associated green space areas, existing and proposed schools and local centres. Concerns have already been identified under other policies over the approach and missed opportunities within the application over walking and cycling connections.
- 12.7 Policy CSM1 of the Creech St Michael NP requires that major developments enhance the safety, legibility and capability of the walking and cycling network and /or deliver a network of new dedicated walking and cycling connections; Policy CSM6 of this NP requires major residential development proposals to demonstrate how the new community will be positively integrated with the existing community in the Parish addressing high quality walking/cycling links and facilities, accessibly to existing residents and addressing the economic, environmental, social and cultural impact of the new community of the existing community.

- 12.8 Paragraph 104 of the NPPF promotes sustainable transport through walking, cycling and public transport together with wider transport aspects of high quality places with reference to patterns of movement, streets, parking and other transport considerations being integral to the design of schemes and contributing to that quality. Applications are specifically required to give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use (paragraph 112).
- 12.9 There is no comprehensive audit of the pedestrian and cycle routes to and from the site, and these are not reviewed in the context of the latest design requirements. There are no offsite pedestrian and cycle improvements promoted as part of the development proposals and neither is it considered that sufficient connections and prioritisation is given to walking and cycling within the proposed scheme. Given the policy requirements, suggested approach to the transport assessment the Taunton Local Cycling and Walking Infrastructure Plan (LTN1/20) 2021, plus the recent publication of Local Transport Note 1/20 Cycle Infrastructure Design which provides guidance to local authorities on delivering high quality, cycle infrastructure (Department for Transport) and the concept of a connected network being fundamental to transport planning for all modes, this is not considered to be acceptable.
- 12.10 The Highway Authority has also raised concerns relating to the proposed layout of the phase 1, full scheme, in particular the lack of prioritisation of pedestrian and cycle connectivity. Pedestrian and cycle routes are designed around the highway layout, rather than the key desire lines with the purpose of shared routes unclear as is how they connect to adjacent communities and future development parcels. These concerns are compounded by the lack of connectivity at the end of the proposed cul-de-sacs and private drives. There are areas within the design where the need for pedestrian and cycle connectivity has been ignored and where proposed is not in accord with design guidance in LTN1/20. Additionally, there are very few connections to the route as it passes through the site and many users would have to make long detours on the road to reach the connection. This needs to be addressed. Finally, the Highway Authority comments that the alignment towards the proposed Toucan crossing, and also on the other side of the carriageway, does not support a busy and direct cycle route. There are also concerns relating to the future phasing of the development, and how the proposed access routes would serve adjacent development plots.
- 12.11 The RTPI research paper “Net Zero Transport” co-authored by Vectos (transport consultants for the applicant), amongst other consultancies, highlights the key role played by planning in reducing the need to travel through 15-minute neighbourhoods and ensuring active travel infrastructure connections are delivered as a genuinely connected network. These aspirations are picked up through Climate Positive Planning and the Districtwide Design Guide SPD. Transport for New Homes recently published their “Building Car Dependency” report. Within the report, they identify Monkton Heathfield phase 1 as a “cowpat” development referring to the fact that it is “a new area of housing dropped on fields built separate from the existing urban area, to which it is not

connected by continuous streets". Their previous report "Garden Villages and Garden Towns: Visions and Reality" made numerous references to the Garden Town Vision around walking and cycling not being reflected on the ground, and instead ring-road development being the approach.

- 12.12 The site vision within the submitted Travel Plan talks of maximising local living to reduce the need to travel, creating a place where travel undertaken is in line with a sustainable travel hierarchy, and ensuring the development is connected beyond the local area. It describes using a "vision and validate" approach over the traditional "predict and provide" approach in order to avoid assessment of traffic impacts dictating design. However, the resulting proposals appear to fall significantly short in this regard. Instead, the proposals centre around an out-dated external ring-road, and an illegible internal development design which fails to integrate with the existing communities or provide the necessary within site and off-site connection improvements to live up to this vision.
- 12.13 The Travel Plan identifies several key local facilities and their distance from the site and suggests which facilities would be accessible within a 20-minute walk or cycle. However, this assessment fails to consider whether the routes for accessing these facilities are coherent, direct, safe, comfortable or attractive – the core design principles of LTN1/20 which provide accessibility for all. In many cases, existing routes will not meet these core design principles at present. In addition to this, the assessment fails to consider several wider key connections associated with development of the site. The travel plan is not considered to sufficiently support the application scheme and is contrary to Policy A2 of the SADMP and the NPPF.
- 12.14 The section of proposals most worked up relates to the parcels submitted in outline. These parcels relate most closely to the existing developed areas of Monkton Heathfield Phase 1. However, the proposals appear to rely upon the provision of a single toucan crossing of the A38, linking into the existing basic segregated foot/cycleway running along the western edge of the road, and utilising the green lane link up to the A3259. This fails to tie the new development areas into the existing communities, ignores clear desire lines and neglects to consider what the appropriate infrastructure design needs to be. The Access and Movement Parameter Plan suggests that a second pedestrian/cycle crossing point may be delivered on the A38 Bridgwater Rd south of the temporary/secondary access point to the outline parcel. This would improve performance against the desire line for some trips, to an extent, though not entirely, and as proposed, the A38 would continue to be a major barrier to movement and community integration. Whilst the Indicative Masterplan hints at traffic calming measures along the A38, there is no detail on these.
- 12.15 The submitted documentation appears to make no reference to the adopted Taunton Local Cycling and Walking Infrastructure Plan (LCWIP). The LCWIP identifies several core walking and cycling routes to be delivered across the town, including the "blue" route which extends from the edge of the Comeytrowe development in the south-west, through the town centre, and on the Monkton Heathfield via the UK Hydrographic Office and Creech Castle.
- 12.16 One of the main aims of the LCWIP is to provide a comfortable cycling connection between the existing town, key employment sites areas and the surrounding garden communities, including Monkton Heathfield. By providing a

comfortable and high-quality cycling network, sustainable travel modes are promoted and the need to travel by car is reduced.

- 12.17 The A38, which splits Monkton Heathfield phases one and two, might cause a significant barrier for journeys from Monkton Heathfield, particularly for young people. The new development needs to ensure that cycle routes are safe and connected to the cycle network to encourage shifting in travel behaviour. A shared cycleway is shown within the boulevard, which is not good practice; pedestrians and cyclists should be separated for safety.
- 12.18 There is a significant concern that pedestrian and cycle routes are designed around the highway layout, rather than key design lines helping to inform how the site should respond to people moving through the space. The purpose of the shared routes which skirt the edge of the development is not clear; they also need to be connected to the ends of cul-de-sacs and private drives in order to increase connectivity.
- 12.19 It is noted that the sustainability assessment and climate emergency checklist submitted with the application reference the prioritisation of sustainable transport, connectivity and the park and ride facility. However, the park and ride facility is not delivered through the development- only the land offered and the proposed layout, lack of connectivity and incorporation of aspects such as the spine road and levels of parking provision lead to a car led and car dominated development approach with the segregation of phases within the schemes, separation from the green necklace and the lack of wider connections beyond the site.
- 12.20 The proposed application therefore falls considerably short of meeting its vision, local and national policy or wider ambitions on transport and movement matters. The applicant must fundamentally re-consider the internal design of their development and how it links with existing areas. Utilising a “vision and validate” or “decide and provide” approach, the applicant needs to demonstrate how the proposals will deliver the significant improvements to active travel infrastructure off-site for residents to access key destinations and enable surrounding communities to access destination facilities within the site.
- 12.21 The application therefore fails to achieve several key policy criteria related to sustainable transport, its role in placemaking and the aims of delivering a mixed, sustainable community that priorities public transport, walking and cycling, including policies SS1, SP2, CP6, CP7 of the Core Strategy, A3, A5 and D9 of the SADMP and provisions of the neighbourhood plans (policies CSM1 and CSM6 of the Creech St Michael Neighbourhood Plan) and T1 and CA1 for the Monkton Heathfield and Cheddon Fitzpaine Neighbourhood Plan) and the National Planning Policy Framework sections 9 and 12.

### **13. Natural Environment and green infrastructure**

#### **13.1 Biodiversity Net Gain**

- 13.1.1 Biodiversity net gain (BNG) delivers measurable improvements for biodiversity by creating or enhancing habitats in association with development. BNG has been introduced in recent Government legislation, notably the 2020 Environment Bill. Whilst the final legislation has not been passed which requires

developments to achieve a minimum 10 per cent BNG, it is likely that this will be implemented in 2023, and therefore before construction is likely to begin. Paragraph 174 of the National Planning Policy Framework seeks to minimise impacts on and provide net gains for biodiversity with a clear approach in paragraph 180 that permission should be refused if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated or compensated for.

13.1.2. Policy CP1 of the Local Plan states that measures should be incorporated which promote and enhance the resilience of ecosystems and biodiversity within and beyond the site. Policy R2 seeks new green space and wildlife areas from major development to meet local needs / minimise impacts upon biodiversity, providing net gain wherever possible. Policy ENV1 seeks to conserve and enhance biodiversity through the protection of existing site trees and hedgerows. Such features need to be recognised and safeguarded as part of the layout and design process and make a valuable contribution to the sense of place, legibility and quality of the resultant scheme in addition to biodiversity benefits.

13.1.4 Whilst the application talks about increases in biodiversity, it is unclear how or where these gains will take place, and no baseline assessment has been made in order to establish the level of improvement needed. Some biodiversity will be removed by the proposal, for example hedgerows will be punctuated and areas of farmland removed and replaced by tarmac and concrete, without a comprehensive plan which shows increases in biodiversity, and therefore the proposal fails to achieve the policy requirements stated in Taunton Deane Core Strategy policies CP1 and ENV1 in this regard.

## **13.2 Impact on landscape character and arboriculture**

13.2.1 Policy ENV1 seeks to conserve and enhance biodiversity through the protection of existing site trees and hedgerows. Such features need to be recognised and safeguarded as part of the layout and design process and make a valuable contribution to the sense of place, legibility and quality of the resultant scheme in addition to biodiversity benefits.

13.2.2 The site is part of local Character Area 1C of the Landscape Character Assessment and is described as Creech Farmed and Settled Low Vale. According to the document there is no significant woodland cover although there are small copses and larger groups of hedgerow trees in the area. The dominant trees of the area are ash, oak, poplar and willow. The following are the main points that need to be considered in relation to the existing landscape character:

- A tract of pylons runs across the western half of the area, dominating views
- With an elevation of 10m – 45m AOD, this is a medium scale landscape defined by a flat to gently undulating topography
- The M5 cuts through the area and, in conjunction with the A38, generates considerable traffic noise across much of the landscape.
- Views across to the prominent wooded landscapes of the Blackdown Hills AONB and to the Enclosed Combes of the Quantock Hills AONB. Views are also possible to the North Curry Ridge.

- 13.2.3 The proposal is to plant a significant amount of green infrastructure to the east of the eastern relief road, and further buffers of woodland planting and shrubs around the boundaries. Detailed proposals have not been submitted, but it is likely that views from the landscapes of the AONBs into the site will be limited. There is some concern that the topography of the site will mean that the employment area and park and ride sites, which are located east of the main area of green infrastructure, will be visible from the residential areas and outside of the site, although this is not a matter that can be determined at the outline stage.
- 13.2.4 A consultation response has also been received from the Council's Arboricultural Officer which addresses the outline and full parts of the application in turn. The most significant trees are protected by a Tree Preservation Order. The Arboricultural Officer comments that the indicative layout seems to take these into account with few losses. Although a section of woodland needs to be removed for the access road to the south, he considers this could be mitigated by inclusion of more woodland copse planting in the 'green necklace'. He considers the lower category tree removals are acceptable. He recommends that the route of the eastern relief road be amended to avoid a category A tree and that the layout be designed to reduce future problems due to proximity to trees, referencing the proximity of the sports pitches to two protected trees. A detailed Arboricultural Method Statement will be required to show how the retained trees and hedgerows will be protected, including details of any tree management works. This can be the subject of a condition. Concern is expressed in the consultation response over the extent of hedgerow removal due to their landscape, historic, cultural and wildlife value, many dating back to pre-Enclosures field systems. They have great value for wildlife and biodiversity, and if currently in poor condition they could be improved with better management and infill-planting where necessary. More efforts are requested to retain the majority of these hedgerows, within public space
- 13.2.5 In respect of the full application area of the site, the Officer considers that whilst unfortunate, the loss of a significant section of hedgerow can be compensated by new planting and so is acceptable, subject to ecological appraisal. The TPO trees along the hedgerow to the southeast have been given a reasonable amount of space, although there are slight incursions into their root protection areas. A detailed Arboricultural Method Statement will be required to explain how the retained trees and hedgerows will be protected during the construction process, and how these areas of conflict are resolved using 'no-dig cellular confinement' systems. The turning areas and through-road are shown close to the root protection areas. Any proposed level changes, excavation or embankments that realistically may affect these areas should be foreseen and shown clearly on plans. The scheme should aim to retain and protect as much of the current roadside hedgerow and trees as possible, as much of this is well-established planting. Although a number of new trees are shown scattered throughout the site plan, these will inevitably be small species due to their location in close proximity to houses, car parking or in small gardens, where trees are likely to require regular pruning. He would like to see some larger specimen trees incorporated within public spaces. These matters are capable of being addressed via condition and subject to these being added, the proposal is considered acceptable in relation to policy ENV1.



### **13.3 The impact on ecology and biodiversity and the Somerset Levels and Moors Ramsar Site, and phosphate solution, and protected species including bats.**

13.3.1 As stated in the Habitats Regulations Assessment section, the application site is within the fluvial catchment of the Somerset Levels and Moors Ramsar Site. The Somerset Levels and Moors is also designated as a Site of Special Scientific Interest under the Wildlife and Countryside Act 1981 (as amended). Relevant to the phosphates issue, paragraph 182 of the NPPF makes it clear that the presumption in favour of sustainable development does not apply where the project is likely to have a significant effect on a habitats site unless an appropriate assessment has concluded that it will not adversely affect the integrity of the habitats site.

13.3.2 The proposed development will result in an additional phosphate output in that the wastewater from it will add to the phosphate levels within the Ramsar Site. The pathway is via the Taunton wastewater treatment works. Therefore, the surplus in the phosphate output would need to be mitigated in order to demonstrate phosphate neutrality and ensure no significant adverse impact on the affected designated area.

13.3.3 The ecology and biodiversity section of the Environmental Statement acknowledges that the delivery of phosphate neutrality is required. There is no agreed phosphates budget and the application has not indicated how it expects to achieve phosphate neutrality via a suitable solution. Without this information there is no certainty that the integrity of the international site will not be affected and planning permission for the application cannot be granted.

13.3.4 The designated site is in an unfavourable condition and at risk due to high levels of phosphorus. If a development is identified as likely to add additional phosphorus to the catchment, planning permission should not be granted until it has been demonstrated through an agreed phosphorus budget that the proposals can achieve phosphorus neutrality through the implementation of appropriate permanent offsetting measures. There is no certainty that the integrity of the international site will not be affected, and the Local Planning Authority is unable to conclude beyond all reasonable scientific doubt that the proposed development would not have an adverse effect on the integrity of the Ramsar site. It is therefore not possible for the Local Planning Authority to conclude a favourable Habitat Regulations Assessment and fulfil its statutory duty under Regulation 63 the Conservation of Habitats and Species Regulations 2017. As such the proposal is contrary to Policies CP8 (Environment), SS1 and DM1c (General requirements) of the Taunton Deane Core Strategy and paragraphs 180-182 of the National Planning Policy Framework.

13.3.5 In relation to protected species, the site lies within the consultation zone for the Hestercombe House SAC, which has special status regarding the presence of lesser horseshoe bats. The land north of the A381 lies within Band B of the Bat Consultation Zone for the Hestercombe House SAC, whereas the land south of the A381 lies within Band C. The ecology chapter of the Environmental Statement has recognised the need for the delivery of a minimum of equivalent of 5.24ha of optimal lesser horseshoe bat habitat, together with detailed lighting

specifications to maintain functional commuting and foraging habitats across the site. At time of writing this report, no advice has been received from the Somerset County Ecologist, nor does the consultation response from Natural England refer to the Hestercombe SAC, in the context of the application. The Council as competent authority therefore cannot formally conclude at this time on the significance of the effect, nor the effectiveness of the proposed mitigation. There is a likelihood that some of the compensatory habitat will overlap with land proposed for phosphate mitigation. Any implications of this are currently unknown.

- 13.3.6 Overall, insufficient information has been submitted to satisfy the Local Planning Authority that the ecology impacts from the development have been sufficiently considered and, as such, satisfactory mitigation measures have not been provided, in line with Taunton Deane Core Strategy 2011 -2028: Policies CP8, SS1 and DM1c.

## **14 Design and placemaking**

- 14.1 Policies DM4 of the Taunton Deane Core Strategy and D7 of the Taunton Deane SADMP are the core development plan policies for the area which aim to produce high quality design in the District. Policy DM4 encourages a sense of place by addressing design at a range of spatial scales via the use of planning documents appropriate to each scale. No masterplan or design code has been adopted for the Monkton Heathfield site. Whilst the Council engaged consultants to develop a framework plan, concept plan and design principles for phase 2 to which this application relates, SWT Executive on 15 September 2021 resolved to not proceed to adopt them as a material planning consideration in the determination of planning proposals. Accordingly, they are considered to carry no decision-making weight. At that meeting it was considered that adopting the draft Phase 2 Concept Plan and draft Design Principles document could hinder the development management planning application process and may prejudice the quality and outcomes the scheme may otherwise be held to deliver. Many of the newer pieces of policy/guidance such as the Garden Town documents, design charter and checklist, and declaration of a climate emergency had overtaken the then emerging masterplan in terms of design approach and setting out expectations of a higher standard. Policy DM 4 refers to the use of design policies in the SADMP of which D7 is relevant.
- 14.2 Policy D7 requires a high standard of design quality and sense of place by:
- *A. Creating places with locally inspired or otherwise distinctive characteristics and materials;*
  - *B. Reflecting the site and its context, including existing topography, landscape features and the historic environment;*
  - *C. Integrating into their surroundings through the reinforcement of existing connections and the creation of new ones, and creating legible, connected street networks; and*
  - *D. Ensuring that buildings define and enhance the streets and spaces, and that buildings turn street corners well.*

Supporting text with Policy D7 also encourages the use of design panels when assessing proposals.

- 14.3 Policy SS1 of the Taunton Deane Core Strategy provides particular principles that the design for the Monkton Heathfield urban extension should meet. Policy SS1 states:

*The development form and layout for Monkton Heathfield should provide;*

- *A variety of character areas which reflect the existing landscape character and the opportunities and constraints provided by natural features to create a place that is distinctive and memorable;*
- *An accessible district centre with a mix of uses and facilities;*
- *A connected street network which accommodates pedestrians, cyclists and vehicles and promotes a viable public transport system;*
- *Well designed public open spaces which are enclosed and overlooked by new development;*
- *A positive relationship between new housing and existing communities; and*
- *A well defined green edge to the urban area that protects views from Hestercombe House and the Quantock Hills.*

*The preparation and adoption of SPD will be required to further guide development, incorporating a masterplan and design codes to ensure a coordinated approach to the delivery of this site.*

- 14.4 The Council has an adopted Districtwide Design Guide SPD and a Taunton Garden Town Public Realm Design Guide SPD which are also material planning considerations for the consideration of this planning application. The Districtwide Design Guide SPD (December 2021) illustrates how the Council's aspirations for maintaining and improving the quality of design can be achieved. It highlights the key principle of integrating placemaking with sustainability and explains the recommended design process, learning from context and distinctiveness, site structuring, designing house types which make streets and places, streets places and parking and designing towards zero carbon design and construction. The aims of the Design Guide complement the aims of the National Design Guide within the local context. In achieving quality design, the Design Guide particularly highlights the importance of new developments improving the quality of life through achieving the following outcomes:

- Contributing to a sense of place – appropriate quantum, scale, form, layout, landscape; responds to a site and context cues sensitively and beautifully; achieves active frontages.
- Neighbourly – fosters conviviality; respects privacy; boundaries; contexts and habitats.
- Zero/low carbon – maximum use of renewables; super insulated buildings; zero/low emissions.
- Healthy – low toxin materials; maximum natural daylight and ventilation; food growing; outdoor amenity space.
- Efficient use of the site – natural drainage; good layout; achieving biodiversity.
- Resilient – long life; low maintenance materials; robust details.
- Adaptable – to changes in age and abilities; lifestyles; home working.
- Spacious – appropriate internal storage space, including bikes, recycling

and activities.

- Safe and secure – well defined ‘fronts and backs’; natural surveillance.
- Well connected – easy walkable links to local facilities, play and public spaces; mixed uses and public transport; digitally connected.

14.5 The Taunton Garden Town Public Realm Design Guide SPD (December 2021) illustrates how the Council wishes to raise the standard of the public realm and streetworks consistently across Taunton Garden Town. The objective is to create ‘Healthy & Well, Quiet & Slow and Green & Clean’ streets, particularly having a people first approach and encouraging active travel. The design guide sets area standards across the town for paving, signage, street furniture, street planting, lighting and explains its application to different places such as gateways and neighbourhood centres.

14.6 Since being designated as a Garden Town in 2017, the Council has also approved The Vision for Taunton Garden Town (July 2019). The Vision Statement states *‘Taunton, the County Town of Somerset, will be flourishing, distinctive, and healthy – and the country’s benchmark Garden Town. We will be proud to live and work in a place where the outstanding natural environment, diverse and thriving economy and inspiring cultural offer, contribute to an exceptional quality of life and well-being’.*

The Vision has four main themes:

1. Growing our town Greener - quality of our environment: Give our town a green makeover, joining up our green spaces, waterways, parks and play spaces, planting more street trees and woodlands and managing our water more imaginatively with wetlands and rain gardens to improve it for recreation, tourism and wildlife.
2. Branching Out – quality of our movement: We will integrate our transport network so that it serves Taunton with much improved bus and appropriate vehicle links to our main destinations and make much better prioritised provision for walkers and cyclists encouraging healthier and more sustainable journey choices as attractive alternatives to travelling by car.
3. Growing Quality Places – quality of our places and neighbourhoods: We will deliver an outstanding built environment focused on places and spaces with high quality neighbourhoods, green streets and public spaces and with homes and buildings that are distinctly local in appearance. Our houses, offices, employment areas, public services and road infrastructure will embrace innovation, will be energy efficient and will exploit the latest sustainable technologies.
4. New Shoots and Blossom – quality of opportunity: We will responsibly nourish partnership, prosperity and growth in social value, through our strengths in knowledge, education, culture and business. We will germinate and grow sustainable arts and cultural venues as hubs that foster excellence in the region. We will pursue low carbon and digital infrastructure to make a town that connects businesses and markets well, drawing on our University Centre and growth industries in digital, land, marine informatics, health and nuclear.

14.7 Of particular relevance to this planning application are key aspects of Themes 1, 2 and 3:

Key design aspects from Theme 1 relevant to this planning application are:

- i. Locating local parks on the door step to promote opportunities for the local community to socialise, play, grow food, and support the localised management of stormwater and local ecosystems;
- ii. The design of each new neighbourhood, its streets, parks and buildings should consider how water can be managed intelligently to minimise flooding, facilitate irrigation, and promote habitats resilient to flooding and climate change;
- iii. Punctuating routes with green features. Adding to green links both small street side events like copses of street trees or rain gardens, and new green facilities like pocket parks or 'wassail' gardens with clumps of Somerset apple trees, where new neighbourhoods are formed.

Key design aspects from Theme 2 relevant to this planning application are:

- i. Prioritisation to the early delivery, integrated design and sustainable maintenance of Taunton's walking and cycling networks to ensure they provide door to door connectivity, reducing the need to travel by car and improving everybody's health and well-being.
- ii. Making Taunton more legible with major routes and junctions/nodes within the town being given a distinctive character.
- iii. Enlightened highway design prioritising pedestrians and cyclists and raising quality by making streets into places and integrating parking elegantly and providing edge streets that positively relate buildings and landscape and promoting activity and healthy exercise around the periphery.

Key design aspects from Theme 3 relevant to this planning application are those key principles for creating new garden neighbourhoods:

- i. Clear identity - A distinctive local identity as a new garden community, including at its heart an attractive and functioning centre and public realm. Landmarks, key groupings and character areas are an important element of identity and legibility.
- ii. Well-designed places - with vibrant mixed-use communities that support a range of local employment types and premises, retail opportunities, recreational and community facilities – within 'walkable neighbourhoods' that follow good urban design principles and include greater greenspaces and trees.
- iii. Great homes Offering a wide range of high quality, distinctive homes. This includes affordable housing and a mix of tenures for all stages of life. Legacy and stewardship arrangements: should be in place for the care of community assets, infrastructure and public realm, for the benefit of the whole community.
- iv. Future proofed - Designed to be resilient places that allow for changing demographics, future growth, and the impacts of climate change including food risk and water availability, with durable landscape and building design planned for generations to come. This should include anticipation of the opportunities presented by technological change such as driverless cars and renewable energy measures.

It should also be noted that this theme advocates the greater and more effective use of national 'design quality' benchmarks and processes. It also states that design criteria and standards such as 'Building for Life 12' and 'Lifetime Homes' should be systematically encouraged and pursued through planning policy and development management processes for all new development. In addition, that National Guidance for highway design in the form of 'Manual for Streets 1 + 2' should be comprehensively applied and implemented. The use of Design Review is also emphasised.

14.8 Following the Taunton Garden Town Vision, the Council also approved the Taunton Garden Town Charter and Checklist (October 2019). This document sets the Council's expectations in terms of design of key sites within the Garden Town and provides a framework against which prospective developers, communities and the Council as planning authority will assess relevant planning applications. The checklist is largely based on the Building for Life 12 framework, which is enhanced in scope to include a new section which covers the 'Climate and Planet Positive' topics. The four main themes of the Checklist are set out below together with key questions for assessing the design quality of a development:

- Integrating into the Neighbourhood
  - Connections - Does the scheme integrate into its surroundings by reinforcing existing connections and creating new ones whilst also respecting existing buildings and land uses along the boundaries of the development site?
  - Facilities and Services - Does the development provide (or is it close to) community facilities, such as shops, schools, workplaces, parks, play areas, pubs or cafes?
  - Public transport - Does the scheme have good access to public transport to help reduce car dependency?
  - Meeting local housing requirements - Does the development have a mix of housing types and tenures that suit local requirements?
- Creating a Place
  - Character - Does the scheme create a place with a locally-inspired or otherwise distinctive character?
  - Working with the Site and its Context Does the scheme take advantage of existing topography, landscape features (including water courses), trees and plants, wildlife habitats, existing buildings, site orientation and microclimate?
  - Creating well-defined Streets and Spaces Are buildings designed and positioned with landscaping to define and enhance streets and spaces and are buildings designed to turn street corners well?
  - Easy to find your way around Is the scheme designed to make it easy to find your way around?
- Street and Home
  - Streets for All - Are streets designed in a way that encourage low vehicle speeds and allow them to function as social spaces?
  - Car parking Is resident and visitor parking sufficient and well integrated so that it does not dominate the street?
  - Public and Private Spaces - Will public and private spaces be clearly defined and designed to be attractive, well managed and safe?

- External Storage and Amenity Space - Is there adequate external storage space for bins and recycling as well as vehicles and cycles?
- Climate and Planet Positive
- Building with Nature - Have the Wellbeing Standards, Water Standards and Wildlife Standards been met?
- Energy Conservation & Carbon Reduction - Is energy demand minimised across the development? Does the development achieve a carbon reduction improvement of at least 19% over Part L of the Building Regulations 2013? Is energy demand minimised within the buildings?
- Renewable Energy - Are opportunities for site-wide energy solutions being effectively harnessed? Does the development maximise opportunities to meet energy demands from renewable or low carbon sources?
- Resources & Resilience - Is there evidence of recycled/locally-sourced materials being used? Can rainwater be actively conserved? Has whole life-cycle material performance influenced the specification? Are systems in place to minimise landfill waste during construction?

Together, these policies, Supplementary Planning Guidance and other design guidance form a comprehensive approach to the delivery of high quality, well designed places that apply national design guidance at the more local level.

- 14.9 The National Planning Policy Framework has a presumption in favour of sustainable development and specifically refers to the importance of good design and significantly, that development that is not well designed should be refused. Key paragraphs in respect of design are:

*126 – ‘The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’.*

*130 - Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

*134 – ‘Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on*



*design52, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:*

*a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or*

*b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings’.*

14.10 The National Design Guide and National Model Design Code are also relevant to the consideration of this application. The National Design Guide sets out the characteristics of well-designed places and demonstrates what good design means in practice. The national design guide identifies 10 characteristics of a well-designed place which help to create character, nurture and sustain a sense of community and work to positively address climate issues.

The ten characteristics are:

- Context – enhances the surroundings.
- Identity – attractive and distinctive.
- Built form – a coherent pattern of development.
- Movement – accessible and easy to move around.
- Nature – enhanced and optimised.
- Public spaces – safe, social and inclusive.
- Uses – mixed and integrated.
- Homes and buildings – functional, healthy and sustainable.
- Resources – efficient and resilient.
- Lifespan – made to last.

14.11 The National Model Design Code provides detailed guidance on the production of design codes, guides and policies to promote successful design. The National Model Design Code sets a baseline standard of quality and practice which local planning authorities are expected to take into account when developing local design codes and guides and when determining planning applications, including;

- How the design of new development should enhance the health and wellbeing of local communities and create safe, inclusive, accessible and active environments;
- How landscape, green infrastructure and biodiversity should be approached including the importance of streets being tree-lined;
- The environmental performance of place and buildings ensuring they contribute to net zero targets;
- The layout of new development, including infrastructure and street pattern;
- The factors to be considered when determining whether façades of buildings are of sufficiently high quality and;
- That developments should take account of local vernacular, character, heritage, architecture and materials

14.12 It is to be noted that the applicant has declined to take the proposal to the Council’s independent Quality Review Panel. Although at earlier stages the proposals were taken to design review (2016, 2018 and March 2020), there have been relevant changes to national and local circumstances and guidance



since. For example, the adoption of the Council's Garden Town Public Realm Design Guide and District-wide Design Guide SPDs, the National Model Design Guide and Design Code, the declaration of the climate and ecological emergencies and associated strategies/guidance, changes to the National Planning Policy Framework to reflect design aspirations, the implications of the pandemic on placemaking and transport.

- 14.13 In assessing the application in design and placemaking matters, the consultation response of the Placemaking Team Manager is relevant. Her comments relate to issues of context and distinctiveness, identity, built form, movement, use, and the district centre. In respect of the detail of the proposed development for Phase 1 she also raises issues of identity, built form, movement and parking, street trees, sustainable urban drainage and sustainability. Her comments and the assessment of these are considered in turn.

#### 14.14 Context and Distinctiveness

- 14.14.1 The characterisation work set out in the application Design and Access Statement, considers settlement form, figure ground diagrams of street patterns and layouts, house types etc. However there appears little resemblance between these character generators as shown in the local context and the proposed development. This characterisation work should be understood and be the starting point for informing the form and layout of the development. None of the precedents shown (apart from that shown for Monkton Heathfield Phase 1) are dominated by an outer spine road, an inward looking layout dominated by cul-de-sacs and a neighbourhood centre comprising large unconnected blocks. This is contrary to the local and national policy and guidance set out above which emphasises the need for the siting and design of a development to relate and be influenced by its context, history and character of an area.

- 14.14.2 The need for detailed context and site appraisal work is shown in the SWT Design Guide SPD as a key part of the design process. This is also emphasised in the National Design Guide and the National Model Design Code (NMDC). The level of appraisal work shown as carried out for this development proposal in the Design and Access Statement, falls well short of the comprehensive nature of context study work and site study work as set out as necessary in the NMDC. The NMDC states 'It is necessary to undertake a context study of the area surrounding the site and the wider area for a full understanding of the place in order to respond positively to its distinctive features.' The NMDC goes on to list the topics that a Context Study and Site Study should appraise.

#### 14.15 Identity

- 14.15.1 The masterplan layout is not considered to engender a sense of place or legibility to create a quality development. There should be a series of area types showing different characteristics - The NMDC states that these area types need to be based on a) an analysis of the existing character of these areas and b) a visioning exercise.
- 14.15.2 The NMDC states that masterplans should create a strong sense of place and identity through defining:
- Well proportioned streets – the width of the street and the height of the

- buildings relate to its place in the street hierarchy
- Marking corners – using architectural features for emphasis on corners
- Neighbourhood character – using colour, materials or details to create a distinctive character for different neighbourhoods
- Street design – creating a unified pallet of materials and street furniture to be used in different area types
- Vista ends – using taller buildings and architectural expression on buildings that close vistas along a street or square
- Public art – encouraging the use of public art in the design of buildings and spaces as well as free standing pieces
- Planting – diversity of street tree

It is not considered that the application submission sufficiently has regard to these aspects, furthermore, there does not appear to be a clear wayfinding strategy for aiding legibility.

#### 14.16 Built Form

14.16.1 The built form does not have a compact form of development. Density is one indicator for how compact a development or place will be and how intensively it will be developed. The density ranges across the scheme are monotonous and would create a mono-form of place. Higher density should be associated with the central spine road and district centre in order to create a more urban form and a critical mass of population to support the bus route. Although some density differentiation is indicated, particularly in the area of the district centre, the majority of the site is of broadly uniform density that is not considered to aid the structuring of a complete, compact place that aids living locally and the supporting of facilities and services vital to sustainable placemaking and community.

14.16.2 Buildings along the spine road should also be a higher storey height to create better enclosure to the street and more of a high street urban character and reinforce the legibility of the route. Building set-backs from the spine road should be minimal and front on plot parking should be avoided.

#### 14.17 Movement

14.17.1 A well-designed place should be accessible and easy to move around with a) a connected network for all modes of transport; b) active travel and c) well-considered parking, servicing, and utilities infrastructure for all modes and users. In contrast, the overall design of the proposed development is dominated by an outer distributor road with roundabouts with few access points and crossings which will create a car-based environment and effectively one large cu-de-sac. The self-contained nature of the urban extension is reinforced by a lack of permeability in the road network. The whole site should have a permeable network of streets which are better connected in order to encourage movement. Perimeter blocks should be used on a hierarchy of streets. Cul-de-sacs should be avoided, whereas currently these dominate the layout.

14.17.2 There is considered to be a lack of connectivity between Phases 1 and 2 of this development. The development is also severed from the green necklace by the proposed eastern relief road and has few crossing points. This will result

in a segregated scheme with areas of the site compartmentalised from each other to the detriment of sustainable travel and community building.

14.17.3 There are also placemaking concerns regarding the nature of the highway design, that it would not sufficiently control traffic speed and would encourage rather than reduce movements by vehicles in preference to other, more sustainable modes. Road junctions currently have large, splayed radii and should be much tighter with smaller radii to slow vehicular speeds and reinforce that the place is for people and is a neighbourhood. The highway layout proposed includes several large roundabouts which emphasise a car-led approach to placemaking, have a high land take and detract from the creation of a high quality place that is locally distinctive. The road widths are extensive with a 7.3m spine road carriageway, where 6m would be adequate. Routes should conform to Manual for Streets including natural traffic calming features including variable street widths, change in surface materials and parallel on street parking.

14.17.4 Walking and cycling as active travel is not prioritised in the current proposals. This is hindered by lack of connections outside of the site and a permeable clear and direct pedestrian and cycle network of routes to key locations within the development.

#### 14.18 Uses

14.18.1 Sustainable places need a mix of uses that support everyday activities, including to live, work and play. The layout has a zoned approach to land uses with employment uses largely segregated rather than integrated into the district centre; this has the potential to undermine the viability of the centre rather than reinforce vitality. It should be strongly encouraged that as much employment uses (non-industrial) are located within the district centre, this should include offices, studios and workshops as well as live work accommodation.

14.18.2 The park and ride site is located behind existing employment users at Walford Cross to the north east of the site. It is isolated from the wider development that it is intended to serve and has not been designed to achieve any natural surveillance. It is not considered to relate well to the development and accordingly its function, use and future effectiveness at delivering modal shift with a higher proportion of movements by public transport is compromised. A key issue is also that the application does not provide the park and ride facility, but rather would secure only the land for its provision. This is dealt with elsewhere within this report.

#### 14.19 District Centre

14.19.1 The placement of the district centre is not considered to have been comprehensively addressed within the wider framework layout of the site and the overall allocation area which it is intended to serve. Placemaking Team Manager considers it randomly planned with no sense of place or focus as currently proposed. She considers that the gateway to the district centre should be accessed via a normal junction, not a roundabout as this approach reinforces

a car focussed, more suburban approach to this key community facility, with insufficient regard to connectivity and placement with regard to the phases of the allocation to the east which have already been delivered. It is currently separated from this earlier residential area by the busy A38, with few crossing points proposed. The design concept for the district centre is not considered to align with a traditional townscape approach where centres are based on either a High Street or Market Square. The position of the buildings in the centre are ad hoc and as currently proposed would not provide the level of enclosure important to the creation of a successful place.

14.19.2 The layout of the district centre shown suggests large buildings with large areas of parking. A finer grain of buildings with narrower frontages would better promote lively streets, enclosure to the streets and mixed use buildings. Wider pavement should also allow for seating and activities that will support vibrancy such as pop-up markets.

14.19.3 The school is separated from the district centre. It is considered that a closer, more comprehensively approached relationship between these core placemaking uses would reinforce the central public realm via use of the school and the relationship to the community use of the space. This would also assist with shared trips and school drop offs/pick ups, again adding to vitality and the creation of a successful place at the heart of the community.

14.19.4 The Placemaking Team Manager is of the view that significant further design consideration is needed about the location and design of the district centre and central community space. It is unclear whether the full range of local facilities that should be accessible in all neighbourhoods could be accommodated (community uses, local shops, pubs/cafes, medical facilities, places of worship homeworking hubs) and how the community space would function. At present the proposals for the district centre are therefore not sufficiently resolved and if granted, would be to the detriment of its effective function as critical to placemaking and the community.

#### 14.20 Detailed Proposed Development for Phase 1

14.20.1 There are a number of placemaking and sustainability concerns resulting in the view that as currently proposed, the detailed scheme for this area will result in a poor quality environment. These are set out below:

#### 14.21 Identity

14.21.1 The Placemaking Team Manager considers that as proposed, the layout is lacking variety, is monotonous and would not create a sense of place. Insufficient regard has been had to local character, vernacular and the local context of the site with the result that the scheme does not reflect local characteristics, appears 'anywhere development' and is a continuation of the approach taken in the first phase of Monkton Heathfield phase 1 development. Permissions for this earlier phase predated designation of the Garden Town, the production of detailed design guidance and recent updates to national guidance. The quality to be achieved to meet these requirements is not

reflected in the detailed scheme as submitted. The proposed layout is considered poor as it does not create a legible, structured layout through the use of linked buildings, groupings around focal spaces or key buildings. Far greater structuring is required in the layout to show primary frontages, key corners and terminating vistas. Continuity in the built form should be created using frontage buildings that create curvature. This should be created using house types which make streets and places rather than standard, individual house types that do not effectively link together – see Districtwide Design Guide section 4.3. The layout is also not tenure blind and this is unacceptable. Affordable housing is readily distinguishable and dominated by large banks of frontage parking and terraced building forms.

#### 14.22 Built Form

14.22.1 The house types reflect standard national house types and do not relate to the local Somerset vernacular. A character study of traditional local building types, associated architectural detailing, materials and boundary treatment is required as advocated in the National Model Design Code and Districtwide Design Guide SPD. The use of standard, anywhere house types does not address the need for local distinctiveness and the creation of quality new neighbourhoods in the Garden Town. The Taunton Garden Town Charter and Checklist approved by Full Council 3 December 2019 sets out the Council's expectations in terms of design of key sites within the Garden Town and provides a framework against which prospective developers, communities and the Council as planning authority will assess relevant planning applications. Under section 5 – Character, it states that 'Anonymous national house types and standard palette of materials are not supported'.

14.22.2 The proposed broad uniformity of building storey heights would further add to the lack of variety and monotonous form of the proposed development. Consideration should be given to the use of character areas to better define different areas of the site. A greater range of densities would help with legibility and reinforcing principal routes as well as supporting the provision of a local bus route along the spine road. Overall, the built form of this neighbourhood character does not create a distinctive character for this neighbourhood or create a coherent pattern of development. The building form would not be distinctive and legible and the individual house types would not fit together to create quality townscape or streetscape. The built form would not achieve the balance between variety, (creating a range of different house types, scales, materials and density creating a sense of character and aesthetic satisfaction) and unity, (providing structure and hierarchy of streets, spaces, building forms, creating a sense of coherence and legibility). The proposed built form is lacking as it does not add curvature to the built form, corner turning buildings which use architectural features for emphasis on corners or vista ends that use taller buildings and architectural expression on buildings that close vistas along a street or square.

#### 14.23 Movement and Parking

14.23.1 The layout is considered to be highways led, over engineered and suburban. This will result in a car dominated environment and will encourage car-based movements. From a placemaking perspective it is not considered to accord with Manual for Streets in that the layout is dominated by cul-de-sacs rather than a network of permeable streets. Road width is considered excessive, is not used as a design tool to control speed or contribute to a high quality, local character of place. There is no evidence of trying to create entry places, nodes or focal spaces through the creation of squares or provide natural traffic calming through the use of pinch points, change in surfacing materials or parallel on street parking. The road junctions are overly wide and corner radii need to be significantly tightened to reduce speed. Overall, the layout lacks permeability and the use of perimeter blocks to create connectivity using a hierarchy of movement. Desire lines for pedestrian and cycle movement are unclear. – see Districtwide Design Guide section 4.4 for guidance on creating streets and places. The streets are not well proportioned and the width of the street and the height of the buildings do not relate to its place in the street hierarchy.

14.23.2 The parking space ratio seems excessive and way over that required in the Local Plan and Districtwide Design Guide. This needs to be significantly reduced since at the current time the public realm and streetscenes would be dominated by parked cars – see Districtwide Design Guide SPD section 4.4. Parking provision is also too dominant in the street scenes and there is an excessive amount of parking to the front of plots, rather than to the side of units of parallel parking. Terminating street views with large double garages is also unacceptable in the townscape as it lacks visual interest and creates poor street enclosure. – see Districtwide Design Guide section 4.4.

#### 14.24 Street Trees and Sustainable Urban Drainage

14.24.1 The attenuation ponds shown in the development are large and are the focus for the development's approach to water management. More emphasis should be given to a range of other SUDS techniques that can reinforce character, successful placemaking and fulfil multiple functions. The integration of rain gardens may reduce the need for large, over engineered swales.

14.24.2 Policy ENV2 requires new streets to be tree-lined in order to contribute to character and quality of urban environment as well as helping to mitigate for climate change. The National Planning policy framework also requires tree lined streets. Little consideration has currently been given to this requirement, nor the contribution that street trees can give to the creation of attractive places. There does not appear to be any provision for EV charging, including on street charging.

#### 14.25 Climate emergency

14.25.1 The approach of the application to sustainable placemaking and working towards carbon neutrality is not clear or comprehensive and does not currently meet the latest requirements of the Building Regulations. This is considered in more detail in section 16. At present the sustainability measures are unclear, seeming to take a fabric first approach. None of the houses have PV's, there

does not appear to be recycling storage and electric vehicle charging points are not shown (including on street charging). Bicycle storage is not integrated into house designs (in particular to the front of houses to encourage the use of cycling as the preferred mode of travel), sedum roof or slate PV's could also be considered. These are shown as requirements for Garden Town developments both in the approved Garden Town Vision and the Districtwide Design Guide SPD.

- 14.26 These considerations raise serious concerns over the quality of the design response set out within this application and the poor quality environment that would be created. The bar for development in terms of design quality is high with a clear steer that development not meeting these requirements should be refused (NPPF). Paragraphs 130 and 131 of the NPPF also set out requirements for development which are echoed within aspects of the National Design Guide and National Model Design Code. These require consideration of function and quality over the lifetime of the development; visual attractiveness, sympathetic and local character and history, establishing a strong sense of place and optimising the potential of the site to accommodate appropriate development and support local facilities and transport networks and create safe, inclusive and accessible places promoting health and well-being, with a high standard of amenity.
- 14.27 If granted the development would result in a place that is not well designed. It is considered to be an unsustainable, car and road dominated, uncoordinated and unconnected, dormitory development that is not attractive, locally distinctive, healthy or with a sense of place. In addition, it is considered not well designed in that:
- i. The development will not function comprehensively as a sustainable neighbourhood, that is complete, connected and a comprehensive place allowing for living locally.
  - ii. The development has been designed around the provision of an eastern relief road and associated roundabouts. The car-based, approach to placemaking results in road, car and parking domination that does not prioritise active travel and public transport. It has poor connectivity to the surrounding area and results in an unconnected place.
  - iii. As proposed, the development does not reduce need to travel, deliver a walkable neighbourhood, nor achieve health and well-being objectives associated with the prioritisation of active travel and living locally.
  - iv. Within the site the development lacks integration and permeability with a poor network of connected streets designed primarily for cars, that do not integrate the walking and cycling network, nor make streets into places. As designed, there is segregation between uses and parts of the site.
  - v. As proposed, the district centre is not considered to result in a coherent, attractive, vibrant, mixed use centre functioning as a high quality place at the heart of the community.
  - vi. Density is considered too uniform and not sufficiently structured to support the use and vitality of public transport or facilities and services within the

site.

- vii. The development is located in Taunton Garden Town. It has not been designed as a new garden neighbourhood that meets the quality of design expected within a designated Garden Town and is not in accordance with the Vision for the Garden Town or Garden Town Principles.

Additionally, in respect of the full application proposals:

- i. The development's streets and places lack legibility, attractive and distinctive character and clear identity. There is poor use of street hierarchy and domination by cars.
- ii. The proposed dwellings do not deliver adaptable, flexible lifetime homes.
- iii. The proposed buildings do not define and enhance the streets and spaces, nor turn corners well.

Accordingly, the application is considered contrary to development plan policies CP5, CP6, SP2, SS1, DM1, DM4 (Taunton Deane Core Strategy); A1, A3, A5, D7 and D9 (Taunton Deane Site Allocations and Development Management Plan); CSM1, CSM4 and CSM6 (Creech St Michael Neighbourhood Plan) ; Policy T1 (West Monkton and Cheddon Fitzpaine Neighbourhood Plan); is contrary to the Districtwide Design Guide SPD, Garden Town Public Realm Design Guide SPD and the Vision for Taunton Garden Town. It is also considered contrary to the National Planning Policy Framework paragraph 125 and sections 2, 8, 9 and 12 and national design guidance including the National Design Guide and National Model Design Code.

## **15. Housing and residential amenity**

- 15.1 Policies SS1 and CP4 of the Core Strategy require 25% of new homes to be affordable. Within the 240 full part of the application, 25% affordable homes are proposed split 60% affordable rent / 40% intermediate (shared). However, whilst the outline application is for up to 1210 dwellings, the application expresses a target of 25% affordable dwellings, subject to viability. No viability assessment has to date been submitted to support the application and accordingly the percentage of affordable housing being provided in this part of the application is not currently able to be confirmed. In the absence of this, 25% affordable housing compliance is therefore not currently demonstrated over the greater part of the site.
- 15.2 The consultation response from the Lead Specialist Place on affordable housing makes specific reference to policy CP4 and the Affordable Housing Supplementary Planning Document and sets out the required tenure mix as 25% First Homes, 60% social rent and 15% intermediate housing in the form of shared ownership together with i) the type and size of affordable housing units required and ii) 10% affordable to be fully adapted disabled units in accordance with Part M4, Category 3: Wheelchair user dwellings of the Building Regulations 2010. In addition, the Ministerial Statement of 24th May 2021 and Planning Practice Guidance now requires 25% of affordable housing to be secured as First Homes and this is not currently included within the application. Within the full area of the application, the proposed affordable dwellings are grouped in certain areas of the layout rather than achieving a more genuine mix through



the scheme. The application as presented does not comply with these affordable housing requirements under policies SS1, CP4, the Ministerial Statement of 24th May 2021 or Planning Practice Guidance 2021.

- 15.3 Turning to dwelling size and amenity space, requirements for these are set out in policies D10 and D12. The part of the application submitted in detail (phase 1) may be assessed against these policy requirements as it includes details of this for each dwelling. In general, the proposed plans are considered to meet the minimum requirements on space standards for internal size and amenity space. Houses and their gardens, as shown in the submitted layout plan, are located sufficiently distant from existing housing to not impact on existing properties. Houses are laid out with rear gardens facing each other, separated by close boarded fencing, exceeding back-to-back distances between habitable rooms at first floor level. Accordingly, it is not considered that there is an objection in terms of the residential amenity of the detailed scheme.

## **16. Climate Change including energy centre**

- 16.1 Existing planning policies of relevance include Policy SS1 of the Core Strategy (which allocates this site for development), together with DM5 and policies A3, A5 and D9 of the SADMP in relation to active travel linkages.
- 16.2 Policy DM5 is relevant to the determination of this application and deals with the use of resource and sustainable design, requiring *'all development, including extensions and conversions, to incorporate sustainable design features to reduce their impact on the environment, mitigate and adapt to climate change, and particularly help deliver reduction in CO2 and other greenhouse gas emissions'*.
- 16.3 There is extensive reference within the National Planning Policy Framework to climate change and sustainability issues, key being paragraphs 7 (achieving sustainable development being a core purpose of the planning system), 8 (the economic, social and environmental objectives of sustainable development) and 152 (that the planning system should support the transition to a low carbon future...shaping places in ways to contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure. Specific reference is made to expecting new development to comply with any development plan policies on local requirements for decentralise energy supply unless the applicant can demonstrate that this is not feasible or viable.
- 16.4 The Council has declared a Climate Emergency and expresses commitment to working towards carbon neutrality by 2030. This is a material planning consideration. The Somerset Climate Emergency Strategy and the Council's own Carbon Neutrality and Climate Resilience (CNCR) Action Plan set a clear context of carbon emissions in the county and district, with transport being the main source, significantly in excess of the national average. Taunton is a major urban area and as such, development at Taunton presents a major opportunity for tackling transport related emissions through a range of means, including active travel. Developments on the perimeter of the town such as Monkton

Heathfield also present opportunities for better integrating external communities with active travel links. Active travel forms a key part of the CNCR Action Plan, with a series of actions dedicated to it. In addition to this, enabling active travel provides numerous co-benefits of action including in relation to health and wellbeing through increased activity levels and reduced air pollution and the creation of more integrated and viable communities, not segregated by barriers to active movement or the necessity to travel by car. Targeting carbon neutrality and active travel are key aspects of the Garden Town Vision.

- 16.5 Climate Positive Planning (the Council's interim guidance on planning for the climate and ecological emergency) sets out that the Sustainability Checklist and Energy Statement required by policy DM5 will be the means by which the Council considers how policy requirements (the majority of which remain valid) are met by proposals and includes commentary and guidance in relation to the relevance of existing planning policies.
- 16.6 The scale of the development within the application is such that if granted, most homes would be delivered after 2025 and therefore will need to meet the Future Homes Standard. Although this standard is yet to be precisely defined, it is likely to lead to a reduction in carbon emissions significantly in excess of both Part L 2013 and 2021, and involve a no gas approach. The applicants should therefore be planning to meet these requirements now.
- 16.7 The application is supported by energy and sustainability statements together with a sustainability checklist. A detailed energy strategy has been submitted for the full application (phase 1) area only. As submitted, the application seeks a 20% reduction in emissions compared to Building Regulations Part L 2013 utilising passive design, building fabric, 'high efficiency gas boilers', with roof mounted photovoltaic array recommended within the energy statement. The energy statement rules out a number of measures which have been introduced on other schemes. It is of note that Building Regulations Part L 2013 is referenced. Parts L, F, O and S have recently been updated. As a result, the changes:
- amount to an improvement reduction over Part L 2013 of 31% for residential and 27% for non-residential;
  - provide a new way of measuring energy efficiency and regulating on-site electricity generation systems;
  - introduce regulation on overheating mitigation;
  - make provision about ventilation standards when work to which Part L (conservation of fuel and power) applies;
  - require electric vehicle charge points or cabling for charge points to be installed in new residential, non-residential and mixed-use buildings, certain buildings undergoing a material change of use, or undergoing major renovation work.
- 16.8 Within Climate Positive Planning, it is established that the Council will limit its requirements in relation to new dwellings to requiring the energy performance of dwellings to achieve a 20% carbon reduction improvement over Part L of the 2013 Building Regulations (equivalent to Code Level 4), and seek to uplift this requirement further through the Local Plan Review. However, once in force (after June 2022), compliance with Part L 2021 will supersede the specific carbon reduction requirements of policy DM5. Part L 2021 therefore applies to

this development necessitating a review of the approach to reducing carbon. As it stands, fabric thermal properties, air tightness and thermal bridging within the energy statement submitted with the application do not universally meet the base standard illustrative of policy compliance set out in the 2021 District wide design guide, (which Part L 2021 would require exceedance of) and utilise gas boilers (which the Government has indicated an intention to phase out by 2025, and which compliance with the Future Homes Standard is likely to require avoidance of). Furthermore, Climate Positive Planning explains how whilst references to the Code for Sustainable Homes are out of date, the vast majority of policy DM5 requirements remain valid. Climate Positive Planning provides useful guidance on the applicability of the various component parts of DM5 and other adopted policies. The Districtwide Design Guide SPD together with the SWT Net Zero Carbon Toolkit provide further guidance on how these policy requirements can be implemented as well as setting out aspirational standards for developments to respond to. Whilst there is no direct policy requirement for zero carbon development here, there is an expectation through policies DM5 and D7 for high quality, energy efficient, low carbon development. The Districtwide Design Guide SPD sets out a series of aspirational standards and applications are expected to respond to these, setting out how they compare with these standards. The application site has also not been considered comprehensively in respect of climate change mitigation with only the full application phase 1 development being considered for combined heat and power. Policy SS1 requires provision of a suitably located energy centre to provide locally generated electricity to the new development- this policy requirement is not comprehensively addressed. Climate Positive Planning explains that “as part of meeting this requirement, development here should identify potential opportunities to generate renewable energy and harness site-wide energy opportunities to uplift carbon reduction beyond the minimum levels required by policy DM5.” A holistic review of options and opportunities is lacking. Therefore, this policy requirement cannot be said to have been effectively responded to.

- 16.9 The application includes a Sustainability Statement and an Energy Statement. Measures proposed within the Sustainability Statement include the minimising of construction waste, using a site waste management plan, segregation of recycling, including home composting, use of materials which have a lesser environmental impact, including sustainable timber, limiting water to a no more than 100 litres per person per day, provision of allotments, and setting aside land for green infrastructure. However, commitments made are high level and not supported by detailed information of how they will be met (e.g. inventory of the provenance of materials to be used). More detail would be expected on this for the detailed design aspects of the proposal, with higher level commitments informing conditions for submission of information at a later date for the outline aspects.
- 16.10 The Energy Statement proposes a reduction of CO<sub>2</sub> emissions by 20% over Building Regulations Part L (2013). It states that this would be achieved by passive orientation of dwellings, high insulation values, natural ventilation, use of low energy fittings, and installation of Solar PV on roofs. However, it has ruled out several measures which have been introduced on other schemes. This includes ground and air source heat pumps, biomass heating, solar thermal, a CHP system and micro wind turbines. Critically the Statement says that gas fired boilers will be required within the development. As stated above, the scale

of development and development time involved here mean that the vast majority of buildings on the site will need to meet the Future Homes Standard. It is not clear how the need to meet this future standard has been considered.

- 16.11 Whilst it is acknowledged that the proposed energy efficiency measures to be installed within the individual buildings and the installation of Solar PV will result in a reduction on Part L 2013, the proposals within the Energy and Sustainability Statements will not meet the new Part L 2021, are not futureproofed to meet the Future Homes Standard and the energy strategy for the site as a whole has not been holistically thought through. Policy SS1, specifically refers to the need for a 'suitably located energy centre to provide locally generated electricity to the new development'. Taking a holistically considered site-wide approach may present an opportunity to achieve improved carbon emissions reductions at a lower cost, and with greater benefits, than taking a unit-by unit approach, but the application has failed to consider this. The proposal has failed to demonstrate that it will sufficiently incorporate sustainable design features to reduce its impact on the environment, mitigate and adapt to climate change, and particularly help deliver reduction in CO2 and other greenhouse gas emissions. It fails to demonstrate that it will result in a development which minimises the use of energy, or to holistically consider the energy strategy for the site as a whole, or how the development can realistically meet current or future national standards likely to apply within the development's lifetime. The Council's Climate and Ecological Emergency is an important material consideration relevant to the determination of this planning application and the proposal fails to demonstrate how it sufficiently and effectively responds to this. The proposal is therefore considered to be contrary to policies SS1, CP1 and DM5 of the Core Strategy and provisions within the Districtwide Design Guide SPD, and the National Planning Policy Framework.

## **17. Sustainable Drainage and flood risk**

- 17.1 Policy I4 of the Local Plan requires adequate water infrastructure with surface water disposal via SUDS (sustainable urban drainage systems) and Policy R3 of the WMCFNP seeks flood attenuation measures with specific reference to flood reduction features.
- 17.2 The scheme drainage strategy relies on attenuation ponds within each catchment area with the proposed approach able to be summed up as 'pipe to pond'. The Lead Local Flood Authority (LLFA) in its initial consultation response recommended the submission of a sustainable drainage assessment due to a variety of SUDS not being included and commented on the potential for further sustainable drainage features such as tree pits as part of below ground attenuation, bioretention areas, permeable paving and swales, which would result in multiple benefits such as amenity, biodiversity and water quality. It would be preferable for the scheme to integrate a sustainable drainage system within the street layout and design a system that mimics natural drainage and encourages passive infiltration and attenuation. The applicants have indicated an intent to utilise SUDS drainage features such as rain gardens, permeable paving and bioretention areas in addition to pipes, basins and swales. Consideration of the potential cumulative impact of the multiple developments in the area with this application is also sought to ensure that any surface water drainage and potential flood risks are adequately evaluated.

- 17.3 The LLFA has commented on the application requesting further information on both the outline and full elements. In respect of the outline area, the LLFA has recently updated their advice such that full details of the proposed pipe network can now follow at the detailed design stage in response to the use of a suitably worded condition requiring the submission of the detailed design of the drainage strategy and including demonstration that the system does not surcharge up to the 1 in 2 year event and that there is no flooding up to the 1 in 30 year event. The LLFA confirms no further comment of the outline element of the application. However, it is the expectation of the Local Planning Authority that the detailed design consider and respond to a wider placemaking approach as referred to above.
- 17.4 In respect of the full part of the application, in June 2022 the LLFA requested plans of a proposed surface water drainage strategy, including indicative levels of all drainage features, consistent with those used in the network calculations; a plan detailing overland flow paths in exceedance events (greater than the 1 in 100 year return period plus climate change) and details of the party responsible for the maintenance of all drainage features within the communal areas. It is understood that this information is in the process of being prepared, but to date has not been submitted. Although it is likely that this information will be forthcoming, at present in its absence the application has not currently demonstrated the adequacy of the proposed approach to water management and therefore compliance with requirements within policies CP1, SS1 and I4 of the Taunton Deane Core Strategy.
- 17.5 The majority of the application site is located in flood zone 1, at low risk of flooding with the exception of the section along Dyer's Brook. Comments have been received from the Environment Agency in relation to flood risk. Provided the Local Planning Authority is satisfied the requirements of the Sequential Test under the National Planning Policy Framework are met, the Environment Agency now withdraws its earlier objection in principle, to the proposed development. This is subject to the inclusion of conditions relating to the development being carried out in accordance with the submitted phase 2 flood risk assessment and its mitigation measures; particularly that all houses and drainage features be located outside of areas of higher flood risk (zones 2 and 3) and that the mitigation measures be fully implemented prior to occupation and subsequently in accordance with timing /phasing arrangements. Further conditions are also sought in respect of contamination during the construction phase with remediation requirements, that any oil or chemical storage facilities be sited in bunded areas and that there be no discharge of foul or contamination drainage to groundwater or surface water. In the event planning permission were to be granted, these conditions would be required to appropriately address flood risk arising from the development.
- 17.6 In respect of the sequential test, as an allocated site, the location of development has been the subject of strategic flood risk assessment (in 2007 and 2011 and informing the Core Strategy) at plan making stage which considered a sequential approach. In such circumstances it is not then required at planning application stage.
- 17.7 With the application of conditions as recommended by the Environment Agency, the approach to mitigating flood risk is considered to comply with the requirements of policies CP1f and CP8 Taunton Deane Core Strategy and

## **18. Infrastructure**

### **18.1 School and education requirements**

18.1.1 Across the whole development allocation area, policy SS1 sets out the need for 3 new primary schools and a new secondary school. To date a new primary school and nursery have been delivered on Bridgwater Road (West Monkton CEVE Primary School and Little Herons Nursery). The current application proposes land for a through school incorporating early years, primary and secondary education provision. The principal of the proposed education provision on site is accepted and the delivery of the through school will make a significant contribution towards education needs arising from the development. It is to be noted that the Education Authority response of 1st February 2022 sets out per dwelling financial contributions required to support early years, primary, secondary and special education needs arising from the development. These are currently unsecured.

18.1.2. Indicated to be provided in phases 1 and 2, the school proposals will require further discussion with the Education Authority over the delivery body and delivery mechanism. Therefore, at present there remain both unsecured financial contributions and delivery details for both the land and construction of the school. These would be capable of being resolved through S106 agreement discussions, but due to other application issues have not to date taken place but would be required in order to safeguard the provision of this important on-site infrastructure and in order to meet the education's needs arising from the development in accordance with policies SS1 and CP7.

18.1.3 The school site is proposed to be located south of the A38 with a relatively narrow buffer between it and that road. The proximity to the A38 busy road might cause a high level of air and noise pollution unless addressed via treatment of the A38 corridor, and reserved matters school siting and design details, neither of which form part of the application proposal. As sited, the school divides two residential areas to its east and west, thereby reducing connectivity between different areas of the proposed neighbourhood and creating longer and less convenient east/west walking/cycling routes. Improving east-west connectivity in relation to the proposed school would be of benefit. Routes to the school should be safe and convenient for children. There is concern that the proposed boulevard may create a physical barrier for children and an unsafe route to school for those who will live to its south. Connections and linkages in relation to school routes need further consideration. Locating a public square between the school and the district centre may help to mitigate traffic, create a safer crossing to the school and benefit wider placemaking. Further details are therefore required to show how the school will connect to residential areas and provide safety and security for students.

### **18.2 Employment Allocation**

18.2.1 Policy CP2 of the Core Strategy sets out the employment strategy for the District. This includes 36.5 hectares of general employment space within the wider Taunton urban area, and at Wellington. Policy SS1 requires 10 hectares to be reserved for employment purposes for longer term release around Walford

Cross. The outline part of this application provides 4.83 hectares of land (12,000 sq m) for strategic employment adjacent to existing employment at Walford Cross. A further 1,000 sq m office floorspace is proposed within the district centre. The provision of 4.83 hectares of strategic employment land is an under provision of the amount required as stated within Policy SS1. However, there are other areas of land at Walford Cross which are shown within the allocation within the Core Strategy, but do not form part of this application and includes existing employment land. In addition, there is an area of land north of the A38 and east of the junction with Monkton Heathfield Road which has not yet come forward. This area could in theory form a further area of employment. It is therefore concluded that given the other employment land within the allocation, the provision of 4.83 hectares of employment land in this application is not at odds with this requirement of Policy SS1.

18.2.2 The proposed mix of employment uses is not specified. The employment sector is changing rapidly post-Covid, with changes to office working patterns and online retail provision in particularly driving the need for increased distribution warehouses in preference to new purpose-built office blocks, however the Economic Development Needs Assessment (Hardisty Jones Associates, May 2021) concluded that there remains a need for further office, industrial and warehousing between 2020 and 2040 although this need is not compared with land availability/supply which will be part of the Local Plan process at the appropriate time. Coupled with the extension to Permitted Development Rights; the changes to the Use Classes Order; Brexit and now, since the 2021 report was published, the war in Ukraine; cost of living crisis; and inflation rises make employment forecasting even more uncertain. It is therefore important that flexibility is built into the proposed employment area uses, with a need to submit up-to-date employment trend data with any subsequent application.

18.2.3 The Council will be reviewing its employment sites through the Local Plan review process considering them for their sustainability, appropriateness, deliverability, attractiveness as employment sites, infrastructure requirements and other local benefits that could be delivered. The Council will also consider where employment development and allocations should be retained for placemaking reasons to deliver sustainable communities including the new communities that deliver Taunton's Garden Town of which Monkton Heathfield is one.

18.2.4 There is under delivery of employment floorspace across the other parts of the allocation which lie outside this application area. This increases the significance of the employment aspect of this application in terms of sustainable placemaking, particularly in terms of the need to create a mixed-use development incorporating a range of employment opportunities in proximity to homes, thereby reducing the need to travel or rely upon private vehicle movements. The employment area on the east side of the development, adjacent to the M5 is far from the neighbourhood with the risk that its design is based on (and promotes) car dependence unless convenient quality connectivity and access for pedestrians, cyclists and public transport is provided. This is considered elsewhere in this report. Maximising opportunities for types of employment generating floorspace within upper floors of the district centre can also make a denser, more liveable and vibrant neighbourhood centre and increase the sustainability of the development. This is considered further in the placemaking and district centre sections.

## 18.4 District Centre

18.4.1 Policy SS1 provides for a mixed-use district centre to support the development, specified as comprising a food store, convenience and comparison retail, financial and professional services, restaurants and cafes, drinking establishments, hot food takeaways and offices together with multi-functional community facilities and residential accommodation for the elderly. Floorspace figures are provided within the policy. These are set out below, together with the floorspace figures proposed within this application:

DISTRICT CENTRE	Core Strategy SS1	Current application:
		Design & access statement
Food store	4,400m2 (gross)	Up to 2,500 sq m
Convenience & comparison retail, financial & professional services, restaurants & cafes, drinking establishments, hot food takeaways	8,000m2 (gross)	
Offices	1,000m2 (gross)	Up to 1,000 sq m
Multi-functional community facilities (including places of worship, community hall, health facilities, care and residential accommodation for the elderly)		Up to 2,000sq m (1,000 sq m community hall, 500 sq m health centre, Creche/day nursery, 100 apartments- occupation not limited to the elderly)

Retail and economic need reports have been submitted to support the application and specify 2,853 m2 gross floorspace, derived as follows: convenience goods retail 685m2 gross, comparison goods retail 1,239m2 gross, food and drink floorspace 562m2 gross and retail sales/financial and professional services 373m2. As set out in the Design and Access Statement, provision for these uses is proposed as up to 2,000 sq m.

18.4.2 Policy TC3 of the SADMP sets out expectations for local shopping including within the allocation district centre, including generating footfall and being of general public interest or service with active ground floor frontages. Accordingly, the more strategic role of the proposed district centre is recognised. Policy C5 SADMAP relates to community facilities and seeks to ensure increased demand for community halls is met in line with standards. Material supporting the application identifies the need to provide additional facilities to serve as a community hall/hub within the development to meet need, recommending a 1,000 sq m facility within the district centre. The application indicates an intent to provide up to 1,500 m2 community hub/hall with



crèche/nursery/day centre. The Community Halls Strategy (2015-2020) defines a policy for the provision of community halls, which informed Policy C5 of the Taunton Deane Adopted Site Allocations and Development Management Plan (2016) and the standards in Appendix D. For developments of over 2,150 people this requires the one main hall, two meeting rooms or activity room, storage, toilets and a kitchen. Assuming an average household size of 2.22, the proposed 1,450 dwelling development would result in an additional population of 3,220 people. The details within the Design and Access Statement broadly align with the list of facilities within the community hall/hub with additional mention of the main hall acting as a church sanctuary and the provision of a 115 sqm library.

18.4.3 In assessing the district centre proposals within the application, it is important to place it in the wider context of the allocation as a whole, which it is proposed to serve. Retail floorspace within the phase 1 local centre at Furs Close off Bridgwater Road is currently undelivered with either empty ground floor units or vacant site awaiting delivery. In contrast the residential development in phase 1 with which it is associated has come forward and is occupied. Although there is a live planning application for a local centre at Nerrols, this is at some distance from this site and intended to serve that development. Existing facilities in proximity to the site that the district centre is intended to address are limited. Brittons Ash Community Centre was provided in connection with earlier phases of development, but further community hall / hub is required in connection with the current application. Whilst planning permission has been granted at the former car showroom site on Bridgwater Road for a convenience store, children's nursery and pharmacy (application 48/21/0054), this has not yet been delivered.

18.4.4 The application seeks to provide a significantly scaled down district centre within phase 2. Bespoke assessments by way of retail, social and community infrastructure studies have been submitted to support the proposal and seek to justify the approach to the district centre against the predicted needs of the Monkton Heathfield allocation and the estimated additional 3,220 residents arising from this application. However, there is little evidence that these predictions have been undertaken in the context of reducing the need to travel in order to reduce carbon and the latest thinking in place making around 15/20-minute neighbourhoods which results in planning for compact, complete places that enable living locally. The role and function of the district centre on this site in relation to sustainable and quality placemaking for this phase and the adjacent area of earlier development to the west is therefore even more critical and there is considerable concern that this would be compromised by the scaled down proposal within the application. Although there is reference to phase 1 provision (yet to be delivered) and an application for a local centre at Nerrols, the current proposal does not take a wider allocation, coordinated approach to such facilities and floorspace required, nor the relationship between them. The phasing proposals submitted with the application also indicate that the district centre is to be provided in stages across phases 1 to 6. This would see much of the district centre provided towards the latter part of the development when many of the housing phases are complete. It also indicates the last area of the district centre is the closest to existing development (part of Phase 1 of the overall allocation area) to the west. The A38 also separates this Phase 1 development from the current application site and its district centre. Acting as a significant physical barrier for pedestrians

and cyclists, the scheme does not sufficiently address the need for safe and convenient crossing over the A38 to enable access to the district centre from earlier development phases to the east. There is therefore also concern over adequacy of the district centre proposal as set out within the application which is intended to serve the whole allocation area, with the earlier phases nearing completion. Further consideration is required in order to plan comprehensively for the district centre in terms of floorspace, uses, phasing, relationship with earlier phase 1 development and the needs of the allocation as a whole. The proposal therefore fails this aspect of Policy SS1.

18.4.5 The NPPF at paragraph 92 sets out the aim to achieve healthy, inclusive and safe places with strong neighbourhood centres, with positive planning for local services and community facilities is reference in paragraph 93.

18.4.6 The application's approach to the district centre is therefore considered contrary to policies SS1, CP3 and SP2 of Taunton Deane Core Strategy and policies C5 and TC3 Taunton Deane Site Allocations and Development Management Plan.

18.4.7 Policy R4 of the West Monkton NP requires new major development to provide recreation and/or community facilities to meet demonstrated local needs. Located in the part of the application site outside of this neighbourhood plan area, concern has been expressed under other policies over the proposed district centre facilities, lack of certainty over facilities to be provided within the green necklace and the approach to sports pitch provision. It is noted that the neighbourhood plan includes proposals on land south of phase 1 of Monkton Heathfield for two new football pitches and a club house. These are in connection with the earlier phase of development.

## **18.5 Recreational Open Space**

18.5.1 Policy C2 requires recreational open space arising from new development to meets relevant standards and subject to viability demonstrate how they are responding to them. The approach of the application to formal sports pitch provision is for delivery on site but combining use between the proposed through school and the community 6.3ha of sports pitches are proposed at the school site. There is no indication in the submission of the number and type of pitches to be provided. This would be the subject of further discussion taking into account the relevant local and national standards. No provision towards sports built facilities is currently proposed.

18.5.2 The Sport England consultation response applies and identifies conflict with this policy in sports facility provision, with a lack of adequate planning and provision, particularly in respect of formal sports pitches (on site) and/or lack of additional capacity provision off site. Sport England comments as follows:

*'We are surprised to note in a development of this scale no land allocated within the layout for a community sports hub including multiple playing pitches for various sports to meet the needs of the future population. The dual use of playing pitches for education and community use will provide a high level of risk and significant challenge for community use as the schools priority will be to protect any use for education purposes. e.g. community sports teams being denied access in unfavourable weather. We do not support the provision of dual*

*use playing fields in this development'.*

18.5.3 A particular demand in relation to mini soccer and youth football is identified in the response, together with constrained capacity for rugby at the Taunton RFC and regarding cricket (West Monkton Cricket Club), the need for artificial grass practice nets and an artificial pitch. There is also a need to enhance the existing off site artificial grass pitch at Heathfield School for hockey and under-provision locally of tennis. These are all referenced in the Sport England consultation response as are the need to consider opportunity for other physical activity for an indoor multi-purpose space and wider principles of active design in placemaking. Accordingly, the approach to and quantum of on and off site sport and recreation provision is not sufficiently considered and as the application stands, the needs arising from the development are not fully addressed. This is contrary to policies SS1 of the Core Strategy and Policies C2 and C5 of the Adopted Site Allocations and Development Management Plan.

18.5.4 West Monkton and Cheddon Fitzpaine Neighbourhood Plan contains Recreation and Environment Policy R4: Recreation and Community Facilities which requires that new major residential development include recreation and community facilities to cater for the demonstrable local need and sets out a range of what such facilities could include. As this neighbourhood plan does not apply to the majority of the application site, this assessment places greater reliance on policies within other parts of the development plan.

## **18.6 Phasing**

18.6.1 The application has been submitted with one residential parcel (phase 1) in detail, with the remaining parcels, commercial areas and landscaping in outline. A phasing parameter plan has been submitted as part of the Design and Access Statement, showing up to 5 additional phases, not including the landscaping, park and ride which is stated as being 'subject to further discussion'. The phasing shown is broadly from west to east across the site, starting in the west.

18.6.2 Following the delivery of the phase 1 housing, the school site is proposed to come forward between residential phases 1 and 2, as will the first part of the district centre, furthest to the north. Phase 2 residential is proposed next in sequence and is before any of the green necklace green infrastructure is to be provided. The first of three phases of the green necklace are proposed at phase 3 of the residential development with the second part of the district centre at residential phase 3/ phase 4. The remaining areas of the green necklace are to be delivered with residential phases 4 and 6. The final phase of the district centre is proposed at phase 5 / phase 6 of the residential areas.

18.6.3 The phases described above have the net effect that much of the residential development will be delivered in advance of significant delivery of the facilities and strategic scale green space. The phasing does not recognise the wider role of site facilities across the whole allocation and that early allocation phases are either complete, or nearly complete. There is also considerable uncertainty over the park and ride site for which no phasing is indicated. Although the detail of phasing will need to be agreed as part of a Section 106 agreement, as currently set out the provision of community facilities and strategic open space in relation to the residential phases is not considered acceptable and if granted, would mean that the facilities that the residents of earlier phases and parts of the wider

site depend upon will not be available until late in the development contrary to policy CP7 of the Core Strategy and to the detriment of high quality, sustainable placemaking.

## 19. Heritage impact

19.1 A Historic Environment Assessment identifies that there are currently no built designated heritage assets within the application area that would be directly impacted upon by the development. Within the vicinity of the application area there are several listed buildings to which the proposed development (outline/full application elements) would have a direct or indirect impact on their setting, these assets are identified in the supporting information as being.

- Grade II\* Listed Walford House and associated Grade II Listed outbuilding at Walford Court – Outline proposal
- Grade II Listed Monkton Elm – Full part of application
- Grade II Listed Langaller House and associated Grade II Listed Langaller Cottage and Outbuilding adjoining Northwest – Outline proposal
- Grade II Listed the Manor House – Outline proposal
- Grade II Listed Manor Farmhouse – Outline proposal
- Grade II Listed Heathfield Farmhouse; and – Outline proposal
- Grade II Listed Blundell's Farmhouse. – Outline proposal

19.2 In this respect an assessment of these identified heritage assets was undertaken by AC in accordance with *Historic England's Historic Environment Good Practice Advice set out in Planning Note 3*, which is a staged approach ranging from Step 1 – Step 5. Having reviewed this assessment, the Council's Conservation officer has commented that the heritage assessment does not undertake all the required steps of the staged approach to the setting of the heritage assets, concluding that the steps relating to.

Step 3 - 'assessing the effects of the proposed development, whether beneficial or harmful, on the significance or on the ability to appreciate it' and

Step 4 - 'explore ways to maximise enhancement and avoid or minimise harm to the impact of the proposed development upon the setting and significance' would need to be considered at the design and layout stage.

19.3 The Conservation Officer considers that the approach in not undertaking Steps 3 and 4 at this time is considered acceptable in relation to the outline proposals only. The submitted application includes in full, the design and layout of the development within the immediate setting of Monkton Elm a Grade II heritage asset.

19.4 In this respect the submitted assessment conclusion on the impact on the setting as resulting in '*negligible adverse change*' is considered misleading as it has not considered Steps 3 and 4 of the adopted setting guidance and therefore has not fully addressed the potential harm of the proposed design and layout as presented through the full part of the application, would have on the on the setting and its contribution to the significance of Monkton Elm. **Negligible adverse change** equates a '*change in significance of the resource is barely perceptible.*'

19.5 The context in which Monkton Elm is experienced is 'agricultural landscape',

the open and rural character of which provides historic setting that enables the heritage asset to be interpreted as a rural dwelling. The Conservation Officer advises that whilst this has been subject to some erosion through road improvements and street lighting, the inherent character and appearance of this historic setting remains a prominent feature that terminates the built envelope of Monkton Heathfield to the north and south of the listed building, providing a gateway to the village when approached from the north-east. Any proposal for development to the north and south of the listed building would result in a level of harm to this open agricultural landscape. Whilst she does not consider this to make the principle of development unacceptable, however the considered layout, scale, use of materials and design should enhance or better reveal the identified significance or at a minimum preserve the character and appearance of the surrounding area (paragraph 206 National Planning Policy Framework).

- 19.6 The design details of the full application area propose a suburban layout (including boundary treatment), built scale ranging from 1 – 2.5 storey and standard residential design. The Conservation Officer considers this approach to introduce a prominent and conspicuous urban environment that would visually compete with and distract from the rural context of the setting and in turn significance of Monkton Elm as a heritage asset. She recommends that more consideration is given to the local vernacular character in terms of layout, building type and architectural detailing in relation to local distinctiveness, which includes boundary treatment that encloses and defines the built form.
- 19.7 In summary, the heritage assessment submitted identifying the change in significance of Monkton Elm, a Grade II heritage asset as barely perceptible as a result of the design and layout of the full application area, fails to fully address the impact of the development on its setting. The application has not assessed the effect of the development upon the significance of Monkton Elm, a grade II heritage asset, nor considered ways to enhance, better reveal or preserve the setting of that heritage asset. The proposal is therefore considered contrary to policies CP8 and D9 of the Taunton Deane Core Strategy and paragraphs 199-204 and 206 of the National Planning Policy Framework.

## **20. Archaeology**

- 20.1 Policy ENV4 relates to archaeology. There is archaeological potential within the site. The heritage assessment identifies a number of features, dating from the Neolithic and iron age within the study areas. These include ring ditches, enclosures and a potential settlement. The Environment topic paper mentions that Monkton Heathfield has a high potential to reveal archaeological information as it is set within a complex of prehistoric and Roman sites.
- 20.2 The document states that developers will be expected to demonstrate that they have assessed the 'significance' of archaeological deposits and remains within the wider landscape value and that this will inform the design and layout of any planning proposal. The consultation response from South West Heritage Trust advises that there is currently insufficient information contained within the application on the nature, date and significance of the archaeological remains to properly assess their interest and recommends that applicant be asked to provide further information on any archaeological remains on the site prior to the determination of the application. The response goes on to state that this will require trial trench evaluation as indicated in the National Planning Policy

- 20.3 To date, trial trench evaluation has not been carried out and no further information has been submitted. Based on the work undertaken to date, the evaluation of the archaeological value of the site is insufficient and the extent of archaeological impact arising from the development remains uncertain. The application is therefore contrary to policies CP8, ENV4 and the National Planning Policy Framework.

## **21. Air quality, noise and contamination**

- 21.1 Policy DM1 of the Core Strategy sets out a number of criteria that development proposals must meet. This includes the requirement that all forms of pollution must not unacceptably harm public health or safety, the amenity of individual dwellings or the wider environment. The definition of pollution includes air pollution, water, noise, dust, lighting, glare heat and vibration.
- 21.2 The site is not located within an air quality management area and the focus of the relevant chapter of the Environmental Statement submitted with the application focusses on dust, noise and emissions during the construction phase, and vehicular emissions during the operational phase.
- 21.3 With the site currently being arable fields, emissions at the present time are minimal, and relate to agricultural machinery movements and chemical spraying of crops. Clearly a proposal for a new community will significantly add to these emissions. There will be a release of dust and particulates during site construction, however these are deemed to be limited given the area of the site. Mitigation is possible through good construction practices and careful management of construction traffic. Future occupants of the site would not be exposed to concentrations of pollutants above the relevant air quality objectives and therefore the impact of the proposed development with regards to new exposure to air quality is considered to be negligible.
- 21.4 The site abuts the M5 which has the potential to be a noise source. The proposed layout of the scheme does not propose dwellings close to the M5, instead it proposes a green necklace which will provide recreational opportunities and landscape planting. In considering noise and vibration, comments from Environmental Heath query whether sufficient account has been taken of the existing noise at the industrial site to the northeast (at Walford Cross), in particular in the event that the configuration of development is adjusted.
- 21.5 The noise assessment submitted with the application indicates ambient noise levels in certain amenity areas would exceed the upper guideline value of BS8233:2014 (Guidance on sound insulation and noise reduction in buildings). Although the assessment suggests that measures such as close boarded solid timber fencing can provide mitigation up to 10dB, Environmental Heath comments that barriers may not provide sufficient attenuation to outside areas and that further information on mitigation for external areas should be provided to justify the proposed layout and configuration of and within the residential areas. In addition, the current proposal is recognised in the technical submission material to require all properties overlooking the A38 or proposed link road to incorporate façade reduction of up to 41dB to ensure the internal

maximum noise would not exceed 45dB World Health Organisation criterion. Properties within 20m and with a direct line of sight to a road noise source should ensure suitable façade design to ensure suitable internal noise conditions. Adequate detail of such design is likely to require suitable, acoustically-treated arrangements for forced ventilation. Given the potential flexibility of overall design and layout of this site, Environmental Health comments that the suitability of such arrangements being necessary requires further justification. Furthermore, technical submissions on noise criteria for residential buildings reference the wrong noise level for sleeping (30dB LAeq,8hour instead of 35dBLAeq,8hour between 2300-0700). Any assessments based on the inaccurate figure need to be revisited.

21.6 Environmental Health comments that the proposal is likely to require acoustically treated arrangements for forced ventilation to some dwellings, but that given the overall potential flexibility of overall design and layout, the necessity of such arrangements requires further justification. In summary, the position of Environmental Health on noise matters is that it is necessary that the approach outlined in 'ProPG (Professional Practice Guidance on Planning and Noise): Planning and Noise, New Residential Development' (May 2017) is followed, not least the detail within Stage 2, Element 1 – Good Acoustic Design Process. It is the view of Environmental Health that the application does not sufficiently demonstrate this approach. Given that the layout and configuration of the site is a key and fundamental element of the design process, in the above circumstances Environmental Heath objects to the application as submitted.

21.7 In respect of land contamination matters, Environmental Heath has referenced the application site as being in an area of diverse uses- agricultural, infill material and building structure. The submitted report relies on a preliminary risk assessment and ground investigation from 2016 and identified made ground and potential for contamination concerns. Although some sampling and trial pits were carried out, it cannot currently be determined whether the locations are representative of the site as a whole. Whilst the assessment recorded no elevated contamination, it is considered important to carry out further risk assessment for the site to determine the extent of made ground, gassing regime and infill material with additional potential contaminants tested for. The extant preliminary risk assessment is not considered to have provided a robust conceptual site model and there is potential for contaminative material being encountered which was not considered in the 2016 report. Additional monitoring in respect of off-sight sources of contamination, especially infill pond and gassing regime and ground water monitoring will be required. Taking the above into consideration, Environmental Heath has requested that additional detailed risk assessment should be submitted to the Local Planning Authority for approval. Where contaminants have been encountered, the applicant needs to provide a detailed option appraisal, remediation strategy and verification plan prior to commencement of the development. These further requirements in respect of contamination could be conditioned in the event that planning permission were granted.

21.7 The consultation response from Environmental Health has therefore raised several issues in respect of the technical assessments submitted to support the application. Those relating to noise assessment and its mitigation indicate that

there are deficiencies in the technical assessment information submitted to support the information with the result that it has not been sufficiently demonstrated that the requirements of policy DM1e of Taunton Deane Core Strategy have been met in terms of the potential impact of noise and any required mitigation measures upon the amenity of the residents of the proposed dwellings.

## **22. Safety and Crime**

22.1 Policy D8 of the Site Allocations and Development Management Plan requires new developments to incorporate measures to reduce the likelihood of crime which are compatible with the need to create an attractive and sustainable layout and lays out a series of relevant criterion. In order to provide safe places and ensure communities minimise the fear of crime and anti-social behaviour, it is also necessary to assess the application against the NPPF, which requires that places are safe, inclusive and accessible.

22.2 The Police Crime Prevention Design Advisor has commented on the application and confirms that reported crime and antisocial behaviour levels for the area of the proposed development are average. As a hybrid application, many of the parts of the scheme have been submitted in outline, with only means of access included. Accordingly, for much of the site only general comments are made on reducing crime and antisocial behaviour by design which are summarised as follows:

- Vehicular and pedestrian routes appear to be visually open and direct and are likely to be well used enabling good resident surveillance of the street. The use of physical or psychological features helps reinforce defensible space.
- Communal Areas and Play Space should be designed to allow natural surveillance from nearby dwellings with safe and accessible routes for users. Boundaries between public and private space must be clearly defined.
- Dwelling Boundaries – boundaries between public and private space must be clearly defined and dwelling frontages are kept open to view to assist resident surveillance of the street and public areas. Exposed side and rear gardens need more robust defensive measures such as 1.8m high walls, fences or hedges.
- Potential climbing aids such as walls, street furniture, balconies, trees etc. should be suitably designed so as not to allow unlawful access to dwellings.
- Vehicles should either be parked in locked garages or on a hard standing within the dwelling boundary. Where communal parking areas are necessary, bays should be sited in small groups, close and adjacent to homes, be within view of 'active' rooms and allocated to individual properties.
- Landscaping/planting should not impede opportunities for natural surveillance and wayfinding and must avoid creating potential hiding places.
- All street lighting for adopted highways and footpaths, private estate roads and footpaths and car parking areas should comply with BS 5489:2020.

22.3 However, the proposed Phase 1 does need to demonstrate these features as



this is submitted in full as part of this application. Comments from the Police over the full parts of the application are as follows:

- The local area for play proposed in Phase 1 appears to be well overlooked by dwellings on three sides.
- Dwellings in Phase 1 appear to be positioned overlooking the street and public open spaces which allows neighbours to easily view their surroundings and makes the potential criminal more vulnerable to detection.
- The majority of the dwellings are also 'back to back', which has advantages from a crime prevention perspective, in that it helps restrict unauthorised access to the rear of dwellings. Dwelling boundaries- The site layout plan indicates that these recommendations will be complied with.
- Rear Access Footpaths – the development incorporates a number of rear access footpaths which should be ideally removed to reduce risk of burglary. If they are essential to provide rear access, they must be gated at the entrance to the footpath, as near to the front building line as possible, so that unlawful attempts to access them are in full view of the street
- Parking- Overall, the Phase 1 parking proposals appear to comply with recommendations. However, the proposed parking arrangements for Plots 30-37 (Persimmon) which are at the rear of the dwellings they serve, with two vehicular access points enabling easy unauthorised access to both the rear of these dwellings and parked vehicles. As is the case with the majority of communal parking in this development, it is recommended these parking spaces be relocated to the front of the dwellings they serve where there would be much improved surveillance opportunities.
- Apartment Blocks – are basically 'L' shaped with no deep recessed areas which could be used for concealment and good sight lines around them. If possible, areas of defensible space should be incorporated around these blocks externally to deter crime and anti-social behaviour. The blocks incorporate two communal entrances, front and rear, which should have installed suitable access control systems. The blocks incorporate integral Cycle and Bin Stores, which is recommended, and which should be lockable to prevent theft of cycles and misuse of wheelie bins for climbing or arson. Communal mailboxes in the 'air lock' type arrangements in the lobbies are also recommended. Car parking for residents in adjacent rear courtyards appears to be well overlooked from all Apartment Blocks.

22.4 As a result of these comments some changes to the design are needed in respect of the Phase 1 development. There are no significant concerns with the outline element of the application at this stage as these matters will be considered in detail at a subsequent reserved matters stage. In conclusion, whilst a few issues have been raised, in general the proposal is considered to accord with policy D8 of the Site Allocations and Development Management Plan.

## **23. Health - Health Centre and wellbeing Issues**

23.1 Policy SS1 specifically references the provision of health facilities within the district centre. However, the views of the NHS Clinical Commissioning Group (CCG) in this respect need to be taken into account. Within the consultation response they state that the combined existing surgeries at Creech Medical

Centre, Lyngford Park and Crown, are already over capacity. There are 21,063 patients registered at these three surgeries and the proposal is estimated to increase the population by a further 3,277 patients. The CCG has requested a contribution of £838,912 towards further infrastructure, without specifying whether this equates to a new purpose-built facility, space within the district centre, or as an extension to either of the existing centres. Separate recent discussions with the NHS CCG for the Taunton Garden Town Infrastructure Delivery Plan indicate a clear preference to address additional demand arising from development by expanding existing surgeries where possible rather than creating a new medical centre on site.

- 23.2 Were permission to be granted, it is considered appropriate to request this contribution by way of a Section 106 agreement. No such agreement has to date been entered into and therefore this is currently unsecured.
- 23.3 As part of wider wellbeing, the design of the scheme is required to adopt principles of healthy living, active travel, cycle and footways, green spaces and by reducing car use. It is not considered that the scheme as currently presented accords with these principles and more detail on this is set out elsewhere within this report. Therefore the application is contrary to policy A5 of the SADMP, the principles set out within the Garden Town public realm design guide and the Districtwide design guide. This is covered in more detail under the design and placemaking and sustainable transport sections of this report.
- 23.4 Allotments have been proposed within the green necklace on the east edge of the development, providing an opportunity for local food production. However, its distant location and the eastern relief road running between the neighbourhood and the green necklace reduces the accessibility of the green necklace and its facilities including allotments. It would be preferable to place the allotments closer to the dwellings and allow for better connections. The placemaking and design section addresses the masterplanning of the site, the relationship between applications features and accessibility in more detail.

## **24. Public rights of way**

- 24.1 Four public footpaths T 32/14, T 10/21, T 10/22 and T 10/29 run through the site with further public rights of way located adjacent. These footpaths run broadly north-south through the site in two locations, with the final on-site footpaths being located towards the south of the site and running broadly east-west. As submitted, the proposal will obstruct footpaths T 10/21 and T 10/22 necessitating either revision of the proposal to prevent obstruction or a diversion order applied for.
- 24.2 The County Council Rights of Way Officer has commented on the application and does not raise objection subject to the applicant being informed that the grant of planning permission does not entitle them to obstruct a public right of way and the addition of a Grampian style condition as follows:

*No development hereby approved which shall interfere with or compromise the use of footpath T 10/21 and T 10/22 shall take place until a path diversion order has been made and confirmed and the diverted route made available to the satisfaction of the Local Planning Authority.*

In addition, an informative note is requested that seeks to alert the applicants that development, insofar as it affects a right of way should not be started, and the right of way should be kept open for public use until the necessary (diversion/stopping up) Order has come into effect. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.

- 24.3 The Rights of Way Officer also requests suitable pedestrian crossings and link should be provided from the northern end of path T 32/14 to the smaller site located to the north of the garden centre and between the northern edge of the site and the footpath T 32/27. It is requested that these connections be incorporated into revised layout plans and secured through a s106 agreement. The applicant will need to demonstrate that the crossing points and upgrades of existing public footpaths over the proposed access roads, are safe for the public to use and constructed appropriately through the technical approval process as part of a relevant legal agreement. Surface improvements to public footpaths to cope with an increase in future use is also sought to be secured through a s106 agreement. and can be technically approved under a s38 adoption agreement. To support local improvements and changes to the surrounding public right of way network, a financial contribution of £30,000 is requested and would be secured through a s106 agreement.
- 24.4 The construction phase of the development may also give rise to impact upon the rights of way through the site. In the event of less convenience or the creation of a hazard for users, a temporary closure order may be needed, and a suitable alternative provided. These and other general comments may be brought to the attention of the applicants and due to the presence of other legislation, is not considered to require further conditions.
- 24.5 With the addition of the condition in 24.2 and the securing of the requested financial contribution via S106 agreement, the Rights of Way Officer raises no objection to the application. Although no policies are specific to public rights of way, those relating to accessibility by walking are considered relevant including policies CP6, SP2 Taunton Deane Core Strategy and policy D9 Taunton Deane SADMP.

## **25. Local Finance Considerations**

### **25.1 Community Infrastructure Levy**

- 25.1.1 The creation of dwellings and retail development is CIL liable.

#### Outline element:

1210 dwellings. No detailed plans. Design and Access Statement states 39.9dph.

Using Residential Testing Assumptions, the proposed dwellings total approx. 110,760sqm

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 £7,753,250.00. With index linking this increases to approximately £11,010,000.00.

Proposed retail development (A1-A5 incl) outlined in Design and Access Statement is approx. 2495sqm.

The application is for 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 £349,500.00. With index linking this increases to approximately £496,000.00.

Full Planning element:

Proposed development of 240 dwellings measures approx. 12,120sqm.

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 £848,500.00. With index linking this increase to approximately £1,205,000.00.

- 25.1.2 Any CIL phasing plan must be approved as part of the planning process and cannot be agreed once the planning decision has been made.

**25.2 New Homes Bonus**

- 25.2.1 The application if granted would also generate New Homes Bonus. Assuming 25% affordable housing (each affordable dwelling attracts an additional £350 New Homes Bonus), and an average of Band D Council Tax, 1450 homes could generate approximately £2,251,794 for one year. At present payments are made over a period of four years.

**25. Planning balance and conclusion**

- 25.1 This is an application forming a major part of an allocation within the Council's local plan. There is currently a prediction that housing delivery, whilst difficult, does meet with requirement, being at the upper end of a 4.25 - 5.13 year supply range of deliverable housing. Nevertheless, this application if granted would deliver 1450 homes, a significant number. These new homes would incorporate a percentage of affordable housing (25% in the first phase), helping to meet existing need, be of social benefit and through additional population inject more money into the local economy. In addition, the application will generate significant CIL receipts and New Homes Bonus. The application also includes employment development within the district centre and by way of strategic reserve, creating jobs and economic activity. It is acknowledged that the construction phase would also create economic and employment benefits. These factors weigh in favour of the application.
- 25.2 In addition, the application makes provision for a range of community facilities and infrastructure including a through school, land for the proposed park and ride, a district centre incorporating community facilities and commercial floorspace. A total of circa 30ha of public open space together with wider green infrastructure are proposed. Whilst many of these currently lack detail, their delivery and phasing could be secured through the use of conditions and entering into a signed S106 agreement with detail being established through reserved matters submissions. These too weigh in favour of the application. In combination, the benefits of the application would be substantial.

- 25.3 However, there are substantial adverse impacts and harm arising from the proposal with this application assessment having found significant and multiple areas where the application conflicts with adopted development plan policies. Significantly, the development is likely to adversely affect the integrity of the Somerset Levels and Moors Ramsar site by adding to the concentration of phosphates in an area where they are already excessive. There is no technical information evidencing the level of phosphates generated by the development, nor mitigation measures to demonstrate that phosphate neutrality can be achieved. The Local Planning Authority is unable to conclude a favourable Habitat Regulations Assessment and fulfil its statutory duty under Regulation 63 the Conservation of Habitats and Species Regulations 2017. As such conflict is found with policies CP8, SS1 and DM1c of the adopted Taunton Deane Core Strategy together with paragraphs 180-182 of the NPPF.
- 25.4 The proposal has also been found to conflict with relevant policies in terms of the quality of placemaking and design: policies CP5, CP6, SP2, SS1, DM1, DM4 (Taunton Deane Core Strategy); A1, A3, A5, D7 and D9 (Taunton Deane Site Allocations and Development Management Plan); CSM1, CSM4 and CSM6 (Creech St Michael Neighbourhood Plan) ; Policy T1 (West Monkton and Cheddon Fitzpaine Neighbourhood Plan); is contrary to the Districtwide Design Guide SPD, Garden Town Public Realm Design Guide SPD and the Vision for Taunton Garden Town. It is also considered contrary to the National Planning Policy Framework paragraph 125 and sections 2, 8, 9 and 12 and national design guidance including the National Design Guide and National Model Design Code.
- 25.5 The proposal has failed to demonstrate that it will sufficiently incorporate sustainable design features to reduce its impact on the environment, mitigate and adapt to climate change and fails to demonstrate that it will result in a development which minimises the use of energy, or to holistically consider the energy strategy for the site as a or how the development can realistically meet current or future national standards likely to apply within the development's lifetime. Conflict is identified with policies SS1, CP1 and DM5 of the Core Strategy and provisions within the Districtwide Design Guide SPD, and provisions within the National Planning Policy Framework sections 2 and 14.
- 25.6 Policy conflict has also been identified in respect of the proposals for the district centre and its phasing in relation to development in respect of policies CP3, SS1 and SP2 of Taunton Deane Core Strategy, policies C5 and TC3 Taunton Deane Site Allocations and Development Management Plan and the provisions within the National Policy Framework sections 2, 8, and 12.
- 25.7 Insufficient information has been submitted to understand the site's archaeological value or significance and the likely effects of the development upon it, raising conflict with policies CP8 (Taunton Deane Core Strategy) ENV4 (Taunton Deane Site Allocations and Development Management Plan) and the National Planning Policy Framework section 16. In addition, other aspects of the historic environment raise policy conflict in the absence of comprehensive assessment of the impact of the development upon the setting of Monkton Elm, a grade II heritage asset contrary to policies CP8 and D9 of the Taunton Deane Core Strategy and paragraphs 199-204 and 206 of the National Planning Policy Framework.

- 25.8 Whilst the development will deliver affordable housing, policy conflict has been identified with policies SS1, CP4 Taunton Deane Core Strategy, the Ministerial Statement of 24th May 2021 and Planning Practice Guidance 2021.
- 25.9 In respect of highway and transport matters, the application has been identified as providing insufficient information to fully understand the impact of the development on the strategic highway network; specifically, the safe and efficient operation of the M5 motorway and its assets. In respect of the strategic highway network, the current holding objection issued by National Highways has the effect of preventing the grant of planning permission. This is a substantial matter weighing against the application. The transport assessment is not considered in accordance with published guidance and a range of possible outcomes have not been evaluated. It is therefore not possible to determine the impact of the development upon the local highway network, the range of transport interventions that may be required in order to address those transport impacts, their triggers for provision in relation to the phases of development and their delivery has not been secured. Conflict has been identified with policies CP6 and DM1b of the Taunton Deane Core Strategy and provisions within the National Planning Policy Framework section 9.
- 25.10 The application does not provide a suitable means for securing the delivery of the proposed park and ride site, and it has not been proven that this is the optimum location for this facility in order to maximise its use and effectiveness. No bus strategy has been put forward within the planning submission, and the application is not considered to comprehensively plan for public transport. Accordingly conflict has been identified with policies SP2, SS1, CP6 and CP7 of the Taunton Deane Core Strategy; A5 of the Taunton Deane Adopted Site Allocations and Development Management Plan and policy CA1 of the West Monkton and Cheddon Fitzpaine Neighbourhood Plan and the National Planning Policy Framework sections 9 and 12.
- 25.11 The proposal will result in dwellings subject to significant levels of road transport noise, necessitating suitable mitigation measures. It has not been demonstrated that the amenity of the occupiers of these proposed dwellings has been safeguarded from noise arising from the development nor the suitability of proposed mitigation measures. The application does not demonstrate that the requirements of policy DM1e of Taunton Deane Core Strategy nor paragraphs 174 and 185 of the National Planning Policy Framework have been met.
- 25.12 Policy conflict has also been identified in that insufficient information has been submitted to demonstrate the adequacy of the proposed approach to water management and drainage of the site and therefore compliance with requirements within policies CP1, SS1 and I4 of the Taunton Deane Core Strategy and paragraph 169 of the National Planning Policy Framework.
- 25.13 Policy conflict has been identified in that the application does not demonstrate an acceptable approach to sport and recreation to meet the demand arising from the development contrary to policy SS1 of the Core Strategy and Policies C2 and C5 of the Adopted Site Allocations and Development Management Plan.
- 25.14 In the absence of a signed S106 agreement a range of other policy conflicts

have been identified. Whilst the provision of signed S106 agreement would secure and thereby resolve many of these issues, in its absence policy conflict arises in respect of the delivery, timing and funding of a range of critical facilities and infrastructure required to meet the needs of the development or to mitigate for its impact including affordable housing, education, community facilities, employment, open space and sports provision, highway improvements including sustainable transport and the park and ride site, ecological enhancement, public rights of way and the phasing of development. Policies CP4, CP5, CP7, CP8, SP1, SP2, SS1, DM1 of the Taunton Deane Core Strategy, policies A2, I4, C2 and C5 of the Taunton Deane Site Allocations and Development Management Plan and provisions within the National Planning Policy Framework apply, at present are not satisfied and currently weigh against the application.

- 25.15 Although the position is challenging, this Council considers that applying reasonable assumptions, it is able to demonstrate a 5 year supply of deliverable housing sites. Accordingly, the Paragraph 11d tilted balance is not considered to be engaged. However, even if it were, the lack of an agreed phosphate budget and mitigation means that the development is likely to lead to a significant adverse effect on the Somerset Levels and Moors Ramsar site. As such, the Council cannot ascertain beyond reasonable scientific doubt that the development would not affect the integrity of the Ramsar site provides a clear reason for refusing the application. In addition, the application is not considered to accord with the development plan taken as a whole for the reasons set out in the report and the benefits of the application, whilst substantial, do not outweigh this conflict. This report has also identified that this application conflicts with supplementary planning guidance, the NPPF and national guidance including the National Design Guide and National Model Design Code. The overall adverse impacts and substantial harm that would arise if planning permission were granted are also identified in this report and are considered to significantly and demonstrably outweigh the benefits of the proposal, when assessed against the development plan policies, the National Planning Policy Framework taken as a whole and other material considerations. Having regard to all the matters raised, it is therefore recommended that planning permission is refused.
- 25.9 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 – Reasons for refusal

1. The proposed development has the potential to adversely affect the integrity of the Somerset Levels and Moors Ramsar site by adding to the concentration of phosphates in an area where they are already excessive. In the absence of technical information evidencing the level of phosphates generated by the development, and mitigation measures to demonstrate that phosphate neutrality can be achieved, the Local Planning Authority is unable to ascertain beyond all reasonable scientific doubt that the proposed development would not adversely affect the integrity of the Ramsar site as required by Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017. It is therefore not possible for the Local Planning Authority to conclude a favourable Habitat Regulations Assessment and fulfil its statutory duty under Regulation 63(1) of the said Regulations 2017. As such the proposal is contrary to Policies CP8 (Environment) SS1 and DM1c (General requirements) of the adopted Taunton Deane Core Strategy and Paras. 180-182 of the NPPF.

2. If granted the development would result in a place that is not well designed. It is considered to be an unsustainable, car and road dominated, uncoordinated and unconnected, dormitory development that is not attractive, locally distinctive, healthy or with a sense of place. Specifically, the development is considered not well designed in that:

- i. The development will not function comprehensively as a sustainable neighbourhood, that is complete, connected and a comprehensive place allowing for living locally.
- ii. The development has been designed around the provision of an eastern relief road and associated roundabouts. The car-based, approach to placemaking results in road, car and parking domination that does not prioritise active travel and public transport. It has poor connectivity to the surrounding area and results in an unconnected place.
- iii. As proposed, the development does not reduce need to travel, deliver a walkable neighbourhood, nor achieve health and well-being objectives associated with the prioritisation of active travel and living locally.
- iv. Within the site the development lacks integration and permeability with a poor network of connected streets designed primarily for cars, that do not integrate the walking and cycling network, nor make streets into places. As designed, there is segregation between uses and parts of the site.
- v. As proposed, the district centre is not considered to result in a coherent, attractive, vibrant, mixed use centre functioning as a high quality place at the heart of the community.
- vi. Density is considered too uniform and not sufficiently structured to support the use and vitality of public transport or facilities and services within the site.



- vii. The development is located in Taunton Garden Town. It has not been designed as a new garden neighbourhood that meets the quality of design expected within a designated Garden Town and is not in accordance with the Vision for the Garden Town or Garden Town Principles.

Additionally, in respect of the full application proposals:

- i. The development's streets and places lack legibility, attractive and distinctive character and clear identity. There is poor use of street hierarchy and domination by cars.
- ii. The proposed dwellings do not deliver adaptable, flexible lifetime homes.
- iii. The proposed buildings do not define and enhance the streets and spaces, nor turn corners well.

Accordingly, the application is considered contrary to development plan policies CP5, CP6, SP2, SS1, DM1, DM4 (Taunton Deane Core Strategy); A1, A3, A5, D7 and D9 (Taunton Deane Site Allocations and Development Management Plan); CSM1, CSM4 and CSM6 (Creech St Michael Neighbourhood Plan) ; Policy T1 (West Monkton and Cheddon Fitzpaine Neighbourhood Plan); is contrary to the Districtwide Design Guide SPD, Garden Town Public Realm Design Guide SPD and the Vision for Taunton Garden Town. It is also considered contrary to the National Planning Policy Framework paragraph 125 and sections 2, 8, 9 and 12 and national design guidance including the National Design Guide and National Model Design Code.

3. The proposal has failed to demonstrate that it will sufficiently incorporate sustainable design features to reduce its impact on the environment, mitigate and adapt to climate change, and particularly help deliver reduction in CO2 and other greenhouse gas emissions. It fails to demonstrate that it will result in a development which minimises the use of energy, or to holistically consider the energy strategy for the site as a whole (which might include use of an energy centre to provide locally generated electricity to the new development), or how the development can realistically meet current or future national standards likely to apply within the development's lifetime. The proposal is therefore considered to be contrary to policy SS1, CP1 and DM5 of the Core Strategy and provisions within the Districtwide Design Guide SPD, and provisions within the National Planning Policy Framework sections 2 and 14.

4. The proposed District Centre is insufficient to fulfil its function and meet the needs of the Monkton Heathfield development, in order to deliver a mixed sustainable community, as set out in Policy SS1. Furthermore, there is concern over the phasing of its provision in relation to development and the relationship with the completed phases within Monkton Heathfield. The proposal is therefore contrary to Policies CP3, SS1 and SP2 of Taunton Deane Core Strategy, policies C5 and TC3 Taunton Deane Site Allocations and Development Management Plan and the provisions within the National Policy Framework sections 2, 8, and 12

5. Although the site is of known archaeological potential and the development

could affect archaeological remains, trial trench evaluation has not been carried out and insufficient information has been submitted to understand the site's archaeological value or significance and the likely effects of the development upon it. The application is therefore contrary to policies CP8 (Taunton Deane Core Strategy) ENV4 (Taunton Deane Site Allocations and Development Management Plan) and the National Planning Policy Framework section 16

6. The impact of the development upon the setting of Monkton Elm, a grade II heritage asset has not been assessed such as to understand the effect of the development upon its significance and setting, nor considered ways to enhance, better reveal or preserve the setting of that heritage asset. The proposal is therefore considered contrary to policies CP8 and D9 of the Taunton Deane Core Strategy and paragraphs 199-204 and 206 of the National Planning Policy Framework.

7. The application as presented is not considered to comply with affordable housing requirements under policies SS1, CP4 Taunton Deane Core Strategy, the Ministerial Statement of 24 May 2021 and Planning Practice Guidance 2021.

8. Insufficient information has been submitted in order to fully understand the impact of the development on the strategic highway network; specifically, the safe and efficient operation of the M5 motorway and its assets. The proposal is therefore contrary to policies CP6 and DM1b of the Taunton Deane Core Strategy and provisions within the National Planning Policy Framework section 9.

9. The transport assessment is not considered in accordance with published guidance and a range of possible outcomes have not been evaluated. It is therefore not possible to determine the impact of the development upon the local highway network, the range of transport interventions that may be required in order to address those transport impacts, their triggers for provision in relation to the phases of development and their delivery has not been secured. The proposal is therefore contrary to policies CP6 and DM1b of the Taunton Deane Core Strategy and provisions within the National Planning Policy Framework section 9.

10. The proposal does not provide a suitable means for securing the delivery of the proposed park and ride site, and it has not been proven that this is the optimum location for this facility in order to maximise its use and effectiveness. No bus strategy has been put forward within the planning submission, there is not detail of bus routing, the enhancement of services nor how the separate phases of the site can be appropriately served by public transport as the development is delivered over time. The application is not considered to comprehensively plan for public transport. The proposal would therefore be contrary to policies SP2, SS1, CP6 and CP7 of the Taunton Deane Core Strategy; A5 of the Taunton Deane Adopted Site Allocations and Development Management Plan and policy CA1 of the West Monkton and Cheddon Fitzpaine Neighbourhood Plan and the National Planning Policy Framework sections 9 and 12.

11. The proposal will result in dwellings subject to significant levels of road

transport noise, necessitating suitable mitigation measures to ensure acceptable internal and external noise conditions in order to safeguard residential amenity of the occupiers. There are deficiencies in the technical assessment information and justification submitted to support the application and proposed mitigation. The application does not demonstrate that the requirements of policy DM1e of Taunton Deane Core Strategy nor paragraphs 174 and 185 of the National Planning Policy Framework have been met and the amenity of the occupiers of the proposed dwellings has been safeguarded from noise arising from the development and demonstrated the suitability of proposed mitigation measures

12. Insufficient information has been submitted to demonstrate the adequacy of the proposed approach to water management and drainage of the site and therefore compliance with requirements within policies CP1, SS1 and I4 of the Taunton Deane Core Strategy and paragraph 169 of the National Planning Policy Framework.

13. The application does not demonstrate an acceptable approach to the provision of on site and off site sport facilities including built sports provision to meet the demand arising from the development. The proposal therefore does not acceptably deliver for sport and recreation, contrary to policy SS1 of the Core Strategy and Policies C2 and C5 of the Adopted Site Allocations and Development Management Plan.

14. In the absence of a signed S106 agreement, the proposal does not provide a means for securing the delivery, timing and funding of infrastructure requirements and facilities required in connection with the development or that are necessary to mitigate its impact:

- a) Affordable housing
- b) Education land and contributions
- c) Health care provision contributions
- d) District centre together with associated community facilities
- e) Employment
- f) Provision, adoption, management, maintenance and long-term stewardship of open space and community assets
- g) Provision of sport, recreation, play and green infrastructure
- h) Phasing of the development
- i) On and off-site highway improvements as required by the development
- j) Delivery of the park and ride facility and contributions towards sustainable transport
- k) A travel plan for residential and non-residential land uses
- l) Ecological enhancement and habitat creation
- m) Water management and drainage, management and maintenance
- n) Public rights of way contribution

and therefore, would be contrary to policies CP4, CP5, CP7, CP8, SP1, SP2, SS1, DM1 of the Taunton Deane Core Strategy, policies A2, I4, C2 and C5 of the Taunton Deane Site Allocations and Development Management Plan and provisions within 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 with the applicant and has looked for solutions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

Application Details	
Application Reference Number:	<u>25/21/0038</u>
Application Type:	<u>Full Planning Permission</u>
Earliest decision date:	11 April 2022
Expiry Date	<u>20 May 2022</u>
Extension of time	
Decision Level	Committee
Description:	Change of use of land with additional works to playing fields in relation to application 25/17/0023 to include a full size football pitch, multi games area and tennis court, car park for 40 No. cars with disabled bays, bike, motorbike and mini bus parking and attenuation pond on land at Stembridge Way, Norton Fitzwarren
Site Address:	<u>STEMBRIDGE WAY, NORTON FITZWARREN, TAUNTON, TA2 6SX</u>
Parish:	25
Conservation Area:	N/A
Somerset Levels and Moors RAMSAR Catchment Area:	N/A
AONB:	No
Case Officer:	<u>Darren Roberts</u>
Agent:	
Applicant:	SOMERSET WEST AND TAUNTON
Committee Date:	15th September
Reason for reporting application to Committee	Chair's discretion due to number of objections

## 1. Recommendation

1.1 That permission be GRANTED subject to conditions.

## 2. Executive Summary of key reasons for recommendation

2.1 The application complies with the relevant development plan policies and the NPPF. This is a proposal for new sports facilities which are supported within the local community. Concerns have been raised over access, floodlighting, construction traffic and by statutory bodies. These have been overcome and fully addressed within the report.

## 3. Planning Obligations and conditions and informatives

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

1. Standard three year time limit
2. In accordance with approved plans

3. Management and maintenance scheme for tennis courts
4. Compliance with ecology measures set out in the ecological appraisal report of May 2022
5. Protective fencing for trees to be provided prior to start of construction of parking areas
6. Details of planting to be agreed prior to undertaking works to the football pitch
7. No lighting to be installed within the site
8. Construction Management Plan/method statement to be approved prior to construction
9. Ecological measures in the reptile report to be carried out in full
10. Parking and cycle parking areas to be full marked out and available for use prior to first use of facilities

### 3.2 Informatives

#### 3.2.1 Proactive Statement

#### 3.2.2. Wildlife

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

### 4.1 Details of proposal

It is proposed to construct a new sports pitch of 'adult' size, a new multi use games area (MUGA) (which could include a tennis or netball court) and a tennis court within this existing field. In order to serve this, car parking areas will be created close to the entrance, using the access which currently serves the existing pitch from Stembridge Way.

### 4.2 Sites and surroundings

The site is a flat field to the rear of the existing playing field within the village. It is characterised by a track on the South Eastern boundary, above which is a high voltage power cable, with a pylon in the South West Corner of the site. This track is used to access allotment gardens beyond. The field is bounded by trees and hedgerows.

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

Reference	Description	Decision	Date
25/17/0023	Change of use of land from agriculture to playing field.	Granted	02/01/2018

## 6. Environmental Impact Assessment

Not required

## 7. Habitats Regulations Assessment

The site lies within the catchment for the Somerset Levels and Moors Ramsar site. 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 Habitat Regulations Assessment and undertake a project level appropriate assessment where a likely significant effect cannot be ruled out. Natural England have identified certain forms of development affected including the intensification of agricultural use

This development does not fall into the category development affected by phosphates and nitrate neutrality as it will not increase the number of residents or visitors to the catchment area. Therefore a HRA is not required in this respect.

An assessment of the impact of the application on bats at Hestercombe House has been carried out below, as part of the requirements under the Habitat Regulations.

## 8. Consultation and Representations

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

8.1 Date of consultation: 18 February 2022

8.2 Date of revised consultation (if applicable): 30 May 2022

8.3 Press Date: N/A

8.4 Site Notice Date: 04 March 2022

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

Consultee	Comment	Officer comment
NORTON FITZWARREN PARISH COUNCIL	Support the application - much needed in the Parish	Noted
Consultee	Comment	Officer comment
LANDSCAPE	No objection in principle. However, some concern that: the green infrastructure is limited to the addition of the western boundary hedge and otherwise indicative areas of activity which have yet to be designed, and as a consequence, they are not fully integrated with the	See section 16

	<p>proposals and do little to help reinforce the positive characteristics of the landscape; and there would also appear to be opportunity to use the site to provide other recreational activities that would benefit the community.</p> <p>Details will be required on the boundary hedge along the western side and how this is to be managed in the long term. Further information on the design of the green open space and how it is to be managed would be of benefit.</p>	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
LEISURE DEVELOPMENT	No response	N/A
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
ENVIRONMENT AGENCY	No response	See 18.1
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - ECOLOGY	<p>Ecological Appraisal Required</p> <p>Potential for reptiles</p> <p>No floodlighting</p>	See 17.1
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - TRANSPORT DEVELOPMENT GROUP	<p>The current proposals have been reviewed, and it is noted that the site benefits from a planning permission for a playing field use (see application 25/17/0023). When this earlier scheme was permitted, the local playing authority did consider the traffic impact of the scheme and it was recommended that on-site parking be provided to help reduce the risk of parking on local residential roads. The current scheme has been considered in the context of these recommendations and the extant planning</p>	Noted



	<p>permission.</p> <p>There are no significant concerns relating to the use of the site access to serve the playing field use, and this aligns with the conclusions of the earlier permission. Whilst the site access lane is narrow along much of its length, there would be space for vehicles to pass each other near the access junction, and flows are expected to be largely tidal in any case. Visibility at the access is appropriate, and there is unlikely to be a significant highway impact.</p> <p>It is noted that parking will be provided for minibuses, and there will be 40 car parking spaces within a gravel parking area. Cycle parking will also be included as part of the scheme. This level of parking is considered to be acceptable and should limit the likelihood of any parking overspilling onto the local residential roads. Given the site location and the surrounding residential area, it is recommended that</p> <p>a Construction Traffic Management Plan is secured as part of any consent. This would help to mitigate any potential adverse impacts on the local community through the construction phase of the development. In summary, having considered the relevant site planning history and having reviewed the current application submission, the highway authority raises no objection to the scheme proposals. Should permission be granted, the following planning</p>	
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	condition is recommended.	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SCC - RIGHTS OF WAY	No response	N/A
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SPORT ENGLAND SOUTH WEST	<p>The Football Foundation (FF) advise that the grass pitch dimensions have been amended and are in line with FA guidelines. There remains no clarity on management and maintenance, which was originally asked. The LTA advise that one court doesn't meet the demand for tennis in the town. Precedent evidence a MUGA will just be left open and never used for tennis. MUGA then left open and unmanaged to decline in quality with no set purpose for its use. The LTA have the view that these kind of facilities are only as good as they are managed and maintained. So preference would remain for the LTA to have two dedicated tennis courts, with booking as access control to serve this part of the town.</p> <p>Conclusion In light of the above, Sport England is unable to fully support this application. Comments from the FF and LTA should be considered and an amended scheme presented. Sport England recommends, based on our assessment, that if the Council is minded to approve the application, the following planning conditions should be imposed. 1. The playing field/s and pitch/es shall be constructed and laid out in accordance with the</p>	See 19.1-19.2

	<p>[planning application *, Section * and Drawing No. **] and with the standards and methodologies set out in the guidance note "Natural Turf for Sport" (Sport England, 2011), and shall be made available for use before first use or occupation [or other specified timeframe] of the development [or specified part of the development/] hereby permitted.</p> <p>Reason: To ensure the quality of pitches is satisfactory and they are available for use before development (or agreed timescale) and to accord with LP Policy **.</p> <p>2. Prior to the bringing into use of the [named sports facility) a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the [named sports facility].</p> <p>Reason: To ensure that new facility/ies is capable of being managed and maintained to deliver a [facility] which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport (National Planning Policy Framework (NPPF) para 99) and to accord with LP Policy **</p>	
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	<p>If you wish to amend the wording of the recommended condition(s), or use another mechanism in lieu of the condition(s), please discuss the details with the undersigned.</p> <p>Sport England does not object to amendments to conditions, provided they achieve the same outcome and we are involved in any amendments.</p> <p>The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.</p>	
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
TREE OFFICER	No objection subject to need for protective fencing during works	See section 16
<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
NATURAL ENGLAND	Likely significant effects on bat population is unlikely	Noted
	Conditions requested removing lighting and delivering biodiversity gain	Noted

## 8.6 Local representations

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

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

Material Planning Considerations	
Objections	Officer Comment
Existing pitches underutilised- should be used for other sport	See 19.3

Need for dog walking areas	See 19.3
Highway infrastructure cannot cope	See 13.1
Access road needs to be maintained	See 13.1
Anti-social behaviour	See 15.2
Concerns regarding floodlighting	No floodlighting is proposed
Need for screening	See section 16
Construction traffic	Condition is recommended
Support	Officer Comment
Village lacks facilities and would particularly help with junior football	Noted

### 8.6.1 Summary of objections - non planning matters

Existing fields are manned by volunteers and would be difficult to recruit more

## 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 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.

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

### **Taunton Deane Adopted Core Strategy 2011-2028**

CP8 - Environment,  
DM1 - General requirements,  
SP4 - Realising the vision for rural areas,

### **Taunton Deane Site Allocations and Development Management Plan 2028**

C2 - Provision of recreational open space,

A1 - Parking Requirements,  
I1 - Powerlines,  
ENV1 - Protection of trees, woodland, orchards and hedgerows,  
ENV2 - Tree planting within new developments,

### Supplementary Planning Documents

District Wide Design Guide adopted 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 2022)

### Neighbourhood plans:

There is no made development plan in this area.

### 9.7 National Planning Policy Framework

8. Promoting healthy and safe communities

## **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

Access, highway safety and parking provision

Impact on the character and appearance of the locality

Impact on residential amenity

Impact on trees and landscaping

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

Flood risk

These are considered below

### 11. The principle of development

11.1 The principle has been established by a previous consent. In 2018 permission was granted in outline for the change of use of this piece of land from agricultural use to playing field. The same development plan is in place and there are no significant amendments to the policy position since that date. The application (25/17/0023) contained little detail, and therefore permitted change of use only.

11.2 The current application in addition requests permission for a car parking area and access to be created. Policy A1 of the Development Management Plan 2016 outlines the need for car parking. In this instance, although the area is accessible by walking and cycling from Norton Fitzwarren, parking is required due to the need for people who live outside the area (opposing teams and officials) to access the site. Delivery of the open space meets the ambitions of the Local Plan, specifically Policy CP5 of the Core Strategy. However, it is important that all aspects of the proposal conform to policies which require a respect for the environment and neighbouring amenity.

## 12. Design of the proposal

12.1 It is proposed to change the existing grassland into a senior football pitch, measuring 100 metres by 68 metres. Around the pitch it is proposed to install a post and rail fence. There would be small plastic dugouts at the half way line.

12.2 In addition, to the side it is proposed to install two MUGA/ tennis courts with mesh netting on the perimeter. There is a proposed attenuation and reed bed in one corner, and the area to the north will comprise of a wildlife area. Finally, on the entrance to the pitch a new gravel car park is proposed in addition to a separate area for bicycles and minibuses.

12.3 The design is considered to be appropriate to the use of the land for recreation, and all hard surfacing is proposed to be porous. The proposal meets the requirements set out in Policy DM1 of the Core Strategy, which sets out the general requirements all planning applications need to meet.

## 13. Access, Highway Safety and Parking Provision

13.1 The current access which serves the existing pitch to the south would be extended past the pavilion. As stated above, a new gravel car park is proposed. This would accommodate 40 cars, in addition to the 3 minibuses and 24 bicycles proposed in the adjacent parking area. The parking is intended to serve the new pitch, the existing pitch, tennis courts and multi-use games area. Whilst it is hoped that several visitors will walk or cycle to the facility, it is important that all vehicles are safely accommodated on site, and do not contribute to parking problems on Stembridge Way, as stated by the local highway authority. Concerns have been raised over the potential for construction traffic and it is considered that this matter can be addressed by way of a planning condition.

13.2 It is considered that no harm will be caused by the proposal when assessed against Policy DM1b. of the Core Strategy, which requires development to not add to road safety problems or environmental degradation.

## 14. The impact on the character and appearance of the locality

14.1 No substantial new buildings are proposed so the impact is limited to the creation of the parking areas and wildlife area. No floodlighting is proposed and a condition is proposed to prevent lighting being installed. As a result this would not unacceptably harm public health or safety and is therefore in accordance with Policy DM1e. of the Core Strategy

## 15. The impact on neighbouring residential amenity

15.1 Concerns have been raised that the additional traffic will give rise to a negative impact on the surrounding residential area. By the nature of the use, activity is most likely to occur on weekend afternoons or occasionally during the early evening outside of winter months. Whilst it is likely that all vehicles will enter and exit the site within a relatively short period, this is already a recreational facility where such journeys are to be expected. Any disruption to the local highway network is likely to be short lived and the benefits of the scheme are considered to outweigh this disruption.

15.2 There has also been concern expressed that the increased activity will lead to noise and potentially anti-social behaviour. However, permission has already been granted for the use of this land for football. It is stated that the new pitch will be used for adult football instead of the existing pitch, which is more suited to junior football. It is not considered that there would be an adverse impact on residential amenity. This would not unacceptably harm public health or safety and is therefore in accordance with Policy DM1e. of the Core Strategy

## 16. The impact on trees and landscaping

16.1 There is a line of small trees adjacent to the proposed parking area which have the potential to be affected. Whilst these are not covered by a Tree Protection Order it is considered necessary to construct all parking outside of their rooting areas in order to protect against their loss, which also provides valuable screening. In addition, the trees should be protected during construction by the provision of fencing.

16.2 The landscape officer requires further details of the wildlife hedge to be submitted. This would provide screening and aid biodiversity and would not lead to harm to protected wildlife species or their habitats, as set out in Policy DM1c of the Core Strategy.

## 17. The impact on ecology and biodiversity

17.1 The site lies within the consultation zone for the Hestercombe House and Gardens SAC, which is designated for supporting a maternity colony of lesser horseshoe bat. Whilst bats have been recorded close to the site, the change from modified grassland to grass pitch is not considered to represent a significant loss of foraging value for bats. Critically, the absence of floodlighting will lessen the impact of the scheme on bats.. Natural England's response is based on no floodlighting being included, and conditions being attached to ensure that lighting levels are not increased.

17.2 No works to hedgerows are required and a potential area outside of the sports pitch has been allocated for biodiversity enhancements, as well as the proposed wildlife hedge. The ecological report submitted with the application stated that there is a possibility of disturbance to reptiles and amphibians. Further surveys have been submitted, these have assessed the populations of reptiles and amphibia. There is a low population of reptiles, and nearby watercourses have poor habitat suitability for great crested newts. Subject to the recommendations within the surveys submitted, which would allow for biodiversity net gain, it is considered that there will be no impact on ecology and would not lead to harm to protected wildlife species or their



habitats, as stated in Policy DM1c of the Core Strategy.

## 18. Flood risk

18.1 The site is principally located within Flood Zone 1, with small areas to the South West within flood zones 2 and 3. A small part of the proposed tennis court/ MUGA lies within the flood zone. However, this is classed as 'water-compatible development' within the Flood Risk Vulnerability Classification of the Environment Agency. As such, whilst it is acknowledged that a small part of site is liable to flooding, there is no risk to people or property and therefore no requirement for the scheme to be amended. This is in accordance with policy CP8 of the Core Strategy, which seeks to ensure that development does not exacerbate flood risk either from fluvial or other causes of flooding.

## 19. Any other matters

19.1 An objection has been received from Sport England, on the basis that the plans show a single tennis court and a MUGA. The nature of the objection is because, in the opinion of Sport England, it is difficult to manage a single tennis court due to operational issues.

19.2 To address this the scheme has subsequently been amended to show one dedicated tennis court, and one tennis/multi use and netball court. It is considered that a condition should be imposed on any permission which requires a management scheme to be agreed prior to operation.

19.3 Concern has been raised over the loss of dog walking areas. These would be maintained through the site to the allotment area and public footpath beyond

19.4 A further comment has been made that other sport should be considered. The response from the parish council and Sport England is that football is needed, the facility would allow more junior football to be played. In addition, sports such as tennis and netball will be able to be played on the hard courts proposed.

## 20. Local Finance Considerations

This development is not liable for Community Infrastructure Levy

## 21 Planning balance and conclusion

21.1 The proposal has been assessed against the policies in the Development Plan and the NPPF. The proposal would add to sporting facilities within the parish, and thus increase health and wellbeing. It is supported by the Parish and the playing fields committee and is the culmination of years of work by the Council in order to provide facilities at this level. Whilst there are concerns over the number of vehicles visiting the site on matchdays, it is considered that the benefits of the proposal significantly outweigh any impact. The ecological concerns have been overcome.

21.4 When assessed against the Development Plan when taken as a whole and the NPPF it is considered the proposal is in general conformity with the policies and that any concerns raised can be dealt with by the imposition of conditions.

21.5 For the reasons set out above, having regard to all the matters raised, it is

therefore recommended that planning permission is granted.

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 J005173.002 Proposed Site Plan  
(A1) DrNo J005173.004 Proposed Drainage  
(A1) DrNo J005173.003 Proposed Earthworks  
(A3) Location Plan  
(A1) DrNo J005173007 Typical Fence Details  
(A1) DrNo J005173006 Proposed Site Section

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

3. Prior to the bringing into use of the tennis courts a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the courts.

Reason: To ensure that new facility is capable of being managed and maintained to deliver a facility which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport (National Planning Policy Framework (NPPF) para 99) and to accord with Policy C2 of the Adopted Site Allocations and Development Management Plan

4. The recommendations of the Preliminary Ecological Appraisal dated May 2022 shall be complied with. These include the measures outlined in Part 4.6 of the report, including a survey of protected species if removal of vegetation is required, or if bat roosts or badger burrows are found. Any vegetation should be removed outside of the bird nesting season or if not possible inspected by an ecologist before removal.

Reason: In order to protect wildlife within the vicinity and to deliver biodiversity net gain in accordance with Policy DM1 of the Core Strategy and provisions within the Framework.

5. Prior to the start of construction of the proposed parking areas, protective fencing shall be erected in order to protect the trees adjacent to this area. This shall be maintained and retained for the full duration of works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever

shall take place within the protected areas without the prior written agreement of the Local Planning Authority.

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

6. Notwithstanding the approved plans, further details shall be submitted which show the species, size and planting details of the proposed wildlife hedge to the north west. The scheme shall be submitted to and agreed by the Local Planning Authority prior to the undertaking of works to the proposed football pitch. They shall be planted no later than the first planting season after commencement of development. Any trees or hedges shall be maintained for a minimum of 5 years. Any trees or hedges which fail within that time shall be replaced by similar species or an alternative to be agreed in writing by the local planning authority.

Reason: In order to benefit wildlife and biodiversity on site and to comply with Policy ENV2 of the Site Allocations and Development Management Plan.

7. No lighting shall be installed within the site.

Reason: To protect wildlife in accordance with Policy DM1 of the Adopted Core Strategy

8. No development shall take place, including any demolition works, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The plan/statement shall provide for:
  - 24 hour emergency contact number;
  - Hours of operation;
  - Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
  - Routes for construction traffic;
  - Locations for loading/unloading and storage of plant, waste and construction materials;
  - Method of preventing mud being carried onto the highway;
  - Any necessary temporary traffic management measures;
  - Arrangements to receive abnormal loads or unusually large vehicles;
  - Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: to minimise the likely impact of construction traffic on the surrounding highway network and prevent the possible deposit of loose material on the adjoining highway

Reason for pre-commencement: To ensure that the development can take place

without danger to the local highway network or residential amenity

9. The ecological enhancement measures listed in paragraph 5.2 of the Norton Fitzwarren Reptile Report, dated August 2022, shall be carried out in full, and maintained in perpetuity.

Reason: To provide for biodiversity net gain in order to enhance the ecology of the site, and to protect reptiles and amphibians in accordance with Policy DM1 of the Taunton Deane Core Strategy 2011-2028.

10. The parking and cycle parking areas as shown on the approved plans shall be fully marked out and available for use prior to the first use of the facilities hereby approved. They shall be retained and made available for that purpose at all times.

Reason: In order that sufficient off-road parking and cycle parking is provided in order to minimise impact on the existing highway network and to comply with Policy A1 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016

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. 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.



Application Details	
Application Reference Number:	<u>C/32/22/001</u>
Application Type:	<u>DCO requirements major</u>
Earliest decision date:	13 May 2022
Expiry Date	23 April 2022
Decision Level	Planning Committee
Description:	Modification of Schedule 17 of S106 Agreement dated 27 January 2012 in relation to planning permission 3/32/10/037
Site Address:	<u>Hinkley Point C, Hinkley Point Road, Stogursey, Bridgwater, TA5 1UF</u>
Parish:	32
Conservation Area:	
Somerset Levels and Moors RAMSAR Catchment Area:	
AONB:	Quantock Hills
Case Officer:	<u>John Burton</u>
Agent:	
Applicant:	Mr Andrew Goodchild
Committee Date:	15 September 2022
Reason for reporting application to Committee	The application is considered to be of a significant, controversial and sensitive nature.

## 1. Recommendation

- 1.1 That the application under Section 106A(3)(a) of the Town and Country Planning Act 1990 for modifications to the planning obligations contained in Schedule 17 of the s106 Agreement dated 27<sup>th</sup> January 2012 accompanying approval 3/32/10/037 (the 'Site Preparation Works permission'), should be approved.

## 2. Executive Summary of key reasons for recommendation

- 2.1 The Local Planning Authority is being asked to consider whether the planning obligations in Schedule 17 of the s106 Agreement dated 27<sup>th</sup> January 2012 in respect of potential reinstatement of the land at the Hinkley Point C site, would continue to serve their purpose equally well without the obligation to keep in place the financial security for the Council, in the event that it were to exercise its 'step-in rights'. Although the Council is extremely unlikely to exercise its 'step-in-rights' without the financial security the bonds offer, equally, it is considered extremely unlikely that the Council would exercise its 'step-in-rights' even if the financial security of the bonds was to continue. This consideration gets to the very heart of the issue and how the Council should deal with the application. Case law prescribes that Section 106A(6) does not require that the obligation continues to serve its original purpose. What matters is whether the obligation continues to serve a 'useful purpose'. The Courts have also clarified that the obligation only needs to

serve a useful purpose and does not have to serve a useful planning purpose. The critical question is whether the obligation in question serves some useful function, the absence of which makes the maintenance of the obligation pointless.

- 2.2 In the case of the germane considerations here, the security in the form of the bonds, could only become available to the Council:

in the event that the reinstatement requirements under Condition R1 of permission 3/32/10/037 were to be triggered; this is only potentially possible in circumstances where;

- (a)
- a. The development authorised by the development consent order which has been granted and implemented ceases to be capable of being lawfully continued or completed (and any appeal or legal proceedings in relation to the reasons therefore have been exhausted); or
  - b. HPC is not generating electricity by 2025
- ;
- (c) if the Applicant was then to default on its obligations under the s106 Agreement to carry out those reinstatement works; and then, only if following that;
- (d) the Council was to elect to take on responsibility for reinstating the Site.

The arguments and deliberations made in this report conclude that there is now no reasonable likelihood of all of the circumstances which would allow the Council to rely on the bond occurring. In any event, it is Officers' view that the reinstatement bond(s) would only cover the works required to reinstate the landscape which are required to be carried out under conditions R1 to R6 attached to the Site Preparation Works permission and not in relation to any building or other works authorised by the Development Consent Order - in other words, the new nuclear build itself. This all leads to the conclusion that the obligations do not now serve a 'useful purpose'. On this basis, it is the view of Officer's that the Council would be unlikely to succeed in resisting any subsequent appeal if the application were to be refused.

### **3. Planning Obligations.**

- 3.1 This proposal seeks a modification to an existing legal agreement and is made under Section 106A(3)(a) of the Town and Country Planning Act 1990. The legal agreement concerned here was originally made in relation to planning permission reference 3/32/10/037, which was issued on 27th January 2012 and is known as the Site Preparation Works (SPW) permission. This application seeks to modify the planning obligations contained in Schedule 17 to the SPW s106 Agreement.
- 3.2 The SPW s106 Agreement was entered into by (1) West Somerset District Council; (2) Somerset County Council; (3) Sedgemoor District Council; (4)



Elizabeth Periam Acland Hood Gass (of the Fairfield Estate); (5) EDF Development Company Limited; (6) EDF Energy Nuclear Generation Limited; and (7) NNB Generation Company Limited. It is dated 27 January 2012 and will hereafter be referred to as the “s106 Agreement”.

- 3.3 Under the s106 Agreement, the Local Planning Authority is identified as being West Somerset District Council. Somerset West and Taunton Council is the statutory successor to West Somerset District Council and so is now the Local Planning Authority for the area in which the HPC Site is situated. It is therefore the Local Planning Authority empowered to manage and enforce the planning obligations in this s106 Agreement.
- 3.4 Section 106A(3)(a) of the 1990 Act provides that “*A person against whom a planning obligation is enforceable may, at any time after the expiry of the relevant period, apply to the appropriate authority for the obligation... to have effect subject to such modifications as may be specified in the application.*” The 'relevant period' referred to is 5 years from the date on which the obligation is entered into. So in this case, 'the relevant period' has expired (27 January 2017) and accordingly, this application is being made to modify Schedule 17 to have effect subject to the modifications that the applicant has specified. The Applicant submits that, in accordance with the requirements of Section 106A(6) of the 1990 Act, Schedule 17 “*continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in this application*”.
- 3.5 The Applicant's proposed modifications to Schedule 17 are set out in Appendix 1 to the application.
- 3.6 The effect of the modifications proposed would be to remove the requirement to keep in place the financial security that would be available to the Council in the event that -
- (a) the reinstatement requirements under Condition R1 (of the SPW permission) were to be triggered;
  - (b) NNB (the applicant) were then to default on its obligations to carry out those reinstatement works; and
  - (c) following that, the Council were elect to take on responsibility itself for reinstating the site.
- The Applicant is of the opinion that there is now no reasonable likelihood of this occurring and so the obligations in Schedule 17 to keep the site reinstatement bonds in place no longer serve a useful purpose.

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

- 4.1 This application relates to the 27<sup>th</sup> January 2012 permission that authorised the Site Preparation Works in and around the area proposed for the new nuclear build. The nuclear power station and its associated infrastructure was granted permission by means of a Development Consent Order, which was granted by the Secretary of State in 2013. The site is known as the Hinkley Point C (HPC) site. Work is currently progressing, with the first

Reactor (Unit 1) now due to be ready to produce electricity in the summer of 2027. The second Reactor (Unit 2) is approximately, 12 months behind.

- 4.2 The site lies to the west of and immediately adjacent to the Hinkley Point B and A stations, on the Somerset coastline, in between Watchet and the River Parrett. The nearest settlements/hamlets are those of Knighton, Burton, Shurton, Wick and Stolford, with the village of Stogursey lying slightly further away in a due southerly direction. The national trail of the south-west coastal footpath has been relocated during the course of development, but will be repositioned on top of the new sea wall defences, when it is appropriate and safe to do so.

## **5. Planning history and background to this application.**

- 5.1 The current application seeks a modification to an existing obligations under the s106 Agreement made in connection with planning permission - West Somerset reference 3/32/10/037 - referred to as the Site Preparation Works (SPW) permission for various works on land around the site proposed for the new nuclear build at Hinkley Point C. It was approved by the WSDC Planning Committee subject to the prior completion of the s106 Agreement on 28 July 2011, with the s106 Agreement being signed and the decision notice being issued on 27 January 2012.
- 5.2 In January 2012 the application for a Development Consent Order (DCO) had not been submitted (or hence approved). The SPW planning application was submitted in order to give EDF/HPC the legal right to start the required site works in advance of any approval for the DCO, in order to facilitate the early delivery of the generating station.
- 5.3 The Site Preparation Works approval granted permission for site clearance (including fencing, vegetation removal, demolition of existing structures, and creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling, spoil screening/storage for re-use on-site); provision of earth retaining structures; deep excavations; provision and relocation of drainage infrastructure (including culverts, outfalls, balancing ponds); the provision and operation of plant and machinery (including concrete batching); site establishment works (including layover facilities, car parks, haulage roads, site access points and roundabouts, and laying replacement and/or diversion of apparatus); and other associated works. It also made clear by conditions and in an accompanying s106 Agreement that, in the event that Hinkley Point C was either not consented or could not legally be continued or completed, the approved site preparation works that had been implemented would be removed and the SPW application site reinstated to its pre-development state.
- 5.4 Included among the conditions attached to the SPW permission is condition R1 which provides for the following –

### **“R1 Potential Site Reinstatement**

*Unless otherwise approved by the Local Planning Authority:*

*(a) in the event that development consent for a new nuclear generating station at the Site:*

*(i) has not been granted within 4 years of the date of this permission;  
or*

*(ii) has been granted but has not been implemented within the  
relevant time period specified in the development consent  
order,*

*then the Site shall be restored in accordance with a Detailed Landscape Mitigation and Reinstatement Strategy submitted to and approved by the Local Planning Authority before the commencement of the reinstatement works, such reinstatement works to be carried out and completed as soon as reasonably practicable and in any event within three years of such commencement unless otherwise approved by the Local Planning Authority; and*

*(b) in the event that development consent for a new nuclear generating station at the Site has been granted and has been implemented but the development authorised by such development consent to be carried out on the Site:*

*(i) ceases to be capable of being lawfully continued or completed  
(and any appeal or legal proceedings in relation to the reasons  
therefore have been exhausted); or*

*(ii) neither of the nuclear reactors authorised by the development  
consent has been substantially completed and is producing  
electricity by 31 December 2025;*

*then the Development and any other works or activities in connection with the Development shall be discontinued (if ongoing) and the Site shall be reinstated in accordance with a Detailed Landscape Mitigation and Reinstatement Strategy submitted to and approved by the Local Planning Authority before the commencement of the reinstatement works, such reinstatement works to be carried out and completed as soon as reasonably practicable and by 31 December 2028 unless otherwise agreed by the Local Planning Authority.”*

The reason for this condition was to ensure satisfactory reinstatement of the SPW site if:

- (a) development consent for a new nuclear generating station at the Site was not granted within 4 years of the date of the SPW permission; or
- (b) if granted, was not implemented within the relevant time period specified in the development consent order; or
- (c) if implemented, but then ceasing to be capable of being lawfully continued or completed; or
- (d) if neither of the nuclear reactors authorised by the development consent has been substantially completed and producing electricity by 31 December 2025.

- 5.5 As stated above the SPW permission was accompanied by s106 Agreement. Schedule 17 of the s106 Agreement placed specific obligations on the New Nuclear Build company (NNB) in relation to the reinstatement of the SPW application site in the event that the reinstatement requirements under

Condition R1 of the Site Preparation Works permission were to be engaged. Paragraph 5 of Schedule 17 imposes an obligation on NNB to comply with the reinstatement obligations set out in conditions R1 to R6 contained in SPW permission. Paragraphs 3 and 4 of Schedule 17 provide the Council with step-in rights and access licences to enable it to carry out the reinstatement works itself (or appoint a contractor to do so) in the event that NNB is in default of the reinstatement obligations. This is subject to giving NNB a minimum of 6 months' notice. The obligations also made provisions for the inclusion of a Bond, Bonds or an Escrow, for the sum of £63 million, which was an amount independently verified as being appropriate to cover the costs of any reinstatement. This money is available to be used by the Council, subject to a series of specified steps, namely -

- (a) that the reinstatement requirements under Condition R1 were to be triggered (which, now that the development consent order has been made and implemented, is only potentially possible in circumstances where HPC is not generating electricity by 2025, or if the development consent for the nuclear generating station ceases to be capable of being lawfully continued or completed (and any appeal or legal proceedings in relation to the reasons therefore have been exhausted));
- (b) NNB were then to default on its obligations under the s106 Agreement to carry out those reinstatement works; and following that,
- (c) the Council was to then elect to take on responsibility for reinstating the Site.

Whilst the exercise of these 'step-in rights' is at the Council's discretion, if the Council does exercise the rights, then under paragraph 3.1 of Schedule 17, it is under a positive obligation to use its *"best endeavours to commence, carry out and complete the Reinstatement Works itself"*. However, paragraph 3.1 of Schedule 17 contains two provisos, the first providing that the Council shall only be responsible to a limit of the current amount of the bond/s or Escrow and the second makes clear that the 'step-in rights' are not available where it would be *'clearly and manifestly incompatible with the proper planning of the area at the relevant time for the Reinstatement Works to be carried out and completed by Council'* (although the agreement does not define what exactly is meant by this phrase).

- 5.6 The security, which now takes the form of three bonds, was put in place prior to commencement of Phase 2 of the site preparation works (under the Site Preparation Works permission). It remains in place and must be renewed (and increased by including indexation) on an annual basis under the terms of the s106 Agreement. The next such renewal and increase is due in June 2023. This security has to remain in place (and continue to be increased every year) until either:

- (a) the date on which one of the nuclear reactors has been substantially completed and is producing electricity; or
- (b) if the reinstatement works are triggered under Condition R1 (of the Site Preparation Works permission), those 'reinstatement works' have been completed.

This security was required to ensure that funding would be available to the Council in the event that it was to exercise its step-in rights under the s106

Agreement to carry out the reinstatement works. The Council would be able to draw down amounts from the bond to cover its costs (but only up to the bond amount and not exceeding its total).

- 5.7 At the time the Site Preparation Works permission was granted, the DCO for Hinkley Point C had not been issued and accordingly, there was at that time no certainty that the DCO would be secured. Therefore, the reinstatement conditions included in the Site Preparation Works permission to provide for the site to be reinstated in the event that the HPC project was not delivered (Conditions R1 to R6), were imposed in order to avoid a scenario where the SPW site was left as an open development site consisting of excavations and moved earth, but the nuclear power station, for whatever reason, failed to proceed to completion.

They would apply if

- (a) the then future Development Consent was not granted; or,
- (b) if development consent was granted but not implemented within the period specified in the DCO; or
- (c) if development consent was granted but construction of the power station could not lawfully be continued or completed; or
- (d) if neither of the proposed nuclear reactors had been substantially completed, so as to be producing electricity by 31 December 2025.

- 5.8 At the examination into the application for a Development Consent Order for Hinkley Point C Nuclear Generating Station, the applicant (NNB Generation Company Limited) put forward a draft development consent order which included a provision which would have allowed NNB to abrogate the planning obligations contained in Schedule 17 of the s106 Agreement. The Panel conducting the DCO Examination made clear that:

*"If the power station project fails to proceed to completion, we consider it important that the application site should not be left abandoned, and scarred by massive earthworks and unfinished.....it is not clear to us how funding for the restoration of the site could be guaranteed in those circumstances, were it not for Schedule 17 of the site preparation s106 agreement.....We do not consider that it would be appropriate for a DCO to interfere with the terms of a legal agreement, to the unilateral advantage of one of the parties, unless this would serve a clear public interest and be vital to the progress of the NSIP. Those circumstances do not apply in this case".*

- 5.9 The application for the Development Consent Order was formally approved by the Secretary of State on 18th March 2013 and came into force on 9 April 2013.

## **6. Environmental Impact Assessment**

- 6.1 This proposal does not require the formal submission of an Environmental Impact Assessment. The Site Preparation Works planning application included an Environmental Statement and that was supplemented by further environmental information at the time. The Council concluded that the environmental information was sufficient for it to be able to consider the

impacts of the development, including any cumulative impacts with other developments, when determining the planning application. This current proposal does not alter this.

- 6.2 EDF Energy will still be implementing the same development granted consent by the Secretary of State in April 2013 (the DCO). The current proposal does not involve any changes to the approved DCO that would warrant either a Material or Non-Material change to the DCO. Officers are satisfied that this application will not give rise to any new or materially different environmental effects from those considered and assessed in the original DCO Environmental Statement (ES).
- 6.3 It might be that, if the reinstatement works were ever invoked, then a fresh Environmental Statement could be required at that point. However, that would be a matter for future consideration and does not affect considerations of this current proposal.

## **7. Habitats Regulations Assessment**

- 7.1 This was considered as part of the original Environmental Statements that accompanied both the Site Preparation Works permission and the Development Consent Order. The changes now sought do not impact on those original considerations. Whether this proposed modification is approved or refused, consideration would have to be given to the need for an appropriate assessment at the time the land was either restored to its original state or when the final landscaping scheme is designed after the build is completed. However, a new Habitats Regulation Assessment is not required at this stage.

## **8. Consultation and Representations**

- 8.1 Date of consultations: 23 March, 21 and 22 April, 2022
- 8.2 The following Statutory Consultees were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
Sedgemoor District Council (Major Projects)	Consulted 23 March 2022. No reply received.	This is more a matter for our Council based on the analysis as to whether the bond obligations continue to serve a useful purpose. So SDC's lack of a response is not critical.
Sedgemoor District Council (Development Management)	Consulted 23 March 2022. No reply received.	This is more a matter for our Council based on the analysis as to whether the

		bond obligations continue to serve a useful purpose. . So SDC's lack of a response is not critical.
Somerset County Council (legal)	Consulted 22 April 2022. No reply received.	SCC would effectively inherit the outcome of this decision once the new unitary authority comes into place (1/4/23). However, SWaT is the current LPA and can and should determine the application accordingly, with or without the County's views.
Somerset County Council (Service Manager, Planning and Development)	Consulted 21 April 2022. No reply received.	SCC would effectively inherit the outcome of this decision once the new unitary authority comes into place (1/4/23). However, SWaT is the current LPA and can and should determine the application accordingly, with or without the County's views.
Somerset County Council (Strategic Manager – Infrastructure Programmes Group)	Consulted 21 April 2022. No reply received.	SCC would effectively inherit the outcome of this decision once the new unitary authority comes into place (1/4/23). However, SWaT is the current LPA and can and should determine the application accordingly, with or without the County's views.
Somerset County Council (Ecologist)	Consulted 21 April 2022. No reply received.	This application does not need an ecological input and so Committee can proceed to determination without an ecological view.

8.3 The following Internal Consultees were consulted:

Consultee	Comment	Officer comment
Legal		SWaT (Legal) have been consulted on all matters related to this application and their views have been incorporated into this report. Such further advice as Members may deem required will be provided at the meeting.

#### 8.4 Local representations

8.4.1 Neighbour notification letters were sent out in accordance with the Council's Adopted Statement of Community Involvement. One letter has been received making the following comments (summarised). The comments are fully reproduced on the Statutory Planning Register on the Council's website.

Material Planning Considerations	
Objections	Officer Comment
<p>Solicitors on behalf of the Fairfield Estate (owners of the land) have objected to the application on the grounds that -</p> <ol style="list-style-type: none"> <li>1. The obligation continues to serve a useful purpose.</li> <li>2. Until such time as the project has been completed and is generating electricity, there remains a prospect that the development may not be completed and that the Bond may need to be called in. If the project fails, it is not unreasonable to assume that NNB would be financially incapable of meeting its reinstatement obligations.</li> <li>3. Contrary to NNB's assertions, there is no obligation on SWaT to carry out any works in excess of those which would be funded by the Bond. This is expressly set out in the s.106 Agreement. Therefore, the Bond provides a route by which funding would be available to pay for the reinstatement of at least some of the Site.</li> <li>4. NNB significantly underestimated the quantum of the Bond that should be</li> </ol>	<p>The points made on behalf of the Fairfield Estate are relevant to the determination of the application and are all considered in the main body of this report. Consideration is given to the Fairfield Estate's position in the event of the application being approved (e.g. para. 10.9.1) so Members have all of the information required to make a balanced judgement on the concerns of the Fairfield Estate.</p> <p>The point at (3) is a reference to the first proviso in paragraph 3.1 of Schedule 17 to the Section 106 agreement and is referred to at paragraph 5.5 above. The Council's responsibility for carrying out reinstatement works is limited to the current amount of the bond/s or escrow.</p>



provided. However, this should not be used as justification to remove the Bond completely. Any contribution towards the cost of reinstatement would be welcome. Otherwise, the entire cost falls to the public purse.

5. The proposed modification is of unilateral benefit of NNB, is to the significant detriment of the Council and is not justified in the public interest.

6. NNB voluntarily entered into the s.106 Agreement in order to obtain planning permission. No justification has been given to explain why NNB should be released from its obligations in this respect.

The objections of the Estate are as follows -

1. The operative test for discharge of the obligation is whether the obligation “serves a useful purpose”
2. The High Court has held that an application to modify an obligation was an “all or nothing” decision. It was not open to the authority to accept some of the proposed modifications and not others.
3. The Court held that there are four essential questions to be considered
  - What is the current obligation?;
  - What purpose does it fulfil?;
  - Is it a useful purpose?; and
  - Would the obligation serve that purpose equally well if it had effect subject to the proposed modifications?”
4. In the event that the project fails for any reason (with the result that HPC is not completed and is not generating electricity by 2025), the land will need to be reinstated. This is clearly a useful purpose.
5. It is clear that NNB agrees that the reinstatement obligations continue to serve a useful purpose. If this is the

<p>case, it is difficult to see how the provision of a Bond does not.</p> <p>6. The Bond secures the reinstatement obligations. It ensures that not all of the cost of complying with those reinstatement obligations would fall on the public purse.</p> <ul style="list-style-type: none"> <li>• The development is still some way from completion. Therefore, there is still a prospect that, due to unforeseen circumstances, the development may fail.</li> <li>• If something happens which is of sufficient magnitude that it prevents the project from being completed, it is likely to have significant financial consequences for NNB. This is precisely the reason why a Bond is required.</li> <li>• What NNB seem to be suggesting is that, if the project now fails for whatever reason, it would simply be left, half-finished, to rot on the north Somerset coastline. This suggestion simply does not withstand scrutiny. Works would have to be undertaken to try to ensure the safety of the half-finished development and to attempt to mitigate its significant adverse impacts on an important landscape (which includes views to and from the AONB).</li> <li>• Without the Bond, this work would be left entirely to the public purse rather than there being a budget of £63m available which could be used to carry out at least some works to remedy the situation.</li> <li>• NNB's comments misrepresent the true position by ignoring the protection contained in paragraph 3 of Schedule 17 which ensure that (i) West Somerset Council is only responsible to a limit of the current amount of the Bond or Bonds or Escrow and (ii) it is</li> </ul>	
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<p>not clearly and manifestly incompatible with the proper planning of the area at the relevant time for the Reinstatement Works to be carried out and completed by West Somerset Council. Regardless of who the appropriate entity is, without the Bond, the entire cost of any such works would fall to the public purse.</p> <ul style="list-style-type: none"> <li>• NNB appears to be suggesting that the reinstatement Bond provisions serve no useful purpose because the Bond figure is too low and as a result, the Bond would not “scratch the surface’ of the current reinstatement costs”. We would suggest that, should NNB fail in its reinstatement obligations, even if the Bond is inadequate to fund the full cost of reinstatement, a £63m contribution towards the cost would be a very welcome contribution to the public body who will be left trying to remedy NNB’s failure.</li> <li>• Varying the s.106 to remove the reinstatement bond obligations on the grounds that NNB under-estimated the likely cost of reinstatement would be wholly inappropriate.</li> <li>• It should be noted that NNB has attempted to release itself from the obligations to provide a Bond at other points of this process. For example, NNB attempted to run a similar argument at the Development Consent Order (“DCO”) Examination. The Estate successfully argued that the reinstatement provisions should be retained.</li> <li>• If the power station project fails to proceed to completion, we consider it important that the application site should not be left abandoned, and scarred by massive earthworks and unfinished buildings.</li> <li>• Schedule 17 of that agreement</li> </ul>	
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<p>provides some assurance about the means by which the site could be restored if unsightly development took place, but the scheme failed to proceed to completion.</p> <ul style="list-style-type: none"> <li>• We do not consider that it would be appropriate for a DCO to interfere with the terms of a legal agreement, to the unilateral advantage of one of the parties, unless this would serve a clear public interest and be vital to the progress of the NSIP. Those circumstances do not apply in this case.</li> <li>• NNB makes the point that it is now only seeking to delete the requirement for the Bond and not abrogate all of the reinstatement obligations. If the reinstatement of the site is important, then securing that reinstatement by way of a Bond is also important. Both elements of the obligation perform a useful purpose.</li> <li>• There has not been a material change in factual matrix that underpinned the DCO Panel's reasoning to uphold the reinstatement bond.</li> </ul> <p>This application should be refused.</p>	
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## 9.0 Relevant planning policies and Guidance

- 9.1 This report does not relate to the determination of a planning application, so this section is not relevant to the considerations set out in this report.

## 10.0 Material Planning Considerations

### 10.1 Legal considerations and clarifications.

- 10.1.1 An all or nothing decision is required on the application. The application must be approved or refused.

Case law (in *R [oao Garden and Leisure Group] v. North Somerset*

**Council**), has held that when considering an application for judicial review of a decision made by a local planning authority on a Section 106A application, there are four essential questions to be considered:

- (1) What is the current obligation?
- (2) What purpose does it fulfil?
- (3) Is it a useful purpose? and if so,
- (4) Would the obligation serve that purpose equally well if it had effect subject to the proposed modifications?

The Judge in that case concluded that Section 106A(6) did not require that the obligation continues to serve its original purpose, but what matters is whether the obligation continues to serve a 'useful purpose'. The courts have also held that the question should be whether the obligation served any useful purpose, not any useful planning purpose. The critical question is whether the obligation serves some useful function, the absence of which makes the maintenance of the obligation pointless. The four essential questions referenced above are crucial to the consideration of this application and will be explored in detail below.

- 10.1.2 The SPW permission planning conditions and accompanying s106 obligations excavation that might have been implemented by virtue of the SPW consent. They do not relate to the works approved by the DCO, because these had not been consented at the time of the SPW approval. Although the DCO rightly refers to the potential requirement for reinstatement, the s106 Agreement attached to the SPW cannot be construed as also include reinstatement of the works approved and now partly implemented as a result of the DCO, because it was agreed before the DCO was considered and granted. This is important because it significantly reduces the extent and cost of any reinstatement works that might be authorised by the legal agreement. Following on from this, Members will also need to consider that if the surrounding landscape was reinstated, but a 'half-built' nuclear site was still left standing, what would really be achieved anyway.

## 10.2 Q1 - What is the current obligation?

- 10.2.1 This is the first of the essential questions identified in paragraph 10.1.1 above. The current planning obligation contains a range of obligations set out in the schedules; a copy of the section 106 agreement is attached to this report. The application relates to one schedule only, schedule 17. As referred to elsewhere in this report, the current S106 obligations in Schedule 17 to the s. 106 agreement allow the Council 'step-in rights' to arrange and complete reinstatement of the SPW application site, if certain circumstances prevail. In such an instance, the Council can draw upon money from the reinstatement bonds to cover its costs, up to the maximum amount of the bonds. These circumstances will arise if neither of the nuclear reactors authorised by the DCO have been substantially completed and are producing electricity by 31st December 2025 (as referred to in Condition R1

of the 2012 Permission). It is highly likely that the reactors will not be producing electricity by 31<sup>st</sup> December 2025, given that EDF have now recalculated the date of Reactor 1 being finished and producing electricity as being June 2027. However, the chances of either nuclear reactor never being substantially completed and producing electricity could rightly be considered to be very small, given the current Government's pledges in relation to nuclear energy as part of the Country's energy supply mix. The Developer has announced a new date for completion of Reactor 1 as being June 2027. On this basis, Officers therefore perceive the likelihood that the Council would wish to take action under the terms of the s106 Agreement on 1st January 2026 or at anytime afterwards up to the new date of June 2027, as being very remote. If the Council can see that the development is on track to achieve the identified completion by a specific date, then it is deemed highly unlikely the Council would invoke the need for the reinstatement of the land, even though technically it could anytime after 31st December 2025.

10.2.2 The scenario described in the preceding paragraph is not though the only circumstance that could give rise to a breach of the Applicant's obligations. NNB could also breach its obligations to carry out the reinstatement works, if the development authorised by the DCO ceases to be capable of being lawfully continued or completed. Whilst it is quite unlikely that such circumstances will arise, they may arise if, for example, there are legislative changes following a change in Government policy by some future central government. However, in Officers' judgement, this is also extremely unlikely because such a change would (currently) lead a significant 'hole' in the Country's energy supply, particularly in view of the current difficulties with the supply and cost of oil and gas. It would also damage the U.K.'s carbon emissions targets and the need for energy security from different clean, renewable and low carbon sources, which includes nuclear.

10.2.3 It is not difficult to imagine circumstances whereby finances, or lack of funding, could disrupt the development of the power station, particularly in view of current international tensions (e.g. China and the West). However, this would not necessarily mean that the development could not lawfully be continued or completed. Other financial arrangements could be made by either EDF or the British Government.

10.2.4 So on balance, Officer's professional judgement is to agree with the Applicant that the reinstatement requirements under Condition R1 of the SPW permission and by virtue of the s106 Agreement, are now most unlikely to ever be triggered.

### 10.3 Q2 - What purpose does the s106 obligation fulfil?

10.3.1 This is the second question that case law tells us needs to be examined in applications under s106A of the Town and Country Planning Act 1990. The purpose of the obligations in Schedule 17 of the s.106 agreement is to provide for reinstatement works and to provide for financial security to

enable the Council to call upon appropriate funds to ensure that the Council can carry out the works, if they are required to be undertaken by them. The primary obligation imposed on NNB at paragraph 5 of Schedule 17 is to comply with reinstatement obligations as set out in conditions R1 to R6 of the SPW permission; that element of Schedule 17 continues to serve the useful purpose of imposing an obligation on NNB to carry out reinstatement works. The Council's rights to 'step in' and carry out the works themselves could arise if neither of the nuclear reactors have been substantially completed and are producing electricity by 31st December 2025, or if the development cannot lawfully be continued or completed. In either event, if NNB (the Applicant) did not comply with its obligations to carry out the reinstatement works, the Council could give not less than six months' notice of its intention to carry out the works itself and then complete the reinstatement works itself, so long as NNB does not provide the Council with written notice of its intention to undertake the works and does not actually start those works itself. The provisions give the Council the right to do so, and to recover the cost of the works (up to the maximum amount of the bonds), if it is unable to recover its reinstatement costs from NNB directly.

- 10.3.2 It is important to bear in mind here that the reinstatement bond cannot be used unless all of these requirements apply and so Members will need to judge the likelihood of all of these circumstances occurring.
- 10.3.2 It is also worthy of note here that the Applicant (in paragraph 2.6 of their Appendix 2 to the application) acknowledges that the site reinstatement bond obligations serve a purpose. The Applicant does qualify this by stating that (in their opinion) it would be "*an extremely narrow*" purpose. However, there is agreement that the obligations do serve a 'purpose'.

10.4 Q3 - Is it a useful purpose?

- 10.4.1 Having established what the purpose of the obligation is, the third factor that case law tells us must be taken into account when determining applications under s106A of the Town and Country Planning Act, is to consider whether the purpose of the obligation is a 'useful purpose'. This distinction between 'purpose' and 'useful purpose' is important. Case law tells us to consider whether the obligation serves some useful function, the absence of which would make the maintenance of the obligation 'pointless'. This approach was referred to in the case of **R. (on the application of Mansfield DC) v Secretary of State for Housing, Communities and Local Government [2018] EWHC 1794**.
- 10.4.2 As noted above, Schedule 17, in particular paragraph 5, continues to serve a useful purpose.

It is for the Planning Committee to form a view on the likelihood of the Council serving a notice if Reactor 1 is not producing electricity by 31st December 2025 or sometime thereafter. This is the crucial consideration Members will need to weigh up. If there is a likelihood of the Council serving

such a notice, the provisions relating to the bond cannot be said to be pointless or to serve no useful purpose. However, Members may decide that the opposite applies and that the chances of the Council deciding to serve such a notice are so infinitesimally small, that the bond and proviso serve no useful purpose. If the Council can see that the development is on track to achieve the identified completion by a specific date, then it is highly unlikely to invoke the need for the reinstatement of the land, even though technically it could do so at any time after 31 December 2025. In addition, the Council could only carry out the works themselves if they were to determine that it is not clearly and manifestly incompatible with the proper planning of the area for the Reinstatement Works to be carried out and completed by them.

- 10.4.2 The Applicant has made the case that all of the necessary licences and environmental permits have been secured; the final investment decision was made in 2016 and so the project is fully funded; there is now strong political support from the UK government; and the construction is now significantly advanced. On this basis, the Applicant concludes that there is no reasonable prospect of the development not being lawfully continued and completed.
- 10.4.3 It should be noted again that the SPW planning conditions and Schedule 17 of the s106 Agreement only relates to any structure, infrastructure, work and/or excavation that might have been implemented by virtue of the SPW consent. It is the officers' opinion that the s 106 agreement does not relate to the works approved by the DCO because it relates to the works required by the conditions attached to the SPW permission. Although the DCO rightly refers to the potential requirement for reinstatement, the s106 Agreement attached to the SPW permission defines the reinstatement works by reference to the conditions attached to the SPW permission. This is important because firstly, it would significantly reduce the extent and cost of any reinstatement works (albeit that they would still be quite large) and secondly, if the surrounding landscape was reinstated, but 'a 'half-built' nuclear site was still left standing, what would really be achieved anyway?
- 10.4.4 Having regard to the information set out above, the prospect of the Council serving a notice under paragraph 3.1 of Schedule 17 appears to be so low that it is highly unlikely that the Council would require remediation work to be carried out, or consider carrying it out itself. On this ground, it would be reasonable to conclude that the provisions relating to the bond no longer serve any useful purpose.
- 10.4.5 Members should also consider whether the retention of the bond provisions would serve a useful purpose on the basis of any alternative trigger event, namely that through some unforeseen change in political, legislative or other circumstances, the development authorised by the DCO ceased to be capable of being lawfully continued or completed. In that event it would still be for the LPA to consider whether to give notice and it would need to take into account the first limb of the proviso, which limits the responsibility. In other words, the LPA, at that time, could form the view that the combination of the bond, and the proviso serves a useful purpose, as it would ensure that



provision was made to both fund works, and to limit the extent of the Council's responsibility. However, it is considered that this circumstance is extremely unlikely to ever come to fruition because such a change would, lead a significant 'hole' in the Country's energy supply, particularly in view of the current difficulties with the supply and cost of oil and gas. It would also damage the U.K.'s carbon emissions targets and the need for energy security from different clean and renewable sources, including nuclear. Therefore, such a circumstance is most unlikely to occur."

10.4.6 Members could also consider circumstances whereby finances, or lack of funding, could disrupt the development of the power station. This is not so hard to envisage given the degree of stake China has in the finances of this project and the current international tensions (e.g. China and the West). However, importantly, this would not necessarily mean that the development could not lawfully be continued or completed. Other financial arrangements could be made by either EDF or the British Government in order to ensure a successful continuation of the project. Therefore, this should not be considered as an occurrence that would stop the project from being lawfully continued and completed, leading to a need to trigger the obligations in the s106 Agreement

10.4.7. Fairfield Estate, who own the land (EDF are currently effectively renting the land from them), have made representations through their solicitors, as part of this application process, contending that the bond provisions continue to serve a useful purpose. The matters raised by the Fairfield Estate are set out earlier in this report and should be taken into account. That said, the primary consideration for Members here, should be to consider the likelihood that they would authorise the serving of the notice under paragraph 3.1 of Schedule 17 in order to trigger the reinstatement obligations. If Members reach the conclusion that it would be most unlikely that the Council would trigger the works of reinstatement, then this is a powerful factor to consider when determining whether the bond provisions of the obligation continue to serve a useful purpose. . The reverse would apply as well, in as much as, if Members reach the conclusion that it would be likely that the Council to trigger the works of reinstatement in any defined circumstance, then the conclusion is likely to be that the bond provisions of the obligation continue to serve a useful purpose as it makes provision to secure the carrying out of reinstatement works in accordance with the conditions attached to the SPW permission .

10.4.8. Members are being asked to consider a range of realistic scenarios which could prevent lawful continuation or completion of the works. These have been defined above. The balance of consideration is as follows. So long as there is a realistic scenario (or scenarios) in which the Council would serve a notice under paragraph 3.1 of Schedule 17, Members could legitimately form the view that the bond provisions continue to serve a useful purpose. However, if having considered all those factors, Members were to conclude that the prospects of giving notice under paragraph 3.1 of Schedule 17 were extremely low, they can conclude that the provisions relating to the bond serve no useful purpose. This is the very nub of what Members need to

address. To help Members, it should be noted that Officers are of the opinion that it appears most unlikely now that the Council will seek to trigger the reinstatement works and therefore, the s106 obligations relating to the bond could now reasonably be said to serve no useful purpose.

10.5. –4 - Would the obligation serve that purpose equally well if it had effect subject to the proposed modifications?

10.5.1

The fourth and final matter to be considered is if the obligation continues to serve a useful purpose, will it serve that purpose equally well if it had effect subject to the modifications specified in the application. The Applicant maintains that Schedule 17 continues to serve a useful purpose but would serve that purpose equally well if the bond provisions were removed as proposed in the application. Officers agree that Schedule 17 serves a useful purpose, in particular the obligation imposed by paragraph 5 of Schedule 17 requires NNB to comply with the reinstatement obligations set out in the conditions attached to the SPW permission. The effect of the modifications would be to remove all references to the bond, bonds or escrow. On this basis, if Members agreed that the obligations should be modified as requested in the application, then Schedule 17 of the s106 Agreement would be re-worded to have the following effect: -

- (a) In the event of a breach of NNB's obligation to carry out the reinstatement works, the Council could, in the exercise of their discretion, give six months' notice of their intention to carry out the reinstatement works themselves.
- (b) If NNB did not carry out the reinstatement works, the Council would have the right to carry out and complete the works themselves, and would have an obligation to use best endeavours to carry out and complete the reinstatement works subject to a single proviso, namely that is not clearly and manifestly incompatible with the proper planning of the area at the relevant time for the Reinstatement Works to be carried out and completed by the Council.

The first proviso in paragraph 3.1 of Schedule 17 would also be removed. The first proviso provides that the Council shall only be responsible to a limit of the current amount of the Bond, Bonds or Escrow for such purposes in place at the time. The purpose of the first proviso is to limit the obligation placed on the Council to incurring expenditure up to the limit of the amount of the bonded security.

10.5.2 If the view is taken that the provisions relating to the bond/escrow in Schedule 17 serve a useful purpose, then the view of officers is if they were removed from Schedule 17 without replacement, Schedule 17 would not serve that purpose equally well and so the application should be considered for refusal. However, the reverse also applies, in as much as, if the view is taken that the prospects of relying on the bond provisions of Schedule 17 is so low that they do not serve a useful purpose, then their removal without replacement would allow Schedule 17 to serve its purpose equally well.

If the members form the view that Schedule 17 continues to serve a useful purpose, and that the prospect of the Council relying on the obligations relating to the bond is so low that those specific provisions no longer serve a useful purpose, and that with the modifications proposed, Schedule 17 would serve its useful purpose equally well, the application should be approved, and the S106 agreement modified in the way proposed in the application.

#### 10.6 Consequences of refusing the Application

- 10.6.1 If Committee made the decision to refuse the Application the s106 Agreement would remain unaltered and the bonding provisions would remain in place.
- 10.6.2 However, the applicant would have a right of appeal to the Secretary of State against a refusal. An appointed Inspector would have to consider the same essential questions, namely the four tests identified above (in para. 10.1.1). The Inspector would judge whether the existing bonding provisions serve a useful purpose. The resolution of that issue will turn on matters of judgement and therefore it is difficult to predict, with any degree of certainty, the outcome of such deliberations.
- 10.6.3 If an Inspector considers the question of whether the retention of the bond and the proviso is 'pointless', the answer is most likely to be not so, if there is a prospect that a reinstatement obligation maybe triggered and the Council serves the notice. However, if there is no prospect, or very limited prospect, of the reinstatement obligation being triggered, an Inspector is likely to consider it pointless to retain the bond and the proviso. So the chances on appeal would hinge on whether the Council would be likely to serve the notice. For the reasons set out above, it is judged by Officers more likely than not that an Inspector would find retention of the bond and the proviso to be unnecessary and would therefore hold that the provisions which NNB seek to delete serve no useful purpose. This would result in the appeal being allowed.

#### 10.7. Consequences of approving the Application

- 10.7.1 If Members resolved to approve the application to modify the s106 Agreement as specified, then any third party could decide to seek Judicial Review in the High Court on the basis that the decision is legally flawed e.g. not take in to account relevant considerations or has taken into account irrelevant considerations or has acted irrationally.
- 10.7.2 To minimise the risk of such a challenge, it is critical that Members consider and come to a view on each of the four essential questions set out above. Provided the tests are considered and applied correctly in reaching a decision, it is considered unlikely that a court would interfere with the LPA's planning judgement.

## **11.0 Conclusion**

- 11.1 It is judged that the Council is extremely unlikely to exercise its 'step-in-rights' without the financial security the bonds offer, but equally, it is considered extremely unlikely that the Council would exercise its 'step-in-rights' even if the financial security of the bonds was to continue.
- 11.2 The security, in the form of the bonds, could only become available to the Council in very narrow, tightly defined circumstances, which upon examination appear extremely unlikely to occur. The arguments and deliberations made in this report conclude that there is now no reasonable likelihood of the relevant circumstances occurring.
- 11.3 It is also stated in this report that the reinstatement bond(s) would in any event only cover the cost of works required to reinstate the landscape that was disrupted under the Site Preparation Works permission and not any building or other works authorised by the Development Consent Order itself - in other words, the new nuclear build. Although the DCO rightly refers to the potential requirement for reinstatement, the s106 Agreement attached to the SPW permission does not relate to reinstatement of the works approved and now partly implemented as a result of the DCO. Therefore, if the Council did decide to utilise the provisions of the s106 Agreement and seek the reinstatement of the land, this would still leave a 'half-built' nuclear site.
- 11.4 The chances of the Council deciding to serve a notice requiring reinstatement of the SPW land back to its original agricultural state in the absence of one of the reactors becoming operational, are now considered by Officers to be so low that it is highly unlikely that the Council would consider carrying out the remediation work out itself. There are no other readily identifiable circumstances under which the new nuclear power station would be rendered incapable of being lawfully continued or completed. Therefore, the requirement to keep in place the site reinstatement bonds cannot be said to serve a useful purpose, and therefore the planning obligation, in particular Schedule 17, would serve its purposes equally well with the modification proposed in the application .
- 11.5 The construction of Hinkley Point C nuclear power station has been in progress for many years now and the development is nearing as much as 50% complete; a nuclear site licence has been granted (November 2012); guaranteed funding is in place; the generic design assessment has been approved (December 2012); the relevant Electricity Market Reform and the Contract for Difference has been secured; marine licences have been granted, as have environmental permits; the U.K. Government needs this nuclear power station to assist with a more balanced, low carbon, reliable energy supply and to help reduce carbon emissions; and it is anticipated that the first Reactor will now begin generating in June 2027, with Reactor 2 being operational in June 2028.

- 11.6 The critical question for Members of the Planning Committee to consider when dealing with this Section 106A Application, is whether the provisions of the Planning Obligation relating to reinstatement works, in particular the bond and paragraph 3 of Schedule 17, serves a useful purpose. If there is almost no prospect that the Council would give notice under paragraph 3.1 of Schedule 17, this report has already explained that an Inspector on appeal is likely to take the view that those provisions do not serve a useful purpose, and that Schedule 17 as proposed to be modified would serve its purpose equally well with the proposed modifications. Officers consider this is a compelling argument.
- 11.7 Therefore, for the reasons set out above and having regard to all the matters raised, it is recommended that the provisions of Schedule 17 do not serve a useful purpose and their removal without replacement would serve that purpose equally as well. On this basis, the application for a modification to the planning obligations contained in Schedule 17 to the Section 106 is recommended for **Approval**.

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.



**DATED**

*27 January*

**2012**

- (1) WEST SOMERSET DISTRICT COUNCIL**
- (2) SOMERSET COUNTY COUNCIL**
- (3) SEDGEMOOR DISTRICT COUNCIL**
- (4) EDF DEVELOPMENT COMPANY LIMITED**
- (5) EDF ENERGY NUCLEAR GENERATION LIMITED**
- (6) ELIZABETH PERIAM ACLAND HOOD GASS (of the Fairfield Estate)**
- (7) NNB GENERATION COMPANY LIMITED**

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**DEED OF PLANNING OBLIGATIONS**

pursuant to section 106 of  
the Town and Country Planning Act 1990  
relating to  
Site Preparation Works at Hinkley Point C

---

Herbert Smith LLP  
Exchange House  
Primrose Street  
London EC2A 2HS

Ref: 2461/7572/12759/30913561

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THIS DEED made on

27 January

2012

**BETWEEN:**

- (1) **WEST SOMERSET DISTRICT COUNCIL** of West Somerset House, Killick Way, Williton, Somerset, TA4 4QA ("**West Somerset Council**");
- (2) **SOMERSET COUNTY COUNCIL** of County Hall, Taunton, Somerset TA1 4DY (the "**County Council**");
- (3) **SEDGEMOOR DISTRICT COUNCIL** of Bridgwater House, King Square, Bridgwater TA6 3AR ("**Sedgemoor Council**");
- (4) **EDF DEVELOPMENT COMPANY LIMITED** whose registered office is at 40 Grosvenor Place, Victoria, London, SW1X 7EN (Company Number 6222043) ("**EDF Energy**");
- (5) **EDF ENERGY NUCLEAR GENERATION LIMITED** whose registered office is at Barnett Way, Barnwood, Gloucester, GL4 3RS (Company Number 03076445) ("**NGL**");
- (6) **ELIZABETH PERIAM ACLAND HOOD GASS (of the Fairfield Estate)** of Fairfield, Stogursey, Near Bridgwater, Somerset, TA25 1PU (the "**Fairfield Estate**"); and
- (7) **NNB GENERATION COMPANY LIMITED** whose registered office is at 40 Grosvenor Place, Victoria, London, SW1X 7EN (Company Number 06937084) ("**NNB GenCo**")

**WHEREAS:**

- (A) West Somerset Council is the local planning authority for the area in which the Site is situated.
- (B) The County Council is the highway authority and the education authority for the area in which the Site is situated.
- (C) Sedgemoor Council is the local authority for the adjacent area to the Site to which a number of the obligations in this Deed relate.
- (D) EDF Energy is the freehold owner of those parts of the Site registered at the Land Registry under title numbers ST263509, ST265369, ST49306, ST278905 and ST271747 and the leasehold owner of those parts of the Site registered at the Land Registry under title numbers ST266165, ST266156 and ST287432.
- (E) NGL is the freehold owner of those parts of the Site registered at the Land Registry under title number ST127567.
- (F) The Fairfield Estate is the freehold owner of those parts of the Site registered at the Land Registry under title numbers ST271485 and ST288713.
- (G) NNB GenCo has a lease dated 8 September 2011 of those parts of the Site owned freehold by EDF Energy and three separate underleases dated 8 September 2011 of those parts of the Site owned leasehold by EDF Energy. On or around the date of this Deed, NNB GenCo is due to be granted a lease of those parts of the Site owned freehold by NGL.

- (H) NNB GenCo submitted the Application to West Somerset Council on 26 November 2010 and the Application was registered as valid by West Somerset Council on 26 November 2010.
- (I) On 28 July 2011 West Somerset Council by its Planning Committee resolved to grant planning permission for the Development subject to the completion of a deed of planning obligations.
- (J) The Development will facilitate the carrying out of the other elements of the Project (if permitted).
- (K) The parties to this Deed have accordingly agreed to enter into this Deed in order to secure the planning obligations contained in this Deed and to give effect to the terms of the resolution of West Somerset Council's Planning Committee.

**NOW THIS DEED WITNESSES** as follows:

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Where in this Deed the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"1990 Act"** means the Town and Country Planning Act 1990;

**"Application"** means the application for planning permission to carry out the Development at the Site submitted to West Somerset Council on 26 November 2010 and given reference number 3/32/10/037;

**"Barns"** means the existing structures on the Site shown edged red on Plan 2 annexed to this Deed, proposed to be demolished as part of the Development;

**"Bridgwater"** means the area defined as "Bridgwater" as shown edged in black on Plan 4 annexed to this Deed;

**"Cannington"** means the Parish of Cannington as shown on Plan 5 annexed to this Deed;

**"Commencement"** means the carrying out of a material operation as defined in section 56(4) of the 1990 Act comprised in the Development (or a Phase as the case may be) and the words **"Commence"** and **"Commenced"** and cognate expressions shall be construed accordingly;

**"Construction Period"** means the period between the Commencement of Phase 0 and the completion of Phase 2;

**"Consumer Prices Index"** means the consumer prices index excluding indirect taxes (CPIY) published by the Office for National Statistics or any official publication substituted for it;

**"Councils"** means West Somerset Council, the County Council and Sedgemoor Council or (as the context may require) any one or more of them;

**"Development"** means development pursuant to the Planning Permission involving the following activities: site clearance (including fencing, vegetation removal, demolition of

existing structures, and creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling, spoil screening/storage for re-use on site); provision of earth retaining structures; deep excavations; provision and relocation of drainage infrastructure (including culverts, outfalls, balancing ponds); the provision and operation of plant and machinery (including concrete batching); site establishment works (including construction compounds and associated (including layover) facilities, car parks, haulage roads, site access points and roundabouts, and laying, replacement and/or diversion of apparatus); and other associated works and in the event that the Project (other than the Development) is not consented all structures would be removed and the site reinstated and which includes the Reinstatement Works;

**"Development Consent Application"** means the application for a Development Consent Order authorising the Project to be submitted by NNB GenCo to the Infrastructure Planning Commission or any successor body to its functions under the Planning Act 2008;

**"Development Consent Obligation"** means a development consent obligation (as defined in section 106(14) of the 1990 Act) and relating to the Project;

**"Development Consent Order"** means any development consent order granted under the Planning Act 2008 in respect of the Project;

**"Dispute"** means any dispute, issue, difference or claim as between the parties in respect of any matter contained in or arising from or relating to this Deed or the parties' obligations and rights pursuant to it (other than in respect of any matter of law);

**"Environmental Statement"** means the environmental statement submitted by NNB GenCo with the Application;

**"Expert"** means an independent person appointed in accordance with the provisions of clause 12 to determine a Dispute between the parties to this Deed;

**"Group Company"** means in relation to any company, its holding company, or its subsidiary or its holding company's subsidiary, as those expressions are defined in section 1159 of the Companies Act 2006 and **"Group Companies"** shall be construed accordingly;

**"Implementation"** means the carrying out of a material operation as defined in section 56(4) of the 1990 Act comprised in the Development (or a Phase as the case may be) and excluding any material operation which is a Preparatory Operation and the words **"Implement"** and **"Implemented"** and cognate expressions shall be construed accordingly;

**"Index"** means:

- (a) the Tender Price Index in respect of the Community Impact Contribution, the Annual Community Impact Contribution, the Stogursey Contribution, the Leisure Contributions, the PROW Contribution and the Washford Cross Roundabout Works Contribution;
- (b) the Retail Prices Index in respect of the Housing Contribution, the Community Safety Contribution, the Ecology Contribution, the Economic Development Contribution, the Education Fund, the Health Contribution, the Archaeological and Heritage Contribution, the Landscape and Visual Contributions, the Skills and

Training Contribution, the Service Level Agreement Contribution, the Tourism Contribution and the Transport Steering Group Contribution; and

- (c) the Consumer Prices Index in respect of all other Contributions and sums of money referred to in this Deed,

or in each case in default of publication thereof, such substitute index as the parties may agree in accordance with clause 14;

**"Index Linked"** means the application of the Index to the relevant sum or Contribution in accordance with clause 14;

**"Interest Rate"** means 3% above the Bank of England base rate applicable at the Payment Date;

**"Phase"** means a phase of the Development (namely **"Phase 0"**, **"Phase 1"**, **"Phase 2"**, **"Phase 3"** and **"Phase 4"**) as determined pursuant to condition G4 of the Planning Permission;

**"Payment Date"** means the date when a Contribution or other sum of money due to be paid, provided or made available pursuant to this Deed is actually paid, provided or made available by NNB GenCo;

**"Planning Permission"** means planning permission for the Development to be granted by West Somerset Council pursuant to the Application substantially in the form of the draft annexed to this Deed as Annex 1;

**"Preparatory Operation"** means an operation or item of work of or connected with or ancillary to the following items: archaeological investigation and ancillary works, exploratory boreholes and trial pits, surveys of existing structures and other works and site establishment including demolition of the Barns and erection of site fencing as shown on Plan 3 annexed to this Deed, all such works to be within Phase 0;

**"Project"** means the proposed construction and operation of Hinkley Point C nuclear power station at the Site, together with associated and ancillary development and which shall include the Development;

**"Project Information Centre"** means an information centre located at King's Square in Bridgwater (or such other location as may be agreed by NNB GenCo and the Councils) which shall be a contact point for the community of and visitors to West Somerset and Sedgemoor who have queries or complaints about the Development or the other elements of the Project (if permitted), and an information point for potential and existing members of the Workforce, providing details of training employment, accommodation options and local services and shall:

- (a) be open to the public between the hours of 0930 and 1730 on Working Days and during such weekend hours as may be agreed by NNB GenCo after a review of demand for weekend opening;
- (b) provide information about the Development, the Development Consent Application and the other elements of the Project (if permitted); and
- (c) be staffed by a representative of NNB GenCo to deal with visitors;

**"Reasonable Endeavours"** means that the obligor shall take all steps that are reasonably required to achieve the stated outcome, and not merely some of them, but shall not be obliged to take any step beyond that which any reasonable and commercially prudent company or reasonable local authority (as the case may be) would take to achieve the stated outcome, or which involves beginning or becoming involved in legal proceedings;

**"Reinstatement Works"** means the works to reinstate the Site which, subject to paragraph 5 of Schedule 17, are required to be carried out pursuant to conditions R1 to R6 of the Planning Permission;

**"Retail Prices Index"** means the all items retail prices excluding mortgage interest payments (RPIX) published by the Office for National Statistics or any official publication substituted for it;

**"Site"** means the land at Hinkley Point, Somerset, shown for the purposes of identification only edged in red on Plan 1 annexed to this Deed;

**"Tender Price Index"** means the all-in tender price index (All-in TPI) published by the Royal Institution of Chartered Surveyors' Building Cost Information Service or any equivalent publication substituted for it;

**"Workforce"** means the workers to be employed in carrying out the Development and the other elements of the Project (if permitted); and

**"Working Day"** means any day apart from Saturday, Sunday and any statutory bank holiday on which clearing banks are open in England for the transaction of ordinary business.

1.2 In this Deed, unless stated otherwise:

- 1.2.1 words incorporating the singular include the plural and vice versa and words importing any gender include every gender;
- 1.2.2 words importing persons include firms, companies, corporations, and vice versa;
- 1.2.3 references to West Somerset Council shall include the successors to West Somerset Council's statutory functions as local planning authority;
- 1.2.4 references to the County Council shall include the successors to the County Council's statutory and other functions as local education authority, local highway authority and local authority;
- 1.2.5 references to Sedgemoor Council shall include the successors to Sedgemoor Council's statutory and other functions as local planning authority, local housing authority, port authority and local economic development authority;
- 1.2.6 references to EDF Energy, NGL, the Fairfield Estate and NNB GenCo shall include references to the successors in title to their respective interests in the Site and persons deriving title therefrom (except where the contrary is expressly provided) and permitted assigns;
- 1.2.7 references to clauses, paragraphs and Schedules are unless otherwise stated references to the relevant clauses and paragraphs of and schedules to this Deed;

- 1.2.8 words denoting an obligation on a party to do any act, matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to cause permit or suffer any infringement of the restriction;
- 1.2.9 references in this Deed to statutes, by-laws, regulations, orders and delegated legislation shall include any statute, by-law, regulation, order or delegated legislation amending, re-enacting or made pursuant to the same as current and in force from time to time;
- 1.2.10 if any provision of this Deed shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be deemed thereby to be affected, impaired or called into question;
- 1.2.11 the recitals and headings in this Deed are for ease of reference only and shall not affect its construction or otherwise have any binding legal effect;
- 1.2.12 in the event of any conflict between the provisions of this Deed and of any document annexed hereto or referred to herein, the provisions of this Deed shall prevail;
- 1.2.13 references to "the parties" shall mean the parties to this Deed and reference to a "party" shall mean any one of the parties;
- 1.2.14 references to "notice" shall mean notice in writing;
- 1.2.15 references to "including" shall mean including without limitation;
- 1.2.16 where in this Deed reference is made to mitigating any potential adverse effects or impacts that might arise from elements of the Project other than the Development:
- (A) such reference is without prejudice to whether or not any further mitigation might be required in relation to those elements of the Project (if permitted); and
  - (B) subject to the provisions of Schedule 1 in relation to the Board and any other provisions of this Deed that are expressed to the contrary, mitigation against effects or impacts of the Development shall take priority over mitigation against effects or impacts of other elements of the Project (if permitted) so that it is generally only when mitigation has been applied to fully mitigating the effects or impacts of the Development that it shall be applied to the effects or impacts of other elements of the Project (if permitted) **PROVIDED THAT** this shall not prevent the application of mitigation where it is reasonably required in relation to other elements of the Project (if permitted);
- 1.2.17 where in this Deed, reference is made to "unless otherwise agreed by" or "unless otherwise approved by" (as the case may be) any of the Councils such agreement or approval shall not be given (except for minor or immaterial changes) unless it has been demonstrated to the satisfaction of the relevant Councils that the subject-matter of the agreement or approval sought is unlikely to give rise to any materially new or materially different environmental effects in comparison with those assessed in granting the Planning Permission **PROVIDED THAT** there shall be no unlawful fettering of discretion of any of the Councils;

1.2.18 terms and expressions defined in the Schedules shall have the meaning specified wherever those terms and expressions are used in this Deed; and

1.2.19 the Interpretation Act 1978 shall apply to this Deed.

## **2. LEGAL EFFECT**

2.1 This Deed is made pursuant to section 106 of the 1990 Act, section 2 of the Local Government Act 2000, section 111 of the Local Government Act 1972 and all other powers so enabling.

2.2 The covenants contained in the schedules are planning obligations (to the extent that they are capable of being so) for the purposes of section 106 of the 1990 Act and are enforceable:

2.2.1 by West Somerset Council as local planning authority;

2.2.2 by Sedgemoor Council as adjacent local authority and as a party to this Deed; and

2.2.3 by the County Council as local highway authority, local education authority and as a party to this Deed.

## **3. CONDITIONALITY**

3.1 Subject to clauses 3.2 and 3.3, the parties agree that none of the terms or provisions in this Deed shall have operative effect unless and until:

3.1.1 the Planning Permission has been duly granted; and

3.1.2 the Development has been Commenced,

with the exception of this clause 3, clauses 1, 2, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and clause 4 insofar as it relates to obligations in the Schedules that must be complied with prior to Commencement of the Development, all of which shall have operative effect upon the grant of the Planning Permission.

3.2 Where the Planning Permission becomes the subject of any judicial review proceedings or statutory challenge proceedings:

3.2.1 until such time as such proceedings including any appeal have been finally determined, the terms and provisions of this Deed will remain without operative effect unless the Development has been Commenced;

3.2.2 if following the final determination of such proceedings the Planning Permission is quashed and, in the event that the court orders the Application to be remitted to the Local Planning Authority, the Application is subsequently refused, this Deed will cease to have any further effect save in relation to Schedule 17 (Site Reinstatement) and any money paid to the Councils pursuant to the Schedules and not spent or committed by the Councils (or such other person as the money has been paid to under this Deed) shall be repaid in full within 56 days of the final determination of such proceedings; and

3.2.3 if following the final determination of such proceedings the Planning Permission is capable of being Commenced, then this Deed will take effect in accordance with its terms.



- 3.3 Wherever in this Deed reference is made to the final determination of judicial review proceedings or statutory challenge proceedings (or cognate expressions are used), the following provisions will apply:

3.3.1 proceedings by way of judicial review are finally determined:

- (A) when permission to bring a claim for judicial review has been refused and no further application may be made;
- (B) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- (C) when any appeal is finally determined;

3.3.2 statutory challenge proceedings are finally determined:

- (A) when the court has given judgment in the matter and the time for making an appeal expires without an appeal having been made or permission to appeal is refused; or
- (B) when any appeal is finally determined.

**4. PLANNING OBLIGATIONS**

4.1 NNB GenCo covenants with the Councils to perform:

4.1.1 the planning obligations contained in the Schedules; and

4.1.2 any other (non-planning) obligations contained in the Schedules pursuant to section 111 of the Local Government Act 1972 and all other powers so enabling,

in each case so far as they relate to NNB GenCo's land interests in the Site from time to time.

- 4.2 West Somerset Council, Sedgemoor Council and the County Council each covenants with EDF Energy, NGL, the Fairfield Estate, NNB GenCo to perform the obligations on their respective parts contained in the Schedules.

**5. CONSENT OF LANDOWNERS**

- 5.1 Subject to clause 5.2, the Fairfield Estate agrees to its interest in the Site being bound by the planning obligations contained in the Schedules.

- 5.2 The parties agree that the planning obligations contained in this Deed will not be enforceable against the Fairfield Estate or against any successors in title to or permitted assigns or any person claiming through or under the Fairfield Estate's interest in the Site (save for NNB GenCo) unless that person itself undertakes any part of the Development not consisting of the Reinstatement Works.

- 5.3 Subject to clause 5.4, EDF Energy and NGL agree to their respective interests in the Site being bound by the planning obligations on the part of NNB GenCo contained in the Schedules.

- 5.4 The parties agree that the planning obligations contained in this Deed will not be

enforceable against EDF Energy or NGL or against any successors in title to or permitted assigns or any person claiming through or under their respective interests in the Site (save for NNB GenCo) unless that person itself undertakes any element of the Development not consisting of Reinstatement Works.

**6. NOT USED**

**7. WARRANTY AS TO TITLE INFORMATION**

- 7.1 NNB GenCo warrants that so far as it is aware there is no matter contained within the title documents for the Site as at the date of this Deed that has not been disclosed to West Somerset Council or its solicitors prior to the date of this Deed which would restrict West Somerset Council's ability to carry out the Reinstatement Works in accordance with the provisions of Schedule 17.

**8. RELEASE**

- 8.1 Subject to the terms of this Deed (including in relation to Schedule 17), EDF Energy, NGL, NNB GenCo and the Fairfield Estate and their respective successors in title and those deriving title from them shall, upon disposing of the whole or any part of their respective interests in the Site, be released from all obligations in this Deed in relation to that interest or the relevant part thereof (as the case may be) but without prejudice to the rights of the parties in relation to any antecedent breach of those obligations.

**9. FURTHER PLANNING PERMISSIONS AND DEVELOPMENT CONSENT ORDERS**

- 9.1 Subject to clause 9.2, nothing in this Deed shall be construed as prohibiting or limiting the rights of EDF Energy, NGL, NNB GenCo or the Fairfield Estate to use or develop any part of the Site in accordance with and to the extent permitted by a certificate of lawful use, planning permission, harbour empowerment order, transport and works act order, development consent order or other statutory authority other than the Planning Permission granted either before or after the date of this Deed.

- 9.2 Subject to paragraph 5 of Schedule 17, in the event that a planning permission, harbour empowerment order, transport and works act order, development consent order or other statutory authority other than the Planning Permission is granted which authorises the Development or development substantially similar to the Development (including as part of a wider or larger scheme or project), then unless otherwise agreed in writing by the Councils the provisions of this Deed shall apply as if such Development or development thereby authorised were authorised by the Planning Permission.

**10. EXPIRY**

If the Planning Permission expires or is revoked prior to Commencement of the Development then this Deed shall forthwith determine and cease to have effect and West Somerset Council will forthwith cancel all entries made in the register of local land charges in respect of this Deed.

**11. CERTIFICATES OF COMPLIANCE**

- 11.1 West Somerset Council will upon request by NNB GenCo certify compliance or partial compliance (as and if appropriate and subject to payment of West Somerset Council's

reasonable legal and professional fees) with the provisions of this Deed and if so requested by any such party will (as and if appropriate and subject to payment of West Somerset Council's reasonable legal and professional fees) execute a deed of release or partial release from the relevant provisions of this Deed and promptly register the same in the register of local land charges maintained by West Somerset Council.

- 11.2 Where West Somerset Council is obliged to execute a deed of release or partial release pursuant to clause 11.1, the other parties to this Deed shall enter into such deed to the extent necessary to effect such release or partial release.

## **12. RESOLUTION OF DISPUTES**

- 12.1 In the event of any Dispute arising between the parties then, save as provided in clause 12.8, the parties will attempt to resolve that Dispute amicably including holding a meeting attended by at least one representative from each party.
- 12.2 If the parties are unable to resolve the Dispute amicably pursuant to clause 12.1, one party may by serving notice on all the other parties (the "Notice") refer the Dispute to an Expert for determination.
- 12.3 The Notice must specify:
- 12.3.1 the nature, basis and brief description of the Dispute;
  - 12.3.2 the clause or paragraph of this Deed pursuant to which the Dispute has arisen; and
  - 12.3.3 the proposed Expert.
- 12.4 In the event that the parties are unable to agree whom should be appointed as the Expert within 10 Working Days after the date of the Notice then either party may request the President of the Law Society to nominate the Expert at their joint expense, and the parties shall request that such nomination shall be made within 10 Working Days of the request, and any failure for such nomination to be made within 10 Working Days shall entitle any party to withdraw from the process of appointing an Expert and to refer the Dispute to the courts of England instead.
- 12.5 The Expert shall act as an expert and not as an arbitrator and his decision will (in the absence of manifest error) be final and binding on the parties hereto and at whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the parties to the Dispute in equal shares.
- 12.6 The Expert will be appointed subject to an express requirement that he reaches his decision and communicates it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than 28 Working Days from the date of his appointment to act.
- 12.7 The Expert will be required to give notice to each of the said parties inviting each of them to submit to him within 10 Working Days written submissions and supporting material and will afford to each of the said parties an opportunity to make counter submissions within a further 5 Working Days in respect of any such submission and material.
- 12.8 In respect of any Dispute in relation to the Reinstatement Works, any party may elect not to refer such Dispute to an Expert for determination and shall be entitled to refer any such

Dispute to the courts of England instead.

### 13. NOTICES

13.1 Any notice, consent or approval required to be given under this Deed shall be in writing and shall be sent to the address and marked for the attention of the persons identified below or instead to such other persons as may be substituted for them from time to time.

13.2 Any such notice must be delivered by hand or by pre-paid Special Delivery post and shall conclusively be deemed to have been received:

13.2.1 if delivered by hand, on the next Working Day after the day of delivery; and

13.2.2 if sent by Special Delivery post and posted within the United Kingdom, on the day 2 Working Days after the date of posting.

13.3 The address for service of any such notice, consent or approval as aforesaid shall:

13.3.1 in the case of service upon West Somerset Council be at its address given above or such other address for service as shall have been previously notified in writing to the other parties and any such notice shall be marked for the attention of the Planning Manager;

13.3.2 in the case of service upon the County Council be at its address given above or such other address for service as shall have been previously notified in writing to the other parties and any such notice shall be marked for the attention of Alyn Jones, Group Manager - Energy;

13.3.3 in the case of service upon Sedgemoor Council be at its address given above or such other address for service as shall have been previously notified in writing to the other parties and any such notice shall be marked for the attention of Claire Pearce, Project Director;

13.3.4 in the case of service upon EDF Energy be at its address given above or such other address for service as shall have been previously notified in writing to the other parties and any such notice shall be marked for the attention of the Company Secretary;

13.3.5 in the case of service upon NGL be to Hinkley Point B Power Station, Bridgwater, Somerset, TA5 1YA or such other address for service as shall have been previously notified in writing to the other parties and any such notice shall be marked for the attention of the Station Director with a copy to Andrew MacMillan, Solicitor, EDF Energy, GSO Business Park, East Kilbride, G74 5PG;

13.3.6 in the case of service upon the Fairfield Estate be at its address given above or such other address for service as shall have been previously notified in writing to the other parties and any such notice shall be marked for the attention of Caroline Waller, Clarke Willmott, Blackbrook Gate, Blackbrook Park Avenue, Taunton, TA1 2PG quoting the reference CP011/0939/52471.8; and

13.3.7 in the case of service upon NNB GenCo be at its address given above or such other address for service as shall have been previously notified in writing to the other

parties and any such notice shall be marked for the attention of the Company Secretary.

#### 14. INDEXATION

- 14.1 Save as provided in clause 14.2, where any obligation in this Deed is expressed to require NNB GenCo to pay, provide or make available any sum of money (whether by way of a Contribution or otherwise), the amount to be paid, provided or made available shall be adjusted by reference to changes in the relevant Index in accordance with the following formula **PROVIDED THAT** if the Amount Payable (as defined below) is less than the Sum (as defined below), then the Sum will be payable, provided or made available not the Amount Payable:

$$\text{Amount Payable} = \text{Sum} \times (\text{Index at Payment Date} / \text{Index at today's date})$$

where:

"Amount Payable" is the amount of money required to be paid, provided or made available;

"Sum" is the amount of Contribution, payment or bond stated in this Deed;

"Index at Payment Date" is the relevant Index last published before the Payment Date; and

"Index at today's date" is the relevant Index last published prior to the date of this Deed.

- 14.2 The parties agree that the sum of **£63,000,000** referred to in paragraph 2 of Schedule 17 and any other sum which NNB GenCo is required to make available under a Bond or Escrow pursuant to paragraph 2 of Schedule 17 shall not be Index Linked in accordance with this clause 14 **PROVIDED THAT** the provisions of paragraph 2.5 of Schedule 17 shall instead apply to such sums.

#### 15. INTEREST

Where any obligation in this Deed is expressed to require NNB GenCo to pay, provide or make available any sum of money, interest at the Interest Rate shall be payable in addition to the sum of money itself calculated from the due date to the date on which the sum of money is actually paid, provided or made available.

#### 16. NOTICE OF PHASES, PAYMENTS AND DISPOSITIONS

- 16.1 NNB GenCo shall notify West Somerset Council and each of the other parties to this Deed:
- 16.1.1 prior to the Commencement of each of Phases 0, 1, 2 and 4 of the anticipated date of Commencement and Implementation of each of those Phases (which obligation shall apply again if Commencement of a Phase does not occur on the notified date);
  - 16.1.2 within 7 days of the actual dates of Commencement and Implementation of each of Phases 0, 1, 2 and 4; and
  - 16.1.3 within 2 weeks of completion of each of Phases 0, 1, 2 and 4.
- 16.2 NNB GenCo shall give written notice to West Somerset Council within 24 hours of NNB GenCo paying, providing or making available to any third party a sum of money required by this Deed.

- 16.3 EDF Energy, NGL and NNB GenCo shall give written notice to West Somerset Council within 28 days after any disposition of the whole or any part of their respective interests in the Site.

**17. VAT**

If this Deed or anything contained in it gives rise to a taxable supply for VAT purposes by the Councils or by any third party to NNB GenCo then NNB GenCo shall pay to the relevant Council or third party an amount equal to the VAT chargeable in addition to and at the same time as any payment or the provision of any other consideration for such supply upon provision of a valid VAT invoice addressed to NNB GenCo.

**18. APPROVALS**

Where any approval, agreement, consent, confirmation or an expression of satisfaction is required under the terms of this Deed such approval, agreement, consent, confirmation or expression of satisfaction shall be given in writing and shall not be unreasonably withheld or delayed.

**19. COUNCILS' POWERS**

Nothing in this Deed shall fetter the statutory rights, powers or duties of the Councils.

**20. GOOD FAITH**

The parties agree with each other to act reasonably and in good faith in the discharge of the obligations contained in this Deed.

**21. RIGHTS OF THIRD PARTIES**

It is not intended that any person who is not a party to this Deed shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

**22. JURISDICTION**

- 22.1 This Deed including its construction, validity, performance and enforcement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

- 22.2 Each party irrevocably agrees that the English courts shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including non-contractual disputes or claims).

**23. COUNTERPARTS**

This Deed may be executed in any number of counterparts, each of which is an original and all of which may together evidence the same agreement.

**24. DATE OF DELIVERY**

This Deed is delivered on the date of this Deed.

## **SCHEDULE 1 – GENERAL**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1** Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Board"** means the board constituted in accordance with, and having the functions ascribed to it by this Schedule 1; and

**"Contributions"** means the financial contributions to be made by NNB GenCo pursuant to the Schedules, a summary of which is set out in Annex 2 to this Deed.

### **2. THE BOARD**

- 2.1** NNB GenCo and the Councils agree to:

2.1.1 make provision for the membership and proceedings of the Board; and

2.1.2 make such other provision as they consider appropriate for the proper and efficient functioning of the Board.

- 2.2** The membership of and other provisions for the functioning of the Board may be amended from time to time with the agreement of NNB GenCo and the Councils and any such amendments shall be recorded in writing.

### **3. THE CONTRIBUTIONS**

- 3.1** West Somerset Council shall establish an account or accounts where the Contributions shall be held and shall notify the account details to the County Council, Sedgemoor Council and NNB GenCo.

- 3.2** West Somerset Council shall place the Contributions in such account or accounts and shall thereafter not apply money from the account other than in accordance with the provisions of this Deed and:

3.2.1 in the case of the Community Impact Contribution, the Annual Community Impact Contribution and the Housing Contribution, in accordance with the provisions of this Schedule 1; and

3.2.2 in the case of the Economic Development Contribution, in accordance with the provisions of this Schedule 1 and Schedule 6 (and in the event of any conflict the provisions of Schedule 6 shall prevail).

- 3.3** Interest accruing to the account or accounts in which the Contributions are held shall be retained in that account or accounts and shall only be applied in accordance with the provisions of this Deed and, in the case of the Community Impact Contribution, the Annual Community Impact Contribution, the Housing Contribution and the Economic Development Contribution, in accordance with the provisions of this Schedule 1 for the same purposes as for the Contributions to which the interest relates.

- 3.4** Subject to compliance with relevant laws and its own constitution and internal financial rules, West Somerset Council shall provide the County Council, Sedgemoor Council and

NNB GenCo with copies of all account statements and other correspondence received in relation to the account established pursuant to this paragraph 3.

#### **4. PRINCIPLES FOR THE OPERATION OF THE BOARD**

- 4.1** The Councils and NNB GenCo agree that the following principles shall govern the operation of the Board in relation to the Community Impact Contribution, the Annual Community Impact Contribution, the Housing Contribution and, unless otherwise stated to the contrary, the Economic Development Contribution:

##### **General**

- 4.1.1** The Community Impact Contribution, the Annual Community Impact Contribution, the Housing Contribution and the Economic Development Contribution shall only be used for the purposes for which they were paid as set out in this Deed and the decision-making procedure within and between the Councils and by the Board shall accord with this.
- 4.1.2** All Contributions distributed via the Board mechanism must have an appropriate audit trail.
- 4.1.3** In relation to the relevant Community Impact Contribution, the Annual Community Impact Contribution, the Housing Contribution and the Economic Development Contribution, a Board will be set up which agrees that such contributions shall be recognised as recorded within its income streams. The Board will assess and make recommendations following such assessment to West Somerset Council's Cabinet to allocate and distribute the relevant Community Impact Contribution, the Annual Community Impact Contribution, the Housing Contribution and the Economic Development Contribution to the appropriate recipients in accordance with the principles in this Schedule 1 (and in the case of the Economic Development Contribution, also in accordance with the principles in Schedule 6). Those Contributions will then be managed by way of existing decision making procedures within each recipient and their use will not be fettered by the Board.
- 4.1.4** West Somerset Council will make provision for participation by Sedgemoor Council as the adjacent local authority and the County Council through attendance from their respective portfolio holders at any relevant West Somerset Council Cabinet meetings.
- 4.1.5** It will be important to monitor the impact of the Development and the potential effects and impacts of other elements of the Project (if permitted) as well as managing the implementation and effectiveness of interventions and measures utilising Contributions secured and to ensure that they are spent in accordance with this Deed.
- 4.1.6** The Board shall comprise:
- (A) two representatives to be nominated by West Somerset Council (one of whom shall act as chair);
  - (B) two representatives to be nominated by Sedgemoor Council;



- (C) two representatives to be nominated by the County Council; and
  - (D) two representatives to be nominated by NNB GenCo,
- or such alternates as may be nominated by those representatives from time to time.
- 4.1.7 The Board shall be entitled to invite parish councils and other interested parties to Board meetings or other meetings as observers or non-voting participants to inform the decision-making process, as appropriate.
- 4.1.8 The aims of the Board include working together to:
- (A) minimise the environmental, economic and social impact, whilst, as appropriate, maximising the environmental, economic and social benefits, of the Development and the other elements of the Project (if permitted) primarily within the administrative boundaries of West Somerset and Sedgemoor but also, where the Board considers appropriate in accordance with the criteria set out below, impacts across a wider area within Somerset County area;
  - (B) direct funding towards community impact and mitigation measures in accordance with the principles in this Schedule 1 and in so doing, to seek to ensure that all funds are used to achieve the most appropriate mitigation to effects arising from the Development and the other elements of the Project (if permitted) and to operate with openness, transparency, equity and effectiveness; and
  - (C) attract additional funding from other private and public sector sources where possible.

**Principles applying to the administration of the Community Impact Contribution, the Annual Community Impact Contribution and the Housing Contribution (but not the Economic Development Contribution)**

The following principles shall apply to the administration of the Community Impact Contribution, the Annual Community Impact Contribution and the Housing Contribution:

- 4.1.9 The Board shall recognise that the degree of actual or potential impact varies across the geography of the administrative areas of West Somerset Council and Sedgemoor Council and the wider County of Somerset area and that the application of funds from the Community Impact Contribution and the Annual Community Impact Contribution should reflect this.
- 4.1.10 In relation to the Housing Contribution, the Board shall recognise the degree of actual or potential impact on the immediate local housing market across the geography of the administrative areas of West Somerset Council and Sedgemoor Council only and that the application of funds from the Housing Contribution will reflect this.
- 4.1.11 In order to address this, resources will be prioritised for use in areas of greatest impact with mitigation measures best suited to the geography and degree of actual or potential impact.
- 4.1.12 Priority will be given to those schemes, measures and projects that:

- (A) have been identified as priorities to the communities within Parish or Community Plans as applicable;
- (B) are aligned to approved policies or plans of the West Somerset Council, Sedgemoor Council and the County Council as applicable;
- (C) can demonstrate the greatest potential to achieve mitigation of impacts, taking into account value for money;
- (D) can demonstrate the greatest potential to address need arising from the Development and other elements of the Project (if permitted), taking into account value for money;
- (E) can demonstrate overall value for money in terms of cost and effectiveness;
- (F) can demonstrate a contribution to developing and maintaining sustainable communities throughout the areas of impact; and
- (G) complement other measures committed in this Deed or practised by the parties.

4.1.13 The Board shall work to put in place mechanisms to allow for review and reprioritisation to reflect changes in circumstances and actual as opposed to predicted/modelled impacts. Mechanisms will include trigger points for release of funds. The details of the approach to the distribution of funds strategy shall be agreed and amended from time to time by the Board in order to respond to monitoring and evidence of impacts and need.

#### **Principles applying just to the Community Impact Contribution and the Annual Community Impact Contribution**

The following principles shall apply just to the Community Impact Contribution and the Annual Community Impact Contribution:

4.1.14 Bids for funding from the Board from the Community Impact Mitigation Contribution will be submitted on a model application form for consideration and to allow for consideration by the Board *inter alia* against the criteria outlined below (project meaning the relevant mitigation project or measure):

- (A) Priority impact zones – priority shall be given to those areas that are anticipated in the Environmental Statement to experience or which actually experience the greatest adverse impact from the Development and/or other elements of the Project (if permitted) in accordance with the following hierarchy of priority:
  - (1) settlements/areas directly adjacent to the site preparation site development;
  - (2) settlements/areas directly adjacent to the main transport routes to and from the site preparation site in the administrative areas of West Somerset Council and Sedgemoor Council and the wider County of Somerset area;

- (3) settlements/areas within West Somerset and/or Sedgemoor District which are directly affected by adverse impacts from the Development and/or the other elements of the Project (if permitted);
  - (4) settlements/areas within Somerset County but outside West Somerset or Sedgemoor District which can demonstrably show they experience the next greatest degree of adverse impacts after the above settlements/areas within West Somerset or Sedgemoor, with priority given to projects which have a benefit to West Somerset and/or Sedgemoor District as well as such other areas; and
  - (5) other settlements/areas within any Somerset County authority which can demonstrate indirect adverse impacts and/or can demonstrate that a measure in such other settlement/area will benefit an area within West Somerset and/or Sedgemoor District which is affected (directly or indirectly) by the Development and/or the other elements of the Project (if permitted);
- (B) Quality of life – the Board shall recognise that the principal purpose of the contribution shall be to enhance the quality of life of communities affected by or potentially affected by the Development and/or the other elements of the Project (if permitted);
  - (C) Sustainability – to what extent has the applicant demonstrated that the project will contribute to the wider goal of achieving sustainable communities, contributing to regeneration objectives and achieving higher standards of environmental sustainability;
  - (D) Extent of benefit – to what extent has the applicant demonstrated that the project will ensure a positive benefit and/or legacy to an adequate proportion of people within that community;
  - (E) Community need – to what extent has the applicant demonstrated a need for the project;
  - (F) Community support – to what extent is there demonstrable local community and/or business support for the project;
  - (G) Partner support – where relevant, to what extent is there demonstrable local partner support for the project;
  - (H) Governance – can the applicant demonstrate good governance arrangements are in place, including financial and project management to ensure deliverability; and
  - (I) Value for money – can the applicant demonstrate value for money and that reasonable efforts have been made to maximise the impact of any investment? Has match funding been secured where appropriate.
- 4.1.15 Bids will not be required to meet all criteria but all criteria will be taken into account and the provisions and limitations of this Deed in relation to the

Community Impact Contribution and the Annual Community Impact Contribution shall apply.

#### **Principles applying just to the Housing Contribution**

The following principles shall apply just to the Housing Contribution:

- 4.1.16 Bids for funding from the Board from the Housing Contribution will be submitted on a model application form for consideration and to allow for consideration by the Board *inter alia* against the criteria outlined below (project meaning the relevant mitigation project or measure):
- (A) Priority impact zones – priority shall be given in accordance with paragraph 4.1.10;
  - (B) Extent of benefit – the Board shall recognise that the principal purpose of the contribution is to mitigate potential adverse effects on the availability of accommodation to local residents, particularly those on lower incomes;
  - (C) Sustainability – to what extent has the applicant demonstrated that the project will contribute to the wider goal of achieving sustainable communities, contributing to regeneration objectives and achieving higher standards of environmental sustainability;
  - (D) Community support – to what extent is there demonstrable local community and/or business support for the project;
  - (E) Partner support – where relevant, to what extent is there demonstrable local partner support for the project;
  - (F) Alignment to relevant housing strategies – to what extent does the proposal align with developing or approved housing strategies for the appropriate administrative area/s;
  - (G) Governance – can the applicant demonstrate good governance arrangements are in place, including financial and project management to ensure deliverability; and
  - (H) Value for money – can the applicant demonstrate value for money and that reasonable efforts have been made to maximise the impact of any investment? Has match funding been secured where appropriate.
- 4.1.17 Bids will not be required to meet all criteria but all criteria will be taken into account and the provisions and limitations of this Deed in relation to the Housing Contribution shall apply.
- 4.1.18 The Housing Contribution shall be managed in accordance with Schedule 2 and the Board shall determine the extent to which a proportion of such contribution shall be subject to bidding from other parties in accordance with the above provisions.

#### **Principles applying just to the Economic Development Contribution**

The following principles shall apply just to the Economic Development Contribution:

- 4.1.19 The Board shall work with West Somerset Council and Sedgemoor Council to review the allocation of the contributions defined in Schedule 6 and shall operate under the principles set out in paragraph 4.1.8.
- 4.1.20 For these purposes, the Board shall determine the frequency of any necessary meetings of the Board and the extent to which it wishes to invite other parties such as representatives of local business to such meetings.
- 4.1.21 All decision making shall be consistent with the terms of Schedule 6 and the Board shall recognise that the principal purpose of the contribution is to maximise the economic benefit of the Development and/or the Project (if permitted) to the districts of West Somerset and Sedgemoor.

## 5. DECISION-MAKING

- 5.1 Decisions by the Board shall be made by a majority of votes of the members at a Board meeting convened for that purpose and in the event of an equal number of votes, the Chair shall have the casting vote.
- 5.2 No meeting of the Board shall be quorate unless at least one member from each of the nominating organisations are in attendance and each of the organisations shall use Reasonable Endeavours to ensure at least one such member attends each scheduled meeting.
- 5.3 Decisions and/or recommendations will be made by the Board as governed by the authority ascribed to the Board, with referral to West Somerset Council's Cabinet for final approval as required by such authority.

## 6. COMMUNICATIONS

- 6.1 The Major Projects Press Officer for both West Somerset Council and Sedgemoor Council (or such other central point as may be agreed by the Board) will agree and coordinate external communications with NNB GenCo's communications team **PROVIDED THAT** once launch communications activity and material have been agreed, NNB GenCo shall have the right to include information in its future communications without the need for approval by the other parties to this Deed.
- 6.2 The parties agree that where particular mitigation works, projects or benefits are funded from any of the Contributions secured under this Deed:
  - 6.2.1 NNB GenCo shall have the right to be acknowledged as having funded such works, projects or benefits;
  - 6.2.2 EDF Energy branding and/or corporate images or logos shall be included (at the discretion of NNB GenCo) in literature or publicity material relating to such works, projects or benefits;
  - 6.2.3 signage (at the discretion of NNB GenCo) bearing EDF Energy branding and/or corporate images or logos shall be erected or affixed to buildings and other facilities funded out of the Contributions; and
  - 6.2.4 NNB GenCo shall have the right to be involved in publicity activities relating to such works, projects or benefits in consultation with the Councils.

## SCHEDULE 2 – ACCOMMODATION AND HOUSING

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Accommodation Office"** means the accommodation office to be contained within the Project Information Centre or such alternative office at a convenient location elsewhere in Bridgwater approved by Sedgemoor Council which may replace it in future and which shall:

- (a) provide a service to local people and businesses who wish to offer accommodation to the Workforce;
- (b) provide details of accommodation available in the local area to the Workforce;
- (c) provide information about public services, schools and transport to help inform the accommodation choices of the Workforce;
- (d) monitor the uptake of accommodation in the local area by the Workforce;
- (e) provide information about local leisure facilities and attractions to help promote the local area to the Workforce; and
- (f) liaise with contractors undertaking the Development and with local residents and businesses to identify and try to resolve any significant problems arising from the accommodation choices made by the Workforce;

**"Housing Contribution"** means the sum of £4,000,000 to be paid to West Somerset Council, such sum to be held in accordance with this Deed and used in accordance with this Schedule 2 for the purpose of providing financial support for initiatives designed to deliver additional housing capacity in order to mitigate any potential adverse effects on the local private rented and low cost housing market that might arise from the Development and/or other elements of the Project (if permitted) in West Somerset and Sedgemoor District areas; and

**"Housing Initiative Implementation Officer"** means a person or persons employed by the Councils to implement any initiatives to be funded by payments from the Housing Contribution.

### 2. ACCOMMODATION OFFICE

- 2.1 NNB GenCo shall operate the Accommodation Office throughout the Construction Period and Phases 3 and 4.
- 2.2 NNB GenCo shall provide a report to the Councils every three months from Implementation of the Development and during the Construction Period and Phases 3 and 4 in relation to the accommodation in the local area taken up by members of the Workforce (including specific information and analysis in relation to the administrative areas of West Somerset Council and Sedgemoor Council).

### **3. HOUSING CONTRIBUTION**

- 3.1** NNB GenCo shall not Implement Phase 2 unless the Housing Contribution has been paid to West Somerset Council.
- 3.2** Subject to paragraphs 3.3, 3.4, 3.5 and 3.6, the Housing Contribution may be applied by West Somerset Council and/or Sedgemoor Council towards any or all of the following initiatives:
- 3.2.1 accreditation of landlords;
  - 3.2.2 stimulating new supply in the private rented sector through financial assistance for minor improvements;
  - 3.2.3 bringing empty homes back into beneficial use through financial assistance to owners;
  - 3.2.4 supporting a rent deposit or guarantee scheme through the provision of rent deposits for households moving into the private rented sector;
  - 3.2.5 facilitating household moves from the social rented sector into intermediate or market accommodation through equity loans to residents in the social rented sector;
  - 3.2.6 facilitating household moves from the private rented sector into intermediate or owner occupied market accommodation through equity loans to residents in the owner occupied or private rented sectors;
  - 3.2.7 tackling the incidence of under occupation in existing affordable housing stock through payments to existing tenants to compensate them for releasing property and moving to more suitable accommodation;
  - 3.2.8 equity investment into new build housing development schemes to assist developers in bringing forward stalled development opportunities;
  - 3.2.9 leveraging in funding from the Homes and Communities Agency;
  - 3.2.10 providing funding to act as grant replacement for new build housing development schemes to subsidise the provision of affordable housing developed by registered social landlords;
  - 3.2.11 any other initiative that would deliver additional housing capacity that might be necessary;
  - 3.2.12 the employment by the Councils of Housing Initiative Implementation Officers; and
  - 3.2.13 funding other housing mitigation measures, such as emergency housing services.
- 3.3** When considering how to apply the Housing Contribution, West Somerset Council shall take into account the recommendations of the Board and the extent to which the relevant initiative:

- 3.3.1 gives priority to localities within the administrative areas of West Somerset Council and Sedgemoor Council where the impacts of the Development are most likely to be felt;
- 3.3.2 would maximise the cost effectiveness of the Housing Contribution;
- 3.3.3 addresses both direct and indirect accommodation demands;
- 3.3.4 would be responsive to changes in the housing market; and
- 3.3.5 offers the potential for recycling the Housing Contribution so that it can be reinvested in other housing initiatives, as far as reasonably practicable and **PROVIDED THAT** any recycled monies are not considered as unspent parts of the Housing Contribution.

3.4 No payments in excess of **£2,000,000** shall be made from the Housing Contribution for the purpose of initiatives not falling within the scope of paragraphs 3.2.2 to 3.2.7 inclusive.

3.5 No payments in excess of **£240,000** shall be made from the Housing Contribution for the purpose described in paragraph 3.2.12.

3.6 The maximum amount of any payments made from the Housing Contribution that may be applied towards administration, expenses or other related costs shall be 5% of the relevant payment in addition to any payments for the purpose described in paragraph 3.2.12.

#### 4. **MAXIMUM LIABILITY OF NNB GENCO**

4.1 The maximum liability of NNB GenCo to pay money to the Councils pursuant to this Schedule 2 is **£4,000,000**, being the amount of the Housing Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.



## **SCHEDULE 3 – COMMUNITY IMPACT MITIGATION**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1** Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Annual Community Impact Contribution"** means the sum of **£3,200,000** to be paid in accordance with paragraph 3.1

**"Community Impact Contribution"** means the sum of **£3,500,000** to be paid in accordance with paragraph 2.1; and

**"Stogursey Contribution"** means the sum of **£500,000** to be paid in accordance with paragraph 4.1.

### **2. COMMUNITY IMPACT CONTRIBUTION**

- 2.1** NNB GenCo shall not Implement Phase 2 unless the Community Impact Contribution has been paid to West Somerset Council for the purpose of mitigating the intangible and residual impacts of the Development and/or other elements of the Project (if permitted) on the local communities affected by them through projects the objectives of which are to promote or improve the economic, social or environmental well-being of those local communities.
- 2.2** West Somerset Council shall ensure that not less than **£2,000,000** from the Community Impact Contribution is applied solely for projects for promoting or improving the quality of life and/or economic, social or environmental well-being of the local communities in West Somerset Council's administrative area.
- 2.3** West Somerset Council shall ensure that not less than **£1,000,000** from the Community Impact Contribution is applied solely for projects for promoting or improving the quality of life and/or economic, social or environmental well-being of the local communities in Sedgemoor Council's administrative area and particularly in Bridgwater.
- 2.4** West Somerset Council shall ensure that not less than **£500,000** from the Community Impact Contribution is applied solely for projects for promoting or improving the quality of life and/or economic, social or environmental well-being of the local communities in Sedgemoor Council's administrative area and particularly in Cannington.
- 2.5** West Somerset Council shall take into account the recommendations of the Board when deciding how to apply the Community Impact Contribution.

### **3. ANNUAL COMMUNITY IMPACT CONTRIBUTION**

- 3.1** NNB GenCo shall pay the Annual Community Impact Contribution to West Somerset Council in the following instalments:
- 3.1.1** the sum of **£1,600,000** prior to the first anniversary of the Implementation of Phase 2; and
- 3.1.2** the sum of **£1,600,000** prior to the second anniversary of the Implementation of Phase 2,

for the purpose of mitigating the intangible and residual impacts of the Development and/or other elements of the Project (if permitted) on the local communities affected by them through projects the objectives of which are to promote or improve the economic, social or environmental well-being of those local communities

- 3.2 The parties agree that West Somerset Council may apply up to £80,000 from the Annual Community Impact Contribution for the purpose of contributing towards the costs of the Parish Liaison and Community Safety Officer and Joint Community Safety Project Officers to be employed by West Somerset Council, Sedgemoor Council and/or the County Council as referred to in Schedule 4.

- 3.3 West Somerset Council shall take into account the recommendations of the Board when deciding how to apply the Annual Community Impact Contribution.

#### **4. STOGURSEY CONTRIBUTION**

- 4.1 NNB GenCo shall not Implement Phase 2 unless the Stogursey Contribution has been paid to West Somerset Council for the purpose of community impact mitigation measures in the parish of Stogursey, and West Somerset Council shall make such amount available to Stogursey Parish Council to draw down on reasonable notice for such purpose in accordance with paragraph 4.2

- 4.2 Community impact mitigation measures put forward by Stogursey Parish Council or community impact measures within Stogursey which have the written support of Stogursey Parish Council (who shall have considered and voted upon such measures at an open public meeting) shall be considered by West Somerset Council's Cabinet without reference to the Board.

- 4.3 Notwithstanding paragraphs 4.1 and 4.2, it is agreed that nothing shall prevent Stogursey Parish Council and residents of the parish of Stogursey from submitting bids to the Board for funding from the Community Impact Contribution and the Annual Community Impact Contribution (and such bids shall be considered by the Board in accordance with the criteria and procedures set out in Schedule 1).

#### **5. REVIEW**

West Somerset Council, the County Council, Sedgemoor Council and NNB GenCo shall review the application of the Community Impact Contribution, the Annual Community Impact Contribution and the Stogursey Contribution prior to the determination of the Development Consent Application and any agreed modifications shall be documented in the Development Consent Obligations.

#### **6. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 3 is £7,200,000, being the aggregate amount of the Community Impact Contribution, the Annual Community Impact Contribution and the Stogursey Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## SCHEDULE 4 – COMMUNITY SAFETY

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"CCTV Feasibility Study"** means the CCTV (closed circuit television) feasibility study to be commissioned or undertaken by Sedgemoor in order to determine the potential impacts on current CCTV arrangements that might arise from the Development and/or other elements of the Project (if permitted);

**"CCU Officer"** means the officer with responsibility for the civil contingencies unit within West Somerset Council, Sedgemoor Council or the County Council whose outline scope of duties is at Annex 3 to this Deed;

**"Community Safety Beat Team"** means a team comprising a full-time Sergeant and a full-time Police Community Support Officer who will provide policing services focused around the Development, other elements of the Project (if permitted) and their impacts on the local community;

**"Community Safety Contingency"** means the sum of £307,576 to be used for the purposes specified in paragraph 3.2;

**"Community Safety Contribution"** means the sum of £1,511,567 in total for the purposes of mitigating the community safety impacts of the Development and/or other elements of the Project (if permitted) on the provision of resources of the Councils, and the police, fire and ambulance services;

**"Costs Schedule"** means the schedule of costs attached as Annex 4 to this Deed;

**"DSFRS Community Safety Officer"** means the community safety officer employed by the Devon and Somerset Fire and Rescue Services to raise awareness within the local community for fire and road safety and delivering initiatives associated with the Development and the other elements of the Project (if permitted) whose outline scope of duties is at Annex 3 to this Deed;

**"Group Manager"** means the group manager engaged to develop contingency plans in relation to operational procedures for the Devon and Somerset Fire and Rescue Services and create bespoke plans in response to specific risks as a consequence of the Development and other elements of the Project (if permitted) whose outline scope of duties is at Annex 3 to this Deed;

**"Maritime Fire Fighting Training"** means the three day training course in maritime fire training, delivered by an accredited body, to be undertaken by a maximum of 100 staff from the Devon and Somerset Fire and Rescue Services, comprising those officers working from the nearest fire stations to the Site and to Combswich;

**"Parish Liaison and Community Safety Officer and Joint Community Safety Project Officer"** means the community safety officer(s) employed by West Somerset Council, Sedgemoor Council and/or the County Council to manage the commissioning and delivery of community safety initiatives with the aim of reducing crime and disorder and anti-social behaviour whose outline scope of duties is at Annex 3 to this Deed;

**"Police Community Support Officer"** means the police community support officer to be employed by the Avon and Somerset Constabulary to provide policing services focused around the Development and who is envisaged to provide policing services focused around other elements of the Project (if permitted) and their impacts on the local community whose outline scope of duties is at Annex 3 to this Deed;

**"Police Constable"** means the police constable to be employed by the Avon and Somerset Constabulary to provide policing services focused around the Development and who is envisaged to provide policing services in relation to the Project (if permitted) and their impacts on the local community whose outline scope of duties is at Annex 3 to this Deed;

**"Sergeant"** means the sergeant to be employed by the Avon and Somerset Constabulary to provide policing services focused around the Development and who is envisaged to provide policing services in relation to other elements of the Project (if permitted) and their potential impacts on the local community whose outline scope of duties is at Annex 3 to this Deed;

**"Site Familiarisation"** means the site familiarisation tours organised by NNB GenCo throughout the Development, to a maximum of one per month, to be attended by officers from the three nearest fire stations to the Site being those located at Bridgwater, Williton and Nether Stowey;

**"Street Cleaning Feasibility Study"** means the feasibility study to be undertaken by West Somerset Council and/or Sedgemoor Council in their respective administrative areas in order to consider any changes that may need to be made to current street cleaning arrangements as a result of the potential impacts that might arise from the Development and/or other elements of the Project (if permitted); and

**"SWAST Operations Manager"** means the operation manager who will be the principal contact for the Development and who is envisaged to be the operation manager for other elements of the Project (if permitted) within the South Western Ambulance Service Trust whose outline scope of duties is at Annex 3 to this Deed.

## **2. COMMUNITY SAFETY CONTRIBUTION**

### **2.1 NNB GenCo shall pay the Community Safety Contribution to West Somerset Council in the following instalments:**

2.1.1 the sum of **£841,387** prior to the Commencement of Phase 1; and

2.1.2 the sum of **£670,180** prior to the first anniversary of the Commencement of Phase 1,

and NNB GenCo shall not Commence Phase 1 unless the sum referred to in paragraph 2.1.1 has been paid.

### **2.2 West Somerset Council may request payment by NNB GenCo of part of the Community Safety Contribution earlier than provided for in paragraph 2.1 where necessary due to recruitment lead in times but any such early payment shall be at the absolute discretion of NNB GenCo.**

3. **USE OF THE COMMUNITY SAFETY CONTRIBUTION AND THE COMMUNITY SAFETY CONTINGENCY**

3.1 Subject to paragraphs 3.2 and 3.3, the Community Safety Contribution shall be used for the following purposes:

- 3.1.1 to contribute to meeting the costs of Parish Liaison and Community Safety Officer and Joint Community Safety Officers to be employed by West Somerset Council, Sedgemoor Council and the County Council;
- 3.1.2 to contribute to meeting the costs of undertaking a CCTV Feasibility Study for the purposes of determining the impact of the Development and/or other elements of the Project (if permitted) on current CCTV arrangements **PROVIDED THAT** Sedgemoor Council shall consult NNB GenCo and take proper account of its reasonable representations as to the precise scope of the CCTV Feasibility Study (and Sedgemoor Council shall use Reasonable Endeavours to complete the CCTV Feasibility Study within six months of payment of the Community Safety Contribution);
- 3.1.3 to contribute to meeting the uninsured costs of any repairs, making good or cleaning that may be required as a result of any protest or demonstration specifically against the Development and/or other elements of the Project (if permitted);
- 3.1.4 to contribute to meeting the costs of the Street Cleaning Feasibility Study **PROVIDED THAT** West Somerset Council and Sedgemoor Council shall consult NNB GenCo and take proper account of its reasonable representations as to the scope of the Street Cleaning Feasibility Study (and West Somerset Council and Sedgemoor Council shall use Reasonable Endeavours to complete the Street Cleaning Feasibility Study within six months of payment of the Community Safety Contribution);
- 3.1.5 to contribute to meeting the costs of responding to any incidents in relation to the Development and/or other elements of the Project (if permitted) requiring an evacuation of local residents or business from their premises as a result of the Development and/or other elements of the Project (if permitted);
- 3.1.6 to contribute to meeting the costs of employing the CCU Officer in planning for potential incidents and carrying out exercises directly related to the potential evacuation of local residents or businesses as a consequence of an incident relating to the Development or the Project;
- 3.1.7 to contribute to meeting the costs of the Avon and Somerset Constabulary in:
  - (A) providing the Community Safety Beat Team and in procuring and operating a marked police 4x4 vehicle for the use by the Community Safety Beat Team;
  - (B) procuring appropriate security equipment; and
  - (C) providing an additional Sergeant (in addition to the Sergeant on the Community Safety Beat Team) and the Police Constable for incident response planning.

and West Somerset Council shall pay such amount to the Avon and Somerset Constabulary out of that part of the Community Safety Contribution identified in the Costs Schedule as being for these purposes;

3.1.8 to contribute to meeting the costs of the Devon and Somerset Fire and Rescue Services in:

- (A) providing a full-time DSFRS Community Safety Officer;
- (B) undertaking Maritime Fire Fighting Training;
- (C) carrying out Site Familiarisation;
- (D) providing a full-time Group Manager; and
- (E) providing administration support at two days per week to the Group Manager,

and West Somerset Council shall pay such amount to the Devon and Somerset Fire and Rescue Services out of that part of the Community Safety Contribution identified in the Costs Schedule as being for these purposes; and

3.1.9 to contribute to meeting the costs of the South Western Ambulance Service Trust for the purpose of providing a SWAST Operations Manager and West Somerset Council shall pay such amount to the South West Ambulance Service Trust out of that part of the Community Safety Contribution identified in the Costs Schedule as being for this purpose.

**3.2** The Community Safety Contingency shall only be used for the following purposes:

3.2.1 subject to NNB GenCo's approval (and following such approval NNB GenCo shall pay such approved amount to West Somerset Council within two weeks), to contribute to meeting the costs of the Devon and Somerset Fire and Rescue Services in providing additional resources to the Group Manager and the DSFRS Community Safety Officer **PROVIDED THAT** no more than £131,976 from the Community Safety Contingency shall be applied for this purpose and West Somerset Council shall pay such amount to the Devon and Somerset Fire and Rescue Services out of that part of the Community Safety Contingency identified in the Costs Schedule for these purposes; and

3.2.2 subject to NNB GenCo's approval (and following such approval NNB GenCo shall pay such approved amount to West Somerset Council within two weeks), providing additional resources to the Councils as set out in respect of items 5, 7, 8, 9 and 29 in the Costs Schedule **PROVIDED THAT** no more than £175,600 from the Community Safety Contingency shall be applied for these purposes.

**3.3** The precise amounts to be applied by the Councils to each of the above purposes shall be fixed by reference to the Costs Schedule.

#### **4. MAXIMUM LIABILITY OF NNB GENCO**

**4.1** The maximum liability of NNB GenCo pursuant to this Schedule 4 is limited to **£1,819,143** being the aggregate amount of the Community Safety Contribution and the Community

Safety Contingency Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## SCHEDULE 5 – ECOLOGY

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Bat Habitat Creation and Enhancement Works"** means the creation of a wildflower meadow on the Bat Mitigation Land as described in Schedule A of *Further Clarification in Relation to Barbastelle Bats dated July 2011* submitted by NNB GenCo to West Somerset Council;

**"Bat Mitigation Land"** means the land identified on Plan 6 annexed to this Deed;

**"Bat Radio Tracking and Monitoring Study"** means a bat radio tracking and monitoring study to be carried out by EDF Energy in relation to barbastelle bats to provide information on the location of roost sites and key foraging areas used by the bats and allowing the identification of areas where habitat creation and enhancements would be beneficial to the population of bats;

**"Ecology Contribution"** means the sum of £250,000 to be paid to West Somerset Council pursuant to paragraph 2 of this Schedule; and

**"Exmoor and Quantock Oakwoods Special Area of Conservation"** means the area designated as such as part of the European Natura 2000 network given the Special Area of Conservation EU Code UK0030148.

### 2. ECOLOGY CONTRIBUTION

- 2.1 NNB GenCo shall not Implement Phase 1 unless it has paid the Ecology Contribution to West Somerset Council for the purpose of providing planting, aftercare and management designed to promote the conservation of barbastelle bats and ecology within the relevant area which shall be determined by the results of the Bat Radio Tracking and Monitoring Study and existing bat surveys.

### 3. BAT RADIO TRACKING AND HABITAT CREATION AND ENHANCEMENT WORKS

- 3.1 NNB GenCo shall not Implement Phase 1 unless draft proposals for the Bat Radio Tracking and Monitoring Study have been submitted to and approved by West Somerset Council in consultation with Natural England.
- 3.2 NNB GenCo shall carry out the Bat Radio Tracking and Monitoring Study in accordance with the approved proposals and shall submit a detailed report on the results to West Somerset Council and Natural England prior to the first anniversary of Commencement of Phase 1 and NNB GenCo shall not carry out any further works in relation to the Development unless such report has been so submitted.
- 3.3 Save as provided in paragraph 3.4, NNB GenCo shall not commence Phase 1 works until the Bat Habitat Creation and Enhancement Works have been carried out and completed on the Bat Mitigation Land.



- 3.4 NNB GenCo will maintain the habitat created and enhanced by Bat Habitat Creation and Enhancement Works in accordance with the ecological mitigation and monitoring plan and the habitat management plan referred to in conditions FP1 and FP3 of the Planning Permission.

4. **MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 5 in respect of sums to be paid to West Somerset Council is limited to **£250,000**, being the amount of the Ecology Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## **SCHEDULE 6 – ECONOMIC DEVELOPMENT**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1** Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Economic Development Contribution"** means the sum of **£617,880** to be paid to West Somerset Council and Sedgemoor Council pursuant to paragraphs 2 and 3; and

**"Economic Development Officer"** means an economic development officer or officers to be directly employed by West Somerset Council or by Sedgemoor Council as the case may be whose outline scope of duties is to liaise, as and when appropriate, with NNB GenCo and to advise on the expenditure of the Economic Development Contribution so that it may be used to remove barriers to local growth and to assist local business in responding to the opportunities presented by the Development and the Project (if permitted).

### **2. ECONOMIC DEVELOPMENT CONTRIBUTION (WEST SOMERSET COUNCIL)**

- 2.1** NNB GenCo shall pay to West Somerset Council:

**2.1.1** the sum of **£60,000** on or before Implementation of Phase 1 and NNB GenCo shall not Implement Phase 1 unless that sum has been paid; and

**2.1.2** the sum of **£60,000** on the first anniversary of the Implementation of Phase 1, as a contribution towards the cost of employing an Economic Development Officer.

- 2.2** NNB GenCo shall pay to West Somerset Council:

**2.2.1** the sum of **£64,470** on or before Implementation of Phase 1 and NNB GenCo shall not Implement Phase 1 unless that sum has been paid; and

**2.2.2** the sum of **£64,470** on the first anniversary of the Implementation of Phase 1, as a contribution towards the cost of business support initiatives and relevant projects which have a relationship to the Development as outlined in paragraph 4 below.

### **3. ECONOMIC DEVELOPMENT CONTRIBUTION (SEDGEMOOR COUNCIL)**

- 3.1** NNB GenCo shall pay to Sedgemoor Council:

**3.1.1** the sum of **£60,000** on or before Implementation of Phase 1 and NNB GenCo shall not Implement Phase 1 unless that sum has been paid;

**3.1.2** the sum of **£60,000** on the first anniversary of the Implementation of Phase 1, as a contribution towards the cost of employing an Economic Development Officer.

- 3.2** NNB GenCo shall pay to Sedgemoor Council:

**3.2.1** the sum of **£184,470** on or before Implementation of Phase 1 and NNB GenCo shall not Implement Phase 1 unless that sum has been paid; and

3.2.2 the sum of £64,470 on the first anniversary of the Implementation of Phase 1, as a contribution towards the cost of business support initiatives and relevant projects which have a relationship to the Development as outlined in paragraph 4 below.

#### **4. PURPOSES OF ECONOMIC DEVELOPMENT CONTRIBUTION**

4.1 The Economic Development Contribution shall be held and applied by West Somerset Council and Sedgemoor Council respectively in accordance with the provisions of this Deed including in particular Schedule 1 and this Schedule 6 for the following purposes:

- 4.1.1 the cost of business support initiatives and relevant projects to deliver proactive information and advice to existing and new businesses in relation to the Development and/or other elements of the Project (if permitted);
- 4.1.2 the cost to the Councils of coordinating between the Development and/or other elements of the Project (if permitted) and wider economic activity to seek to enhance local economic growth opportunities;
- 4.1.3 the cost of liaising with existing and new businesses to build resilience and identify barriers to growth in sectors of the economy directly and indirectly linked to the Development and/or other elements of the Project (if permitted), and also those sectors not aligned to the Development and/or other elements of the Project (if permitted), so as to seek to develop a resilient and robust economy for the longer term;
- 4.1.4 the cost of investing in creating the right conditions for local economic growth through seeking initiatives linked to infrastructure, land and premises;
- 4.1.5 the cost of undertaking assessment and analysis to generate intelligence and evidence to shape support initiatives and relevant projects; and
- 4.1.6 the cost of working alongside NNB GenCo in liaising with potential inward investors and supply chain related businesses to identify barriers and opportunities to realising economic growth and/or benefits within the Councils' areas.

4.2 West Somerset Council and Sedgemoor Council shall take into account the recommendations of the Board when deciding how to apply those elements of the Economic Development Contribution referred to in paragraphs 2.2 and 3.2.

#### **5. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 6 is limited to £617,880, being the amount of the Economic Development Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## **SCHEDULE 7 – EDUCATION**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1** Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Education Fund"** means the fund to be established and funded by NNB GenCo in the amount of **£300,000** for the purposes of implementing the objectives of the Education Strategy; and

**"Education Strategy"** means a strategy to provide educational resources and to inspire interest in mathematics, science, technology and energy, and to enhance and support learning of those subjects, in school pupils in the Councils' areas;

**"Workforce Children"** means school age children who are dependent on members of the Workforce who were not resident in Somerset and whose children did not attend schools in Somerset before the grant of Planning Permission.

### **2. EDUCATION STRATEGY**

- 2.1** NNB GenCo shall prepare and submit to the County Council for approval the Education Strategy before Implementation of Phase 1 and shall not Implement Phase 1 until the County Council has either:

2.1.1 approved the Education Strategy; or

2.1.2 a period of one month has expired without the County Council having given or withheld approval or sought further information from NNB GenCo,

and NNB GenCo may resubmit further drafts of the Education Strategy until it is approved by the County Council or the period referred to in paragraph 2.1.2 has elapsed without the County Council having given or withheld approval or sought further information from NNB GenCo.

- 2.2** NNB GenCo shall implement the Education Strategy with effect from the date on which it is approved by the County Council or the period referred to in paragraph 2.1.2 has elapsed without the County Council having given or withheld approval or sought further information from NNB GenCo.

- 2.3** NNB GenCo shall use Reasonable Endeavours to spend the whole Education Fund prior to 30 September 2014, or if later prior to the date that is 15 months after the Implementation of the Development in accordance with:

2.3.1 the approved Education Strategy; or

2.3.2 the Education Strategy as last submitted to the County Council under paragraph 2.1 if the period referred to in paragraph 2.1.2 has elapsed without the County Council having given or withheld approval or sought further information from NNB GenCo.

- 2.4** NNB GenCo shall provide the County Council with a report on activity and expenditure in relation to the Education Fund and Education Strategy each six months from the

Implementation of the Development (unless an alternative reporting period is otherwise approved in the Education Strategy).

- 2.5 The Education Fund shall not be used to meet NNB GenCo's internal staff costs.

**3. MONITORING OF WORKFORCE CHILDREN POPULATION**

NNB GenCo shall undertake monitoring of the number of Workforce Children and will provide the monitoring results to the County Council every three months starting from the date of Implementation of the Development in order to inform the County Council in relation to impacts and potential impacts of the Development and/or other elements of the Project (if permitted).

**4. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 7 is limited to **£300,000**, being the amount of the Education Fund Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## **SCHEDULE 8 – HEALTH**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1** Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Health Contribution"** means the amounts to be paid to West Somerset Council and the PCT pursuant to this Schedule being **£60,000** in total;

**"Health Task and Finish Group"** means a body of which the Councils and the PCT are members which is responsible for enabling the health services to understand and make their own plans for any impacts on health services that it is necessary to anticipate and plan for in relation to the Development and the other elements of the Project (if permitted), including any costs of liaising with NNB GenCo and its team in their preparation of the health impact assessment and the health action plan for the Project (if permitted); and

**"PCT"** means the Somerset Primary Care Trust or such successor to its functions.

### **2. HEALTH CONTRIBUTION**

- 2.1** NNB GenCo shall not Implement Phase 1 unless it has paid:

2.1.1 the sum of **£20,000** to West Somerset Council; and

2.1.2 the sum of **£40,000** to the PCT,

for the purpose of their participation in the Health Task and Finish Group.

### **3. MAXIMUM LIABILITY OF NNB GENCO**

- 3.1** The maximum liability of NNB GenCo pursuant to this Schedule 8 is limited to **£60,000**, being the total amount of the Health Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## SCHEDULE 9 – ARCHAEOLOGY AND HERITAGE

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Archaeological and Heritage Contribution"** means the sum of **£450,000** to be paid pursuant to paragraph 2 for the purposes of:

- (a) monitoring the impact of the Development on the archaeological remains at the Site and the measures (to be carried out by NNB GenCo pursuant to the Planning Permission) to mitigate those impacts;
- (b) mitigating the impact of the irreversible loss of the archaeological remains at the Site arising from the Development and to fund an outreach and education programme; and
- (c) mitigating the impact of traffic in relation to the Development and/or in relation to other elements of the Project (if permitted) on the historic and rural environment; and

**"Archaeology Schedule of Works"** means the *Final Draft Schedule of Works* dated 5 July 2011 attached at Annex 5 to this Deed.

### 2. ARCHAEOLOGY AND HERITAGE CONTRIBUTION

- 2.1 NNB GenCo shall not Commence Phase 0 unless it has paid to the County Council the sum of **£207,094**, being part of the Archaeological and Heritage Contribution.
- 2.2 NNB GenCo shall not Implement Phase 2 unless it has paid to the County Council the sum of **£242,906**, being the remainder of the Archaeological and Heritage Contribution.

### 3. PURPOSES

- 3.1 No more than **£55,000** from the Archaeological and Heritage Contribution may be applied by the County Council for the purposes of monitoring the impact of the Development on the archaeological remains at the Site and the measures (to be carried out by NNB GenCo pursuant to the Planning Permission) to mitigate those impacts.
- 3.2 No more than **£160,000** from the Archaeological and Heritage Contribution may be applied by the County Council for the purposes of mitigating the impact of the irreversible loss of the archaeological remains at the Site arising from the Development or to fund an outreach and education programme.
- 3.3 No more than **£55,000** of the Archaeological and Heritage Contribution shall be applied for the purpose of consultants' fees and internal staff costs incurred by the County Council in relation to mitigating the impact of traffic in relation to the Development and/or in relation to other elements of the Project (if permitted) on the historic and rural environment.
- 3.4 None of the Archaeological and Heritage Monitoring Contribution may be applied by the County Council for the purpose of carrying out any structural surveys of any buildings.

**4. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 9 is **£450,000**, being the amount of the Archaeological and Heritage Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.



## SCHEDULE 10 – LANDSCAPE AND VISUAL

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Coastal Strip"** means the route shown as 23/95 on Plan 8 annexed to this Deed;

**"Landscape and Visual Contributions"** means the payments totalling £610,000 to be made pursuant to this Schedule 10;

**"Land Management and Skills Scheme"** means a scheme for young people to learn the necessary skills to manage the Quantock and Vale landscapes, including skills for agriculture, forestry, heath land and conservation (to be managed by West Somerset Council in consultation with Sedgemoor Council) and a traditional skills scheme involving funding for anyone to learn traditional skills to manage the landscape including hedge laying, coppicing, pollarding, ditching, pond building and restoration, fencing, species identification and using associated tools and machinery (to be managed by West Somerset Community College or another appropriate body nominated by West Somerset Council and approved NNB GenCo);

**"Landscape Improvement Scheme"** means a scheme to deliver area wide landscape improvements that provide habitat corridors to help all wildlife to adapt to climate change, corridor links between the woodlands on the north and south commons and heath land reversion to link the heath land areas on the Quantocks and to assist in research and monitoring of the spread of *phytophthora ramorum*; and

**"Quantock Hills and Vale Landscape Development Fund"** means a fund to support projects developed in conjunction with the Councils, which either restore or develop landscape features in the Quantock Hills and Vale, including hedge laying and planting, traditional standard orchard restoration, small woodland management, wild flower meadows, willow pollarding, dry stone wall restoration, planting native trees, pond restoration and a "circular economic scheme" (including marketing links between local food products and a landscape managed for community benefit or developing traditional industry around woodland products, linking these projects to a network of circular routes for pedestrians, cyclist and equestrian users across the Quantock Hills and Vale).

### 2. QUANTOCK HILLS AONB

- 2.1 NNB GenCo shall pay the following sums prior to the Implementation of Phase 2 shall not Implement Phase 2 until it has paid:

2.1.1 the sum of £100,000 to the County Council (for use by it through the Quantock Hills Area of Outstanding Natural Beauty Service) for the purpose of establishing the Quantock Hills and Vale Landscape Development Fund; and

2.1.2 the sum of £250,000 has been paid to the County Council (for use by it through the Quantock Hills Area of Outstanding Natural Beauty Service) for the purpose of establishing the Landscape Improvement Scheme.

**3. LANDSCAPE ART SCHEMES**

NNB GenCo shall pay the sum of **£80,000** to West Somerset Council prior to Implementation of Phase 1 and shall not Implement Phase 1 until that sum has been paid to West Somerset Council for the purpose of developing and implementing a programme of landscape art in consultation with Sedgemoor Council that can be integrated with the pedestrian and equine routes across the Coastal Strip, West Somerset Council public rights of way and wider landscape of Quantock Vale.

**4. LAND MANAGEMENT AND SKILLS SCHEME**

- 4.1** NNB GenCo shall not Implement Phase 2 unless it has paid the sum of **£120,000** to West Somerset Council for the purpose of establishing and carrying out the Land Management and Skills Scheme.

**5. LANDSCAPE PROJECT OFFICER**

- 5.1** NNB GenCo shall pay to the County Council:

**5.1.1** the sum of **£30,000** on or before Implementation of Phase 2 and shall not Implement Phase 2 until that sum has been paid; and

**5.1.2** the sum of **£30,000** on the first anniversary of the Implementation of Phase 2,

for the purpose of the County Council and/or the Quantock Hills Area of Outstanding Natural Beauty Service employing a Landscape Project Officer to manage the partnership working and commissioning of landscape enhancement works working in consultation with West Somerset Council and Sedgemoor Council.

**6. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 10 is **£610,000**, being the aggregate amount of the Landscape and Visual Contributions Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## **SCHEDULE 11 – LEISURE**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1** Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Leisure Contributions"** means the amounts to be paid pursuant to this Schedule being **£2,000,000** in total for the purpose of mitigating impacts on the provision of sports/leisure facilities and for recreational open space in West Somerset and Sedgemoor arising from the Development and/or other elements of the Project (if permitted).

### **2. PAYMENTS TO WEST SOMERSET COUNCIL**

- 2.1** NNB GenCo shall not Implement Phase 2 unless it has paid to West Somerset Council:

**2.1.1** the sum of **£250,000** for the purposes of providing new, or improving existing, sports/leisure facilities within West Somerset Council's area; and

**2.1.2** the sum of **£500,000** for the purposes of providing new, or improving existing, sports/leisure facilities within the Parish of Stogursey.

- 2.2** West Somerset Council may apply or pay to the relevant parish council from the amounts referred to in paragraphs 2.1.1 and 2.1.2 the sum of **£25,000** (or such other amount as may be agreed between West Somerset Council and NNB GenCo) for the purpose of carrying out a feasibility study into providing new, or improving existing, sports/leisure facilities within the relevant parish councils' areas.

### **3. PAYMENTS TO SEDGEMOOR COUNCIL**

- 3.1** NNB GenCo shall not Implement Phase 2 unless it has paid to Sedgemoor Council the sum of **£1,250,000** for the purposes of providing new, or improving existing, sports/leisure facilities within Sedgemoor Council's administrative area out of which:

**3.1.1** **£250,000** shall be spent as a contribution towards the cost of the swimming pool under construction at Chilton Trinity Technical College in Bridgwater;

**3.1.2** **£500,000** shall be spent for the purposes of providing new, or improving existing, sports/leisure facilities within Bridgwater; and

**3.1.3** **£500,000** shall be spent for the purposes of providing new, or improving existing, sports/leisure facilities within Cannington.

- 3.2** Sedgemoor Council may apply up to **£37,500** (or such other amount as may be agreed between Sedgemoor Council and NNB GenCo) from the amount referred to in paragraph 3.1 for the purposes of carrying out feasibility studies into providing the facilities referred to in paragraph 3.1.

### **4. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 11 is **£2,000,000**, being the aggregate amount of the Leisure Contributions Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## **SCHEDULE 12 – PUBLIC RIGHTS OF WAY**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1** Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

"**Alternative Access Way**" means the alternative means of access shown on Plan 7 annexed to this Deed;

"**PROW**" means the public rights of way crossing the Site and the coastal path, more particularly identified on Plan 8 annexed to this Deed;

"**PROW Contribution**" means the sum of up to £539,279 to be paid to the County Council pursuant to paragraph 2;

"**PROW Restoration and Enhancement Plan**" means a document which sets out the PROW enhancement and restoration strategy for the Development and which reflects the adopted policy document for rights of way in Somerset as detailed in the County Council's Rights of Way Improvement Plan; and

"**ROW Schedule of Works**" means the schedule of works and related plans contained in Annex 6 to this Deed.

### **2. PROW CONTRIBUTION**

- 2.1** NNB GenCo shall pay to the County Council:

- 2.1.1** the sum of £114,001 prior to the Implementation of Phase 1 and shall not Implement Phase 1 unless that payment has been made;
- 2.1.2** the sum of £133,477 prior to the Implementation of Phase 2 and shall not Implement Phase 2 unless that payment has been made; and
- 2.1.3** a sum not exceeding £291,801 to be agreed by NNB GenCo and the County Council in the PROW Restoration and Enhancement Plan, such sum to be paid prior to the Implementation of Phase 4 and NNB GenCo shall not Implement Phase 4 unless that payment has been made,

as a contribution toward the cost of carrying out the works, diversions and related activities set out in the ROW Schedule of Works.

### **3. ROW SCHEDULE OF WORKS**

- 3.1** The County Council shall apply the contributions received pursuant to this Schedule 12 in accordance with the ROW Schedule of Works.

### **4. PROW RESTORATION AND ENHANCEMENT PLAN**

- 4.1** NNB GenCo shall not Implement Phase 1 unless the PROW Restoration and Enhancement Plan has been submitted to and approved by the County Council.

- 4.2** If the approved PROW Restoration and Enhancement Plan requires NNB GenCo to carry out PROW works related to Phase 4 then:

4.2.1 NNB GenCo shall carry out those works in accordance with the programme set out in the approved PROW Restoration and Enhancement Plan; and

4.2.2 the amount payable pursuant to paragraph 2.1.3 shall be as set out in the approved PROW Restoration and Enhancement Plan.

## **5. ALTERNATIVE RIGHTS OF WAY**

### **5.1 NNB GenCo shall use Reasonable Endeavours:**

5.1.1 to provide the Alternative Access Way around the perimeter of the Site:

(A) prior to the closure or obstruction of any PROW; and

(B) within 6 weeks of Implementation of Phase 1;

5.1.2 not to obstruct the Alternative Access Way during Phases 1 to 4 of the Development; and

5.1.3 to maintain the Alternative Access Way in good repair throughout Phases 1 to 4 of the Development.

## **6. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 12 in respect of the sums to be paid to the County Council is **£539,279**, being the maximum amount of the PROW Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## SCHEDULE 13 – SKILLS AND TRAINING

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Bridgwater College"** means the tertiary college of that name whose main address is Bath Road, Bridgwater, Somerset TA6 4PZ;

**"Community Outreach Workers"** means two community outreach workers one each to be employed by West Somerset Council and/or Sedgemoor Council (or both by one of the Councils if they so agree) to work in the local community to support local people and focus on deprived groups, to oversee the Fit to Work Programme and to work with the community to address any other issues which contribute to lack of readiness for work;

**"Construction Skills Centre"** means a new construction skills centre for Bridgwater College as more fully described in the Construction Workforce Development Strategy;

**"Construction Workforce Development Strategy"** means a strategy to be submitted by NNB GenCo with the proposed Development Consent Application and which sets out NNB GenCo's planned activities to support training and employment including an Employment and Skills Charter setting out training and employment opportunities for local people;

**"Employment and Skills Officer"** means an employment and skills officer to be employed by Sedgemoor Council but seconded to NNB GenCo for the duration of the Development to establish and manage arrangements for promotion of employment and training opportunities for local people;

**"Employee Impact Study"** means a survey of the expenditure and travel characteristics of the Workforce;

**"Energy Skills Centre"** means the facility which is part of Bridgwater College that provides for the teaching of sustainable energy techniques and alternative energy innovations. This facility was opened by the Secretary of State for Energy and Climate Change in January 2011;

**"Enterprise Project"** means the project at West Somerset Community College to raise the aspiration and attainment of young people in Somerset as more fully described in the Construction Workforce Development Strategy;

**"Fit to Work Programme"** means a programme of projects to be run and overseen by the Community Outreach Workers;

**"Hinkley Ready Skills Project"** means a project to revise the vocational curriculum provided at West Somerset Community College and to redevelop West Somerset Community College's premises in order to facilitate the delivery of such curriculum to enable people who live in Somerset to acquire the skills required to access employment opportunities arising from the Development and, subject to the grant of the Development Consent Order, employment opportunities arising from other elements of the Project (if permitted) as more fully described in the Construction Workforce Development Strategy;

**"Home-based Workers"** means people living within the area shown on Plan 10 annexed to this Deed;

**"Skills and Training Contributions"** means the amounts to be paid to West Somerset Council, Sedgemoor Council, the County Council, Bridgwater College and West Somerset Community College pursuant to paragraphs 2, 3, 4 and 5 of this Schedule 13 being £4,180,000 in total;

**"West Somerset Community College"** means the specialist technology college of that name whose address is Bircham Road, Minehead, Somerset TA24 6AY; and

**"Young Persons' Support Worker"** means a young persons' support worker to be employed by the County Council to establish and manage arrangements for improving life chances of young people in the Councils' areas.

## **2. SKILLS AND TRAINING CONTRIBUTIONS**

### **2.1 NNB GenCo shall pay to Sedgemoor Council:**

2.1.1 the sum of **£65,000** prior to Implementation of Phase 1;

2.1.2 the sum of **£65,000** on the first anniversary of Implementation of Phase 1,

as a contribution toward the cost of Sedgemoor Council employing the Employment and Skills Officer and Sedgemoor Council shall consult NNB GenCo on the detailed activities of the Employment and Skills Officer and take proper account of its reasonable representations.

### **2.2 NNB GenCo shall pay to Sedgemoor Council:**

2.2.1 the sum of **£60,000** on or before Implementation of Phase 1;

2.2.2 the sum of **£60,000** on the first anniversary of Implementation of Phase 1,

as a contribution toward the cost of Sedgemoor Council employing a Community Outreach Worker and shall also pay to Sedgemoor Council:

2.2.3 the sum of **£7,500** on or before Implementation of Phase 1;

2.2.4 the sum of **£7,500** on the first anniversary of Implementation of Phase 1,

as a contribution toward the funds available to pay for the Community Outreach Worker and/or to be used in carrying out his respective duties and shall not implement Phase 1 unless the amounts referred to in paragraphs 2.1.1, 2.2.1 and 2.2.3 have been paid and Sedgemoor Council shall consult NNB GenCo on the scope and role of the Community Outreach Worker and shall take proper account of the reasonable representations NNB GenCo may make.

### **2.3 NNB GenCo shall pay to West Somerset Council:**

2.3.1 the sum of **£60,000** on or before Implementation of Phase 1;

2.3.2 the sum of **£60,000** on the first anniversary of Implementation of Phase 1,

as a contribution toward the cost of West Somerset employing a Community Outreach Worker and shall also pay to West Somerset Council:

2.3.3 the sum of **£7,500** on or before Implementation of Phase 1;

2.3.4 the sum of **£7,500** on the first anniversary of Implementation of Phase 1,

as a contribution toward the funds available to pay for the Community Outreach Worker and/or to be used in carrying out his respective duties and shall not Implement Phase 1 unless the amounts referred to in paragraphs 2.3.1 and 2.3.3 have been paid and West Somerset Council shall consult NNB GenCo on the scope and role of the Community Outreach Worker and shall take proper account of the reasonable representations NNB GenCo may make.

2.4 NNB GenCo shall pay to the County Council:

2.4.1 the sum of **£60,000** on or before Implementation of Phase 1;

2.4.2 the sum of **£60,000** on the first anniversary of Implementation of Phase 1,

as a contribution toward the cost of employing the Young Persons' Support Worker and shall not Implement Phase 1 unless the amount referred to in paragraph 2.4.1 has been paid and the County Council shall consult NNB GenCo on the scope and role of the Young Persons' Support Worker and shall take proper account of the reasonable representations NNB GenCo may make.

### 3. **BRIDGWATER COLLEGE**

3.1 NNB GenCo covenants with Sedgemoor Council that it shall pay to Bridgwater College:

3.1.1 the sum of **£1,500,000** to be used to fund the Construction Skills Centre; and

3.1.2 (subject to paragraph 3.2) the sum of **£1,000,000** to be used to fund the Energy Skills Centre,

within 8 weeks of approval of a specific costed proposal for such facilities by Sedgemoor Council after consultation with NNB GenCo and having taken proper account of NNB GenCo's reasonable representations **PROVIDED THAT** NNB GenCo shall not be required to pay such sums prior to the date 8 weeks after the Commencement of the Development.

3.2 The parties acknowledge that Bridgwater College has already received advance payment of **£500,000** from NNB GenCo towards the funding of the Energy Skills Centre and that NNB GenCo shall accordingly only be required to pay a net amount of **£500,000** pursuant to paragraph 3.1.2.

### 4. **WEST SOMERSET COMMUNITY COLLEGE**

4.1 NNB GenCo covenants with West Somerset Council that it shall pay to West Somerset Community College the sum of **£1,600,000** to be used to fund the Enterprise Project and the Hinkley Ready Skills Project within 30 days of approval of a specific costed proposal for such projects by West Somerset Council after consultation with NNB GenCo and having taken proper account of NNB GenCo's reasonable representations **PROVIDED**



**THAT** NNB GenCo shall not be required to pay such sum prior to Implementation of Phase 1.

**5. FIT TO WORK PROGRAMME**

**5.1** NNB GenCo shall pay to West Somerset Council:

5.1.1 the sum of **£30,000** on or before Implementation of Phase 1; and

5.1.2 the sum of **£30,000** on the first anniversary of the Implementation of Phase 1,  
as a contribution towards the cost of promoting projects in the Fit to Work Programme in the Councils' areas and shall not Implement Phase 1 unless the amount referred to in paragraph 5.1.1 has been paid.

**6. EVALUATION OF EMPLOYEE IMPACTS**

**6.1** NNB GenCo shall submit to West Somerset Council for approval the terms of reference for an Employee Impact Study prior to the Implementation of Phase 1 and shall not Implement Phase 1 until the Employee Impact Study has been submitted to and approved by West Somerset in consultation with Sedgemoor Council.

**6.2** NNB GenCo shall carry out the Employment and Skills Study in accordance with the terms of reference approved by West Somerset during Phase 1 and Phase 2 of the Development and shall submit the results and evaluation of the Employee Impact Study to West Somerset within 2 months of the completion of Phase 2.

**7. LOCAL LABOUR**

**7.1** NNB GenCo shall use Reasonable Endeavours to employ and shall use Reasonable Endeavours to procure that its contractors employ Home-based Workers to make up at least 60% of the workforce for the Development **PROVIDED THAT** NNB GenCo shall not be required to do anything in complying with this paragraph 7:

7.1.1 that would be or that NNB GenCo is properly advised by lawyers would be contrary to equality, employment or other applicable legal requirements; or

7.1.2 that would require NNB GenCo to appoint to any particular position a person who NNB GenCo does not consider to be an appropriately qualified and experienced person for that position.

**7.2** NNB GenCo shall include details in the Construction Workforce Development Strategy of an Employment and Skills Charter setting out the training and job opportunities for local people that will be available in relation to the Project (if permitted) and NNB GenCo's proposed initiatives for helping people to access those training and job opportunities.

**8. MAXIMUM LIABILITY OF NNB GENCO**

**8.1** The maximum liability of NNB GenCo pursuant to this Schedule 13 is **£4,180,000**, being the aggregate amount of the Skills and Training Contributions Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## SCHEDULE 14 – SERVICE LEVEL AGREEMENT

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Administrative Support Officer"** means the suitably qualified and experienced (in the reasonable opinion of Sedgemoor Council) administrative support officer employed or contracted by Sedgemoor Council to *inter alia* day to day administrative support to other officers undertaking activity in relation to the Development;

**"Chief Executive"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset Council) chief executive employed or contracted by West Somerset Council to *inter alia* provide strategic guidance and input to the successful implementation and monitoring of the Development;

**"Corporate Director Regeneration"** means the suitably qualified and experienced (in the reasonable opinion of Sedgemoor District Council) corporate director employed or contracted by Sedgemoor District Council to *inter alia* provide the project sponsor role, involving political liaison, strategic guidance and input to ensure the successful implementation and monitoring of the Development and to represent Sedgemoor Council on the Board;

**"Customer Services Officer"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset Council and Sedgemoor Council) customer services officer or officers employed or contracted by West Somerset Council and Sedgemoor Council to work across both West Somerset Council and Sedgemoor Council by answering public queries about all matters relating to the Development and other elements of the Project (if permitted) and by ensuring the co-ordination of public services across West Somerset and Sedgemoor in all matters relating to the Development and other elements of the Project (if permitted);

**"Development Control Officer"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset Council) development control officer employed or contracted by West Somerset Council to provide day to day development control advice to ensure the successful implementation and monitoring of the Development. The development control officer will be the primary point of contact for the discharge of conditions in relation to the Development and will co-ordinate the responses of Sedgemoor Council and Somerset County Council and West Somerset Council shall use its best endeavours to ensure that the development control officer shall not be allocated other additional duties that prevent him or her from fulfilling the Council's obligations in accordance with this Schedule 14;

**"Environmental Health Officer"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset Council) environmental health officer employed or contracted by West Somerset Council and/or Sedgemoor Council to monitor the environmental issues and impacts arising from the Development and other elements of the Project (if permitted) including carrying out roles and tasks as the responsible authority for the Port of Bridgwater including liaising with the Harbour Master and NNB GenCo and mitigation secured under the Planning Permission and this Deed;

**"Finance Officer"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset Council and Sedgemoor Council) finance officers employed or contracted by Sedgemoor Council and West Somerset Council to inter alia to discharge the financial responsibilities of Sedgemoor District Council and West Somerset Council pursuant to this deed;

**"Legal Consultant"** means the suitably qualified and experienced (in the reasonable opinion of Sedgemoor District Council) legal consultant employed or contracted by Sedgemoor District Council to inter alia provide legal guidance to Sedgemoor District Council and West Somerset Council in discharging its obligations pursuant to this deed;

**"Monitoring Costs"** means the legal, financial and programme management costs and senior officer monitoring costs incurred by West Somerset Council as a result of the Development;

**"Performance Level"** means the performance level for West Somerset Council's performance of the Services and as defined in the table contained within paragraph 6;

**"Performance Standards"** means the target standards for the performance of West Somerset Council's functions as set out in the table contained within paragraph 6;

**"Phase 4 SLA"** means a service level agreement with West Somerset and Sedgemoor Council to cover those parties' costs of discharging conditions, monitoring and other involvement in relation to Phase 4 and setting out the corresponding targets and obligations on West Somerset Council and Sedgemoor Council;

**"Planning Manager"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset Council) planning manager employed or contracted by West Somerset Council to inter alia provide day to day project guidance and input to the successful implementation and monitoring of the Development. The Planning Manager will take responsibility for overseeing the work of the development control officers, the Project Officer and the S106 Manager;

**"Planning Support Officer"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset Council) planning support officer employed or contracted by West Somerset Council to inter alia to provide administrative support to the Planning Manager and Development Control Officers, including performing the administrative functions for the Development Control Officers, registering conditions, identifying and sending out consultations, producing decision notices for the conditions and obligations and uploading documents to West Somerset Council's website as appropriate;

**"Project Director"** means the suitably qualified and experienced (in the reasonable opinion of Sedgemoor District Council) project director employed or contracted by Sedgemoor District Council and working to the Corporate Director to inter alia provide day to day project direction, operational management and decision-making to ensure the successful implementation and monitoring of the Development including the management and implementation of this Deed and as an alternate to the Project Sponsor on the Board;

**"Project Officer (Implementation)"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset and or Sedgemoor District Council) project officer (implementation) employed or contracted by either West Somerset Council or Sedgemoor District Council to *inter alia* provide support and guidance to the Councils and the communities of West Somerset and Sedgemoor in delivering the Councils relevant

obligations pursuant to this deed – the Project Officer will work with the community and the parish councils to help manage any issues arising from the expenditure of money allocated to them under the Section 106 agreement. They will provide project management functions where needed and help the parishes with procurement (if necessary). They will also work on securing match funding for projects, submitting bids for the parishes to other funds etc. This role is split over the two Districts but could be a joint role. The main aim for this post(s) is to ensure economy and efficiency in the use of the funds. The Project Officer will provide NNB GenCo with a quarterly report setting out the expenditure against these obligations and the achievements in;

**"Review"** means the review of West Somerset's performance of the Services measured against the Performance Standards and carried out by the Head of Development Control on behalf of West Somerset Council and the Planning Manager on behalf of NNB GenCo in accordance with paragraph 4;

**"Section 106 Manager"** means the suitably qualified and experienced (in the reasonable opinion of West Somerset Council) section 106 manager employed or contracted by West Somerset Council to *inter alia* provide support to the board and to manage the implementation/delivery of the Councils obligations pursuant to this deed. The section 106 manager will be main person responsible for co-ordinating the bids from the community and organisations and reporting them to the Board with a recommendation. The section 106 manager will deal with the internal administration of the Board and its relationship with Cabinet following the Board meetings. In addition, the section 106 manager will manage the condition and obligation submissions and the reporting of performance in accordance with the SLA performance tables. The manager will also be responsible for liaison with the SDC and SCC in relation to their obligations and monitor the progress of projects (working with the Project officer and the finance officers at WSC and SDC);

**"Service Level Agreement"** means the service level agreement between NNB GenCo, West Somerset Council and Sedgemoor Council contained in this Schedule 14;

**"Service Level Agreement Contribution"** means the sum of £1,810,000 in total for the purposes of covering the increased administrative costs to West Somerset Council and Sedgemoor Council as a result of NNB GenCo progressing the Development;

**"Service Level Agreement Officers"** means the Corporate Director, Project Director, Service Manager, Project Officer (Implementation), Administrative Support Officer, Legal Consultant, Finance Officer, Chief Executive, Planning Manager, S106 Manager, Planning Support Officer, Environmental Health Officer, Customer Services Officer and Development Control Officer;

**"Service Level Agreement Schedule"** means the table showing the breakdown of the Service Level Agreement Contribution and its apportionment between West Somerset Council and Sedgemoor Council at Annex 14 to this Deed;

**"Service Manager"** means the suitably qualified and experienced (in the reasonable opinion of Sedgemoor Council) service manager employed or contracted by Sedgemoor Council to *inter alia* provide resource planning, financial governance and commissioning and contract management services to support and deliver Sedgemoor Council's obligations pursuant to this Deed; and

**"Services"** means the services that are to be provided by West Somerset Council and Sedgemoor Council in accordance with this Schedule 14.

## **2. AGREEMENT AS TO NUMBER OF OFFICERS SUPPLIED**

- 2.1** It is hereby agreed and confirmed that the total number of officers to be supplied under this Service Level Agreement by West Somerset Council and/or Sedgemoor Council to work with NNB GenCo and as such to be funded by the Service Level Agreement Contribution shall be no less than the number of posts identified in this Schedule 14.
- 2.2** To the extent that NNB GenCo contributes towards the costs of any Service Level Agreement Officers pursuant to this Deed, they shall only carry out work in relation to the Development and/or other elements of the Project (if permitted) for such proportion of their time which is so funded.

## **3. SERVICES REMUNERATION**

- 3.1** Subject to paragraph 4, NNB GenCo shall pay the Service Level Agreement Contribution to West Somerset Council in the following instalments:
- 3.1.1** the sum of **£800,000** within one week of the date of the Planning Permission as a contribution towards the cost of the Service Level Agreement Officers between the date of the Planning Permission and the date nine months after the date of the Planning Permission, and NNB GenCo shall not Commence Phase 0 unless that sum has been paid;
- 3.1.2** the sum of **£440,000** on the date that is nine months after the date of the Planning Permission as a contribution towards the cost of the Service Level Agreement Officers between the date nine months after the date of the Planning Permission and the date fifteen months after the date of the Planning Permission; and
- 3.1.3** the sum of **£570,000** on the date that is fifteen months after the date of the Planning Permission as a contribution towards the cost of the Service Level Agreement Officers between the date fifteen months after the date of the Planning Permission and the date twenty-four months after the date of the Planning Permission,

and in each case apportionment of the above sums between West Somerset Council and Sedgemoor Council shall be in accordance with the Service Level Agreement Schedule.

## **4. REVIEW**

- 4.1** The operation of this Service Level Agreement and whether or not West Somerset Council has achieved the Performance Standards shall be formally reviewed during the eighth month after the date of the Planning Permission and shall be formally reviewed again during the fourteenth month after the date of the Planning Permission, such review process to follow the following procedure:
- 4.1.1** the Review process shall be commenced by West Somerset Council in consultation with the Project Director at Sedgemoor Council reporting in writing to the Planning Manager at NNB GenCo by completing the table contained in paragraph 6, such report to be delivered within the period of 4 weeks prior to the relevant review date;
- 4.1.2** following the submission of the report produced in accordance with paragraph 4.1.1 and before the date that is not later than 2 weeks after the relevant Review

date, a review meeting shall be held between West Somerset Council's Planning Manager, a representative of Sedgemoor Council and the NNB GenCo Planning Manager during which meeting the parties shall seek to agree the Performance Standards; and

- 4.1.3 following the Review meeting, the Performance Standards and NNB GenCo's payment obligations pursuant to paragraph 3 may be revised by consent and any amendments to this Service Level Agreement (including paragraph 3) shall be noted in writing and signed on behalf of the parties and shall operate as variations to this Service Level Agreement.
- 4.2 In the event that the Performance Level of West Somerset Council is Level 2 or Level 3 (as defined in the column headed "Performance Level" within the table), West Somerset Council will take action to seek to remedy the Performance Level issues identified.
- 4.3 In the event that West Somerset Council achieves an average Performance Level 2 or 3 (as defined in the column headed "Performance Level" within the table) in two consecutive Reviews and the issues in achieving the Performance Level are not in the majority due to matters reasonably outside of the control of West Somerset Council including third party or NNB GenCo acts or omissions, NNB GenCo may terminate this Service Level Agreement with four months' written notice commencing on the date of the second Review.
- 4.4 NNB GenCo shall be released from all further obligations under this Schedule 14 following termination of this Service Level Agreement in accordance with paragraph 4.3 and upon the expiry of NNB GenCo's written notice served pursuant to paragraph 4.3, West Somerset Council shall repay to NNB GenCo:
- 4.4.1 a sum of up to £570,000 to be agreed in accordance with paragraph 4.5 from the Service Level Agreement Contribution; and
- 4.4.2 any other part of the Service Level Agreement Contribution that has not been spent before the date of service of such notice.
- 4.5 The amount of the sum to be repaid pursuant to paragraph 4.4.1 shall be agreed between NNB GenCo, West Somerset Council and Sedgemoor Council taking into account the Performance Level of both West Somerset Council and Sedgemoor Council respectively recognising the apportionment between West Somerset Council and Sedgemoor Council set out within the Service Level Agreement Schedule.
- 5. PROVISION OF ANTICIPATED PROGRAMME AND VARIATION TO ANTICIPATED PROGRAMME**
- 5.1 NNB GenCo shall provide an anticipated programme for the Development to West Somerset Council and Sedgemoor Council prior to Implementation of Phase 1.
- 5.2 If there is a variation to the anticipated programme for the Development West Somerset Council may send to NNB GenCo a notice:
- 5.2.1 specifying whether it considers there is likely to be an impact on the timetable for the delivery of West Somerset Council's and/or Sedgemoor Council's Services and ability to deliver relevant Performance Levels; or



5.2.2 providing a proposal for any amendment to any term of this Service Level Agreement as a result of the implementation of the proposed variation (a "Variation Notice")

5.3 NNB GenCo shall within ten Working Days from receiving a Variation Notice, either:

5.3.1 request from West Somerset Council further information as to the proposed variation (which shall then be given as soon as reasonably practicable);

5.3.2 confirm the proposed variation; or

5.3.3 refuse the proposed variation.

#### 6. SERVICE LEVEL PERFORMANCE TARGET PRO FORMA REVIEW TABLE

Performance Measure	Target	Performance Target Met? [To be completed by Council on review dates]	Action if Performance Target not met [To be completed by Council following review meeting]	Performance Level [To be completed following review meeting] Performance Levels to be 1, 2 or 3 where: 1 = Excellent 2 = Inadequate in some areas 3 = Poor
To register and acknowledge receipt of all valid submissions	Within 2 Working Days of receipt			
To discuss with NNB GenCo the latter's targets for determination of condition discharge submissions	Within 3 Working Days of receipt			
To send required consultation letters to consultees	Within 3 Working Days of validation of relevant submission			
To email consultation responses to NNB GenCo	Within 2 Working Days of receipt and quicker where possible			

To inform NNB GenCo of issues that have been identified with consultees responding to West Somerset Council and which may impact on these Performance Standards and to provide copies of all material written correspondence received by email or letter to NNB GenCo	Within 3 Working Days of receipt of consultation response			
To determine condition discharge submissions	Within 5 weeks of validation unless otherwise agreed by NNB GenCo			
To issue all decision notices	Within 3 Working Days of making decision			
To respond to telephone calls from NNB GenCo (or its agents or consultants)	If specified as urgent, the same Working Day and in other cases within 1 Working Day			
To respond to emails and letters from NNB GenCo (or its agents or consultants)	To acknowledge within 1 Working Day and to respond substantively within 3 Working Days unless such timetable is unreasonable owing to the length and/or subject-matter and/or complexity of the email or letter			
Attend meetings within West Somerset Council's administrative area with NNB GenCo (or its agents or consultants)	If specified as urgent within 1 Working Day of the request and within 5 Working Days otherwise			
To ensure that cover is available if officers are absent for a period of 3 days or longer	Throughout the period of the Service Level Agreement			



Sedgemoor Council to respond to consultations	Within 10 Working Days from receipt of consultation			
<b>AVERAGE / OVERALL PERFORMANCE LEVEL</b>				

**7. REINSTATEMENT PHASE SERVICE LEVEL AGREEMENT**

NNB GenCo shall use reasonable endeavours to enter into the Phase 4 SLA three months prior to Commencing Phase 4 (if applicable) and shall not Implement Phase 4 until the Phase 4 SLA has been entered into.

**8. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to this Schedule 14 (except in relation to any Phase 4 SLA) is **£1,810,000**, being the total amount of the Service Level Agreement Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## SCHEDULE 15 – TOURISM

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Marketing and Promotional Initiatives"** means the marketing and promotional initiatives to be developed under the Tourism Strategy and Action Plan promoting Somerset and Exmoor as a visitor destination, such marketing and promotional initiatives could include artwork, agency fees, social media and online PR, outdoor advertising, email advertising, online advertising, press advertising and advertorials;

**"Tourism Action Partnership"** means West Somerset Council, the County Council and Sedgemoor Council who will come together to decide how certain elements of the Tourism Contribution shall be applied after requesting and taking into account representations from other representative bodies of businesses in the tourism sector;

**"Tourism Contribution"** means the sum of £700,000 in total for the purpose of mitigating impacts on tourism arising from Development and/or other elements of the Project (if permitted);

**"Tourism Monitoring Survey"** means the annual survey to identify the potential types and levels of impact of the construction and operation of the Development and/or other elements of the Project (if permitted) on tourism in Somerset and identifying the impacts that this will have on tourism as an economic sector in Somerset;

**"Tourism Officer"** means the tourism officer or officers to be employed by West Somerset Council and/or Sedgemoor Council and whose role would include the preparation of the Tourism Strategy and Action Plan, formulation and delivery of marketing and educational initiatives, developing promotions in West Somerset and Sedgemoor, liaising with tourism businesses, working with the Travel Plan Officer with respect to the Tourism Visitor Management Plan, formulating and delivering education, skills and business support activities, liaising with tourism accommodation providers on standards, quality, planning advice and monitoring of construction worker take-up of bed-spaces, monitoring of tourism related impacts, and liaising with partner organisations;

**"Tourism Strategy and Action Plan"** means the tourism strategy and action plan which will coordinate tourism marketing and sector development activity to ensure that all activity is strategically significant, that there is no overlap between activities and that there are no significant gaps in response to the challenges and opportunities relating to the construction and operation of the Development and/or other elements of the Project (if permitted);

**"Tourism and Visitor Management Officer Resources"** means operational budget to enable two full time Tourism Officers to be employed by West Somerset Council and/or Sedgemoor Council to engage with the Tourism Action Partnership;

**"Tourism Visitor Management Plan"** means a visitor management plan for the geographic area extending from Williton in the north west, across to Steart in the east, south towards Bridgwater and bounded to the west by the Quantocks, which would set out travel planning measures together with promotional initiatives that seek to encourage day and weekend visits to West Somerset and Sedgemoor; and

"Tourist Information Centres" means the following information centres: Minehead information centre, Watchet information centre, Porlock information centre, Bridgwater information centre (currently located at the Bridgwater Arts Centre), Burnham-on-Sea information centre, Sedgemoor Services M5 information centre and A303 information centre.

## **2. TOURISM CONTRIBUTION**

**2.1** NNB GenCo shall pay the Tourism Contribution to West Somerset Council in the following instalments and for the following purposes:

**2.1.1** for the purposes of the Tourism Action Partnership procuring, producing or delivering the Tourism Strategy and Action Plan and providing the Tourism and Visitor Management Officer Resources:

- (A) the sum of **£90,000** prior to the Implementation of Phase 2 and NNB GenCo shall not Implement Phase 2 unless that sum has been paid,
- (B) the sum of **£90,000** prior to the first anniversary of the Implementation of Phase 2;

**2.1.2** for the purposes of the Tourism Action Partnership carrying out the Marketing and Promotional Initiatives and carrying out the Tourism Monitoring Survey:

- (A) the sum of **£160,000** prior to the Implementation of Phase 2 and NNB GenCo shall not Implement Phase 2 unless that sum has been paid; and
- (B) the sum of **£160,000** prior to the first anniversary of the Implementation of Phase 2; and

**2.1.3** for the purposes of supporting existing Tourist Information Centres:

- (A) the sums of:
  - (1) **£50,000** prior to the Implementation of Phase 1 and NNB GenCo shall not Implement Phase 1 unless that sum has been paid; and
  - (2) **£50,000** prior to the Implementation of Phase 2 and NNB GenCo shall not Implement Phase 2 unless that sum has been paid; and
- (B) the sum of **£100,000** prior to the first anniversary of the Implementation of Phase 2.

## **3. PROJECT INFORMATION CENTRE**

**3.1** NNB GenCo shall provide the Project Information Centre and shall retain it during the Construction Period.

## **4. MAXIMUM LIABILITY OF NNB GENCO**

The maximum liability of NNB GenCo pursuant to paragraph 2 of this Schedule 15 is **£700,000**, being the total amount of the Tourism Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## SCHEDULE 16 – TRANSPORT

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"A39 Broadway/A38 Taunton Road Junction Improvement Works"** means junction improvement for the junction between A39 Broadway and A38 Taunton Road in Bridgwater;

**"A39 New Road/B3339 Sandford Hill Roundabout Works"** means the provision of a roundabout at the junction of A39 Quantock Road and B3339 Sandford Hill (such works being within the existing highway boundary);

**"Abnormal Indivisible Load"** means an abnormal indivisible load as defined in Schedule 1 of the Road Vehicles (Authorisation of Special Types) (General) Order 2003;

**"Cannington Traffic Calming Measures and C182 Farrington Hill Lane, Horse Crossing Community Impact Mitigation Package"** means a traffic management scheme within Cannington to be agreed with the County Council (in consultation with West Somerset Council and Sedgemoor Council) to include a Parking Traffic Regulation Order and minor changes to Memorial Junction to be agreed with the County Council and improvements to Claylands Corner and a horse crossing at Farrington Hill Lane, all such works being within the existing highway boundary;

**"Construction Traffic Management Plan"** means the construction traffic management plan approved pursuant to condition FP12 of the Planning Permission;

**"General Inspection Survey"** means the visual inspection of all the parts of the Structures that can be inspected without the need for special access equipment or traffic management arrangements in order to provide information on the physical condition of all visible elements of the Structures;

**"HGV"** means a heavy goods vehicle or any other goods vehicle with three or more axles travelling to or from the Site for the purposes of the Development;

**"HGV Movement"** means either the movement of an HGV into the Site or out of the Site (and the expression **"Traffic Movements"** shall have a corresponding meaning) so that the movement of one HGV into the Site and one HGV out of the Site will be regarded as two HGV Movements;

**"HGV Route 1"** means the HGV route from the Junction 23 of the M5 motorway via the A38 Bristol Road, The Drove, the Northern Distributor Road (NDR), the A39, High Street in Cannington, and the C182 to the Site shown coloured green on Plan 9 annexed to this Deed labelled "HGV Routes" attached to this Deed or such other route as may be approved by the County Council in consultation with West Somerset Council and Sedgemoor Council from time to time;

**"HGV Route 2"** means the HGV route from the Junction 24 of the M5 motorway via the A38 Taunton Road, the A39, High Street in Cannington and the C182 to the Site shown coloured red and labelled "HGV Routes" on Plan 9 annexed to this Deed or such other

route as may be approved by the County Council in consultation with West Somerset Council and Sedgemoor Council from time to time;

**"Highway Improvements"** means collectively or individually as the context so requires the A39 Broadway/A38 Taunton Road Junction Improvement Works, the works comprised in the Cannington Traffic Calming Measures and C182 Farringdon Hill Lane, Horse Crossing Community Impact Mitigation Package, the A39 New Road/B3339 Sandford Hill Roundabout Works and the Washford Cross Roundabout Works;

**"Overarching Method Statement"** means a statement approved by the County Council setting out the overall approach to undertaking the inspection of the Structures as attached at Annex 8 to this Deed;

**"Principal Inspection Survey"** means a close examination, within touching distance, of all inspectable parts of the Structures in order to provide information on the physical condition of all inspectable parts of the Structures using a method statement to be agreed between NNB GenCo and the County Council;

**"S278 Agreement"** means an agreement or agreements to be made with the County Council pursuant to inter alia section 278 of the Highways Act 1980 (and so far as required for works outside the existing highway boundary also made under section 38 of the Highways Act 1980);

**"Structures"** means the bridges, culverts and other highway structures listed in Annex 7 to this Deed;

**"Traffic Monitoring and Management System"** means the traffic monitoring and management system approved pursuant to condition SP26 of the Planning Permission;

**"Transport Co-ordinator"** means the transport co-ordinator identified in the Travel Plan;

**"Transport Steering Group"** means the group to be established pursuant to paragraph 7 to liaise in respect of sustainable transport in relation to the Development;

**"Transport Steering Group Contribution"** means the aggregate of the amounts payable by NNB GenCo pursuant to paragraph 6, being **£315,000**;

**"Travel Plan"** means the travel plan approved pursuant to condition FP10 of the Planning Permission;

**"Washford Cross Roundabout Works"** means the provision of a roundabout at the junction of A39 and B3190; and

**"Washford Cross Roundabout Works Contribution"** means the sum of **£850,000** potentially payable by NNB GenCo pursuant to paragraph 2.1.3(B).

## **2. HIGHWAY IMPROVEMENTS**

### **2.1 Washford Cross Roundabout Works**

- 2.1.1 NNB GenCo shall not Implement Phase 2 unless a scheme for the Washford Cross Roundabout Works has been submitted to and approved by the County Council in consultation with West Somerset Council.

2.1.2 NNB GenCo shall use Reasonable Endeavours to secure access to the third party land and/or to obtain the third party consents required to be able to carry out and complete the Washford Cross Roundabout Works in accordance with the scheme approved pursuant to paragraph 2.1.1 prior to completion of Phase 2 or by such later date as may be agreed by West Somerset Council and the County Council.

2.1.3 In the event that NNB GenCo is unable to secure access to the third party land and/or to obtain the third party consents required to be able to carry out and complete the Washford Cross Roundabout Works in accordance with the scheme approved pursuant to paragraph 2.1.1 prior to completion of Phase 2 or by such later date as may be agreed by West Somerset Council and the County Council (despite NNB GenCo having used Reasonable Endeavours to do so pursuant to paragraph 2.1.2), then NNB GenCo shall either:

(A) carry out and complete the Washford Cross Roundabout Works in accordance with the scheme approved pursuant to paragraph 2.1.1 prior to the operation of the park and ride site near Williton proposed to be constructed pursuant to the Development Consent Order (if granted); or

(B) at NNB GenCo's discretion but subject to the County Council's agreement to accept such contribution, pay to the County Council the Washford Cross Roundabout Works Contribution to be applied by the County Council to carry out and complete the Washford Cross Roundabout Works in accordance with the scheme approved pursuant to paragraph 2.1.1, subject to the County Council obtaining compulsory purchase powers if necessary to enable it to carry out and complete the Washford Cross Roundabout Works as soon as reasonably practicable.

## **2.2 A39 New Road/B3339 Sandford Hill Roundabout Works**

2.2.1 NNB GenCo shall not Implement Phase 2 unless a scheme for the A39 New Road/B3339 Sandford Hill Roundabout Works to be carried out and completed entirely on existing highway land has been submitted to and approved by the County Council in consultation with West Somerset Council and Sedgemoor Council.

2.2.2 NNB GenCo shall carry out and complete the A39 New Road/B3339 Sandford Hill Roundabout Works in accordance with the scheme approved pursuant to paragraph 2.2.1 within 9 months of Commencement of Phase 2 or by such later date as may be agreed by Sedgemoor Council and the County Council.

## **2.3 A39 Broadway/A38 Taunton Road Junction Improvement Works**

2.3.1 NNB GenCo shall not Commence Phase 1 unless a scheme for the A39 Broadway/A38 Taunton Road Junction Improvement Works has been submitted to the County Council for approval.

2.3.2 NNB GenCo shall use reasonable endeavours to agree a scheme for the A39 Broadway/A38 Taunton Road Junction Improvement Works with the County Council as soon as practicable following submission.

- 2.3.3 NNB GenCo shall not Implement Phase 2 unless a scheme for the A39 Broadway/A38 Taunton Road Junction Improvement Works has been approved by the County Council in consultation with Sedgemoor Council.
- 2.3.4 Where the scheme for the A39 Broadway/A38 Taunton Road Junction Improvement Works approved by the County Council pursuant to paragraph 2.3.3 can be carried out and completed entirely on existing highway land then NNB GenCo shall carry out and complete the A39 Broadway/A38 Taunton Road Junction Improvement in accordance with the scheme approved pursuant to paragraph 2.3.3 within 6 months of Commencement of Phase 2 or by such later date as may be agreed by Sedgemoor Council and the County Council.
- 2.3.5 Where the scheme for the A39 Broadway/A38 Taunton Road Junction Improvement Works approved by the County Council pursuant to paragraph 2.3.3 cannot be carried out and completed entirely on existing highway land then NNB GenCo shall not Implement Phase 2 unless an interim scheme for the A39 Broadway/A38 Taunton Road Junction Improvement Works to be carried out and completed entirely on existing highway land has been submitted to and approved by the County Council in consultation with Sedgemoor Council.
- 2.3.6 Where an interim scheme for the A39 Broadway/A38 Taunton Road Junction Improvement Works to be carried out and completed entirely on existing highway land has been approved by the County Council in consultation with Sedgemoor Council pursuant to paragraph 2.3.5 then NNB GenCo shall carry out and complete such interim scheme prior to completion of Phase 2 or by such later date as may be agreed by Sedgemoor Council and the County Council.
- 2.3.7 Where an interim scheme for the A39 Broadway/A38 Taunton Road Junction Improvement Works has been carried out and completed by NNB GenCo pursuant to paragraph 2.3.6, then NNB GenCo shall submit a scheme for such additional works to the A39 Broadway/A38 Taunton Road junction as may reasonably be required (if any) to mitigate the impacts of the Development and/or other elements of the Project (if permitted) to the County Council for approval in consultation with Sedgemoor Council and shall use Reasonable Endeavours to secure access to any third party land and/or to obtain any third party consents required to be able to carry out and complete such additional works and subject to obtaining such access and/or consents shall carry out and complete the additional works as soon as practicable in accordance with the proposed timetable for the Project (if permitted).
- 2.3.8 NNB GenCo's obligations pursuant to paragraph 2.3.7 shall cease upon the grant of a Development Consent Order.
- 2.4 Cannington Traffic Calming Measures and C182 Farringdon Hill Lane, Horse Crossing Community Impact Mitigation Package**
- 2.4.1 NNB GenCo shall not Implement Phase 2 unless a scheme for the Cannington Traffic Calming Measures and C182 Farringdon Hill Lane, Horse Crossing Community Impact Mitigation Package to be carried out and completed entirely on existing highway land has been submitted to and approved by the County Council in consultation with Sedgemoor Council.

- 2.4.2 NNB GenCo shall carry out and complete the Cannington Traffic Calming Measures and C182 Farringdon Hill Lane, Horse Crossing Community Impact Mitigation Package in accordance with the scheme approved pursuant to paragraph 2.4.1 prior to Commencement of Phase 2 or by such later date as may be agreed by Sedgemoor Council and the County Council.

## **2.5 Section 278 Agreements**

- 2.5.1 NNB GenCo's obligations to carry out works on highway land pursuant to this paragraph 2 shall in each case be subject to a S278 Agreement being entered into in relation to the relevant works or the County Council having otherwise lawfully authorised NNB GenCo to enter upon the relevant highway to carry out such works.

## **3. HIGHWAY CONDITION SURVEYS**

- 3.1 NNB GenCo shall not Implement Phase 2 until baseline deflectograph condition surveys on HGV Route 1 and HGV Route 2 have been carried out and submitted to the County Council.
- 3.2 NNB GenCo shall carry out final deflectograph condition surveys on HGV Route 1 and HGV Route 2 and submit them to the County Council:
- 3.1.1 within 3 months of completion of Phase 2; and
  - 3.1.2 within 3 months of completion of the Reinstatement Works.
- 3.3 In the event that the final deflectograph condition surveys reveal a deterioration in HGV Route 1 or HGV Route 2 compared to the baseline deflectograph condition surveys using criteria to be agreed between NNB GenCo and the County Council, then subject to paragraph 8.1 NNB GenCo shall pay to the County Council such amount as is required (in the reasonable opinion of the County Council following consultation with NNB GenCo) to reinstate those highways to their former condition.

## **4. HIGHWAY STRUCTURES SURVEYS**

- 4.1 NNB GenCo shall carry out a Principal Inspection Survey in accordance with the Overarching Method Statement prior to the Implementation of Phase 1.
- 4.2 NNB GenCo shall provide the results of the Principal Inspection Survey to the County Council within 5 weeks of completion of the Principal Inspection Survey.
- 4.3 NNB GenCo shall apply to the County Council for the movement on the public highway of all Abnormal Indivisible Loads required for the Development and shall not use the Structures to move any Abnormal Indivisible Loads on the public highway unless approval has been given by the County Council.
- 4.4 In the event that the County Council will not approve an application for the movement of an Abnormal Indivisible Load unless an assessment of the Structures is carried out then NNB GenCo shall carry out such structural assessment in accordance with a method statement approved by the County Council and shall provide the results of the structural assessment to the County Council within 5 weeks of completion of the structural assessment.



- 4.5 In the event that the results of the structural assessment demonstrate that strengthening works to the Structures are required before the movement of the relevant Abnormal Indivisible Load, then subject to paragraph 8.1 NNB shall design the strengthening works and shall either carry out and complete those works itself in accordance with the design as approved by the County Council or shall pay to the County Council such sum as is reasonably required for the County Council to carry out and complete the strengthening works in either case prior to the movement of the relevant Abnormal Indivisible Load **PROVIDED THAT** NNB GenCo shall only be liable for strengthening works necessary as a result of traffic directly related to the Development.
- 4.6 NNB GenCo shall carry out a General Inspection Survey every two years from the Principal Inspection Survey until the completion of Phase 4 and a final Principal Inspection Survey after the completion of Phase 4 and shall provide the results to the County Council on each occasion **PROVIDED THAT** no General Inspection Surveys nor the final Principal Inspection Survey shall be required to be carried out after the end of Phase 2 if the Development Consent Order has been granted.
- 4.7 In the event that the results of any General Inspection Survey or the final Principal Inspection Survey demonstrate that maintenance works to the Structures are required, then subject to paragraph 8.1 NNB GenCo shall within 5 weeks of the date of the relevant General Inspection Survey or Principal Inspection Survey submit to the County Council for approval the proposed design for the maintenance works and shall either carry out and complete those works itself in accordance with the design as approved by the County Council or shall pay to the County Council such sum as is reasonably required for the County Council to carry out and complete the maintenance works in either case as soon as reasonably practicable **PROVIDED THAT** NNB GenCo shall only be liable for maintenance works necessary as a result of traffic directly related to the Development AND in the event that NNB GenCo does not begin the maintenance works within 2 months of approval of their design by the County Council (save where NNB GenCo has been unable to begin the works because it has not been authorised to enter the public highway to do so or otherwise for reasons beyond NNB GenCo's control), NNB GenCo shall pay to the County Council within 30 days of written demand the sum reasonably required for the County Council to carry out and complete the maintenance works.

## 5. TRAVEL PLAN CONTINGENCY PAYMENT

- 5.1 In the event that the mode share or other relevant targets in either the Construction Traffic Management Plan or the Travel Plan are not achieved, then subject to paragraph 8.2 and the following provisions of this paragraph 5, NNB GenCo in consultation with the County Council shall within 4 weeks of the relevant target not being achieved (or such other period as the County Council may approve) propose mitigation measures (including a programme for delivery) to address the impact of the shortfall against such targets to the Transport Steering Group for agreement.
- 5.2 Any mitigation measures proposed by NNB GenCo pursuant to paragraph 5.1 or by the County Council or West Somerset Council pursuant to paragraph 5.4 to the Transport Steering Group shall include a detailed estimate of the costs of the proposed mitigation measures, such estimate to include the costs of designing those mitigation measures, any associated works to services and/or utilities, professional fees and the costs of tendering and entering into any contract in respect of the proposed mitigation measures.

- 5.3 Subject to paragraph 8.2, where proposed mitigation measures are approved by the Transport Steering Group pursuant to paragraph 5.1, NNB GenCo shall at its own expense implement such measures in accordance with the delivery programme and detailed costs estimate approved by the Transport Steering Group.
- 5.4 In the event that NNB GenCo does not submit proposed mitigation measures to the Transport Steering Group in accordance with paragraph 5.1, then the County Council or West Somerset Council may instead submit proposed mitigation measures to the Transport Steering Group for approval (together with a programme for delivery and a detailed estimate of the costs of the proposed mitigation measures in accordance with paragraph 5.2) and if approved by the Transport Steering Group those mitigation measures shall subject to paragraph 8.2 be implemented by NNB GenCo in accordance with paragraph 5.3 **PROVIDED THAT** nothing in paragraphs 5.1 to 5.3 shall limit the County Council's or West Somerset Council's rights or powers to take immediate remedial action (including without consulting the Transport Steering Group) should real time monitoring data provide reasonable evidence that immediate remedial action is reasonably required prior to the next scheduled meeting of the Transport Steering Group and in such instances:
- 5.4.1 the County Council or West Somerset Council (as the case may be) will inform the Transport Steering Group of such remedial action and the evidence therefor as soon as is practically possible; and
- 5.4.2 if the Transport Steering Group endorses such remedial action and the cost thereof, NNB GenCo shall (subject to paragraph 8.2) within 10 days of written demand pay to the County Council or West Somerset Council (as the case may be) the reasonable cost of implementing the remedial action.
- 5.5 Mitigation measures and remedial action shall only be carried out or funded by NNB GenCo pursuant to paragraph 5.4 where the mitigation measures or remedial action are consistent with achieving the objectives or targets of the Construction Traffic Management Plan and the Travel Plan.
- 6. TRANSPORT STEERING GROUP CONTRIBUTION**
- 6.1 NNB GenCo shall pay to the County Council:
- 6.1.1 the sum of £63,000 prior to the Implementation of Phase 1 and shall not Implement Phase 1 unless that sum has been paid; and
- 6.1.2 the sum of £63,000 prior to the first anniversary of Implementation of Phase 1.
- 6.2 In the event only that the Reinstatement Works are to be carried out pursuant to condition R1 of the Planning Permission, NNB GenCo shall pay to the County Council:
- 6.2.1 the sum of £63,000 prior to the Implementation of the Reinstatement Works and shall not Implement the Reinstatement Works until that sum has been paid;
- 6.2.2 the sum of £63,000 prior to the first anniversary of the Implementation of the Reinstatement Works; and
- 6.2.3 the sum of £63,000 prior to the second anniversary of the Implementation of the Reinstatement Works.

## **7. TRANSPORT STEERING GROUP**

### **7.1 The Transport Steering Group shall comprise:**

- 7.1.1 one representative to be nominated by the County Council;
- 7.1.2 one representative to be nominated by West Somerset Council;
- 7.1.3 one representative to be nominated by Sedgemoor Council;
- 7.1.4 one representative to be nominated by the Highways Agency;
- 7.1.5 one representative to be nominated by NNB GenCo in relation to site matters;
- 7.1.6 one representative to be nominated by NNB GenCo in relation to planning matters;
- 7.1.7 the Transport Co-ordinator; and

or such alternates as may be nominated by those representatives from time to time.

### **7.2 NNB GenCo shall provide appropriate persons to attend each meeting of the Transport Steering Group.**

### **7.3 The Transport Steering Group shall meet every three months from the Implementation of the Development in a convenient location in Somerset to be agreed between members of the Transport Steering Group, or more frequently where agreed by NNB GenCo and the Councils.**

### **7.4 The Transport Steering Group shall:**

- 7.4.1 monitor the implementation of and compliance by NNB GenCo of all transport related matters and actions included in the Construction Traffic Management Plan and the Traffic Monitoring and Management System and the Travel Plan and recommend action to the County Council as highway authority and West Somerset Council where considered reasonably necessary;
- 7.4.2 discuss with and advise NNB GenCo as to how implementation and compliance with the provisions of this Schedule 16 could be improved where considered reasonably necessary;
- 7.4.3 monitor the compliance with and achievement of mode share targets in the Construction Traffic Management Plan and those in the Travel Plan and the need for, form of and timing of measures to improve such performance and recommend action to the County Council as highway authority and West Somerset Council where considered reasonably necessary;
- 7.4.4 be quorate if at least one member of each of the participating organisations is present;
- 7.4.5 be chaired by the County Council's representative; and
- 7.4.6 operate on a majority voting basis with each member of the Transport Steering Group present at a Transport Steering Group meeting having only one vote each.

7.5 The County Council covenants to apply payments received pursuant to paragraph 6 only for the purpose of funding mitigation measures approved by the Transport Steering Group.

7.6 Nothing in this Schedule 16 shall limit the County Council's or West Somerset Council's rights or powers to take immediate action (including without consulting the Transport Steering Group) should real time monitoring data provide reasonable evidence that immediate remedial action is required prior to the next scheduled meeting of the Transport Steering Group and in such instances the Transport Steering Group will be informed of such actions and evidence as soon as is practically possible.

**8. MAXIMUM LIABILITY OF NNB GENCO**

8.1 The maximum liability of NNB GenCo pursuant to paragraphs 3 and 4 of this Schedule 16 is **£2,330,000** Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

8.2 The maximum liability of NNB GenCo pursuant to paragraph 5 of this Schedule 16 is **£836,000** Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

8.3 The maximum liability of NNB GenCo pursuant to paragraph 6 of this Schedule 16 is **£315,000**, being the total amount of the Transport Steering Group Contribution Index Linked in accordance with clause 14 and together with any Interest due pursuant to clause 15.

## SCHEDULE 17 – SITE REINSTATEMENT WORKS

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

**"Bank"** means a bank incorporated under the laws of England and Wales, Scotland or Northern Ireland or which has a branch registered in such jurisdictions and which has Investment Grade Rating;

**"Bond"** means a financial bond (or separate bonds) from a Bank (or Banks) to be provided for a period of 364 days in substantially the form annexed at Annex 9 to this Deed and for an amount determined in accordance with paragraph 2 of this Schedule;

**"CDM Regulations"** means the Construction (Design and Management) Regulations 2007;

**"Contamination"** means any substance or organism which alone or in combination with others may cause harm or damage to the environment, human health and safety, flora or fauna and/or pollution of controlled water (as more particularly referred to in section 78(A) of the Environmental Protection Act 1990), and includes:

- (a) any actual or threatened emissions, seepages, discharges, escapes, releases or leaks of pollutants, contaminants or toxic materials;
- (b) any hazardous or toxic materials, pollutants, contaminants and substances; and
- (c) any discarded, unwanted, broken, spoiled or surplus substance, material or article (including any waste as defined in the Environmental Protection Act 1990)

which are in, on or under the Site;

**"Costs Estimate"** means a written estimate of the cost of carrying out and completing the Reinstatement Works (including a reasonable contingency in accordance with commercially prudent practice) in accordance with a joint instruction provided by NNB GenCo and West Somerset Council;

**"Credit Rating"** means, in relation to any entity and at any particular time, the long term senior unsecured debt instrument rating or the individual corporate rating assigned to that entity by each of the Rating Agencies;

**"Escrow"** means an escrow sum to be provided in accordance with the Escrow Agreement and for an amount determined in accordance with paragraph 2 of this Schedule;

**"Escrow Agreement"** means an agreement substantially in the form annexed at Annex 10 to this Deed;

**"Investment Grade Rating"** means a Credit Rating:

- (a) of at least BBB- with Standard & Poor's; or
- (b) of at least Baa3 with Moody's;

**"Land Condition Statement"** means the document of that name recording the condition of those parts of the Site which are owned freehold by the Fairfield Estate prepared by AMEC and agreed between EDF Energy and the Fairfield Estate and dated March 2011;

**"Land Restoration Scheme"** means a scheme for the restoration and/or reinstatement of those parts of the Site which are owned freehold by the Fairfield Estate to a condition suitable for agricultural use which shall include the following:

- (a) topographical contours and drainage requirements to which the relevant land is to be restored and/or reinstated;
- (b) an appropriate field drainage system sufficient to allow the relevant land to be properly used for agricultural purposes (whether for arable or grazing) or any other use agreed between the Fairfield Estate and West Somerset Council as part of the scheme;
- (c) such stipulations as the Fairfield Estate (acting reasonably) requires as to the location of hedges, stock proof fencing and gates to enclose the relevant land or any part of it required by the Fairfield Estate to be fenced or secured;
- (d) the relevant land shall be suitable (as to whole or part) either for grazing of livestock, growing of cereal crops and grassland as may be reasonably specified by the Fairfield Estate or for use as an ecology area or natural habitat (as contemplated below);
- (e) the replacement of the top soil of a quality appropriate to the state and condition and purposes to or for which the relevant land is to be restored and/or reinstated;
- (f) arrangements for the reinstatement of the coastal path which is at the date of this Deed a public right of way;
- (g) the scheme shall not require the replacement of any dilapidated barns that have been demolished;
- (h) if requested by the Fairfield Estate (and subject to obtaining any necessary approvals from the local planning authority or other competent authority) the proposed use of the relevant land may be (as to whole or part) as an ecology area or other natural habitat so long as the cost of restoration of the relevant land for such proposed use does not exceed to a material extent the cost of restoration for agricultural use unless the Fairfield Estate agrees to pay the excess cost as previously agreed between the Fairfield Estate and West Somerset Council (acting reasonably);

**"Leases"** means together the Operational Leases and the Preliminary Works Leases;

**"Lease Obligations"** means those covenants and conditions on the part of the tenant contained in the extracted clauses from the Preliminary Works Leases annexed at Annex 12 to this Deed;

**"Moody's"** means Moody's Investors Service, Inc (or its successor rating business);

**"NGL Consents"** means:

- (a) the consent of the Office for Nuclear Regulation under the Nuclear Site Licence;

- (b) the consent of Nuclear Liabilities Fund Limited pursuant to the debenture made on 14 January 2005 (and amended and restated on 5 January 2009);
- (c) the consent of Magnox Limited pursuant to the NSLNSA; and
- (d) the consent of the Secretary of State pursuant to the option agreement made on 14 January 2005 (and amended and restated on 5 January 2009);

**"NSLNSA"** means the nuclear site licensees nuclear safety agreement between Magnox (1) and NGL (2) replicated from the agreement of 22 April 1996 and made between Magnox Electric plc (1) the Landlord (then known as Nuclear Electric Limited) (2) such replication having been effected under the terms of the nuclear transfer scheme dated 29 September 2008 made in accordance with section 40 of the Energy Act 2004;

**"Nuclear Safety Co-operation Agreements"** means any agreements to be completed between NNB GenCo and any parties holding a nuclear site licence on land adjoining the Site relating to the operation of adjacent nuclear sites;

**"Nuclear Site Licence"** means any nuclear site licence for the Site or any part thereof together with other land granted pursuant to the Nuclear Installations Act 1965;

**"OCNS"** means the Office for Civil Nuclear Security, or any body having responsibility for civil nuclear security in the United Kingdom or any part thereof which replaces the same from time to time;

**"Operational Leases"** means together the two 999 year leases which it is currently intended will be granted to NNB GenCo by EDF Energy and NGL following the grant of the Development Consent Order and the terms of such leases shall not (as compared to the Preliminary Works Leases) prevent or make it more onerous for West Somerset Council to carry out the Reinstatement Works;

**"Preliminary Works Leases"** means together the lease and the three underleases pursuant to which NNB GenCo has an interest in the Site and the lease of part of the Site due to be granted by NGL to NNB GenCo on or around the date hereof (such lease being substantially in the form as disclosed to West Somerset Council and which shall not prevent or make it more onerous for West Somerset Council to carry out the Reinstatement Works) and the associated deed of indemnity, each as referred to in Recital G of this Deed;

**"Rating Agencies"** means Moody's and Standard & Poor's, each a "Rating Agency";

**"Security Determination Date"** means the earliest of:

- (a) the date on which one of the nuclear reactors authorised by the Development Consent Order has been substantially completed and is producing electricity; and
- (b) the date of completion of the Reinstatement Works;

**"Security Plan"** means NNB GenCo's or NGL's security plan as approved by the OCNS;

**"Standard & Poor's"** means Standard & Poor's Rating Services (or its successor rating business); and

"Surveyor" means an independent quantity surveyor of at least 10 years' experience who has specialist knowledge of large scale earthworks and restoration schemes, having due regard to the scope of the Reinstatement Works.

## 2. SECURITY

- 2.1 NNB GenCo covenants with West Somerset Council that it shall not Implement Phase 2 unless a Bond or Bonds or an Escrow (in NNB GenCo's absolute discretion) has been put in place for a sum of (or sums totalling) **£63,000,000**.
- 2.2 NNB GenCo covenants with West Somerset Council not to excavate more than 1,500,000 cubic metres of soil and/or rock at the Site before complying with paragraph 2.4.
- 2.3 NNB GenCo shall keep records as to the amount of soil and/or rock excavated and shall provide West Somerset Council with details of such amounts when reasonably requested by West Somerset Council to do so.
- 2.4 At any time prior to the earlier of more than 1,500,000 cubic metres of soil and/or rock being excavated at the Site or the expiration of 12 months from the Implementation of Phase 2 of the Development, NNB GenCo covenants that it will instruct a Surveyor (jointly with West Somerset Council at no cost to West Somerset Council) to provide a Costs Estimate as soon as reasonably practicable and within 45 days (and in the event that the terms of such joint appointment cannot be agreed between NNB GenCo and West Somerset Council within 28 days of either party proposing the terms of such instruction, the matter shall be deemed a Dispute and shall be determined in accordance with clause 12) and if such Costs Estimate is more than £63,000,000 then prior to more than 1,500,000 cubic metres of soil and/or rock being excavated at the Site the amount of the Bond or Bonds or Escrow in place at that time shall subject to paragraph 2.6 be increased by NNB GenCo to the amount of the Costs Estimate but shall otherwise remain at £63,000,000.
- 2.5 On each anniversary of the provision of the Costs Estimate until the Security Determination Date the amount of the Bond or Bonds or Escrow in place at that time shall subject to paragraph 2.6 be adjusted by reference to increases in the Tender Price Index in accordance with the following formula:

$$\begin{array}{l} \text{Revised amount of} \\ \text{Escrow/Bond} \end{array} = \begin{array}{l} \text{Existing Amount of} \\ \text{Escrow/Bond Sum} \\ \text{as at relevant} \\ \text{anniversary} \end{array} \times \begin{array}{l} \text{(Index at Payment} \\ \text{Date/Index at today's} \\ \text{date)} \end{array}$$

- 2.6 Following the grant of any Development Consent Order, West Somerset Council and NNB GenCo agree that:

2.6.1 on the provision of the Costs Estimate pursuant to paragraph 3.4 (if not already provided); and

2.6.2 on each anniversary of the provision of the Costs Estimate,

the amount of the Bond or Bonds or Escrow in place at those times shall be decreased by the amount of any other security provided by NNB GenCo in respect of the restoration or reinstatement of the Site in respect only of the Development as required by that Development Consent Order (it being acknowledged that such restoration or reinstatement



may be part of the restoration or reinstatement of the wider restoration of the land and/or watercourses of which the Site forms part).

2.7 Until the Security Determination Date:

2.7.1 NNB GenCo covenants with West Somerset Council that no less than 30 days prior to the expiry of any Bond or Bonds provided pursuant to paragraph 2.1 a replacement Bond or Bonds or Escrow (in NNB GenCo's absolute discretion) shall be provided for a sum of not less than the current amount of the Bond or Bonds or Escrow respectively as at that date (excluding any interest accrued) taking into account the effect of paragraphs 2.4 and 2.5 as applicable on such amount; and

2.7.2 West Somerset Council agrees that NNB GenCo may at any time replace any Escrow with a Bond or Bonds or any Bond or Bonds with an Escrow for a sum of not less than the current amount of the Escrow or Bonds (as relevant) as at that date (excluding any interest accrued).

2.8 West Somerset Council covenants with NNB GenCo that:

2.8.1 upon provision of a replacement Bond or Escrow for a sum of not less than the current amount of the Bond or Bonds as at that date taking into account the effect of paragraphs 2.4 and 2.5 as applicable on such amount (excluding any interest accrued); and

2.8.2 upon the Security Determination Date,

it shall release the Bank and NNB GenCo from all liabilities under the Bond or Bonds in place up to that time and that on the Security Determination Date NNB GenCo's obligations under paragraphs 2.1 to 2.7 inclusive shall cease and determine.

2.9 NNB GenCo shall notify the occurrence of the Security Determination Date to West Somerset Council and the Fairfield Estate in writing, provided that such notification shall not of itself mean that the Security Determination Date has occurred.

**3. CARRYING OUT OF REINSTATEMENT WORKS BY WEST SOMERSET COUNCIL**

3.1 In the event that NNB GenCo is in breach of its obligation to carry out the Reinstatement Works and West Somerset Council has given NNB GenCo not less than 6 months' written notice of its intention to carry out the Reinstatement Works itself and:

3.1.1 NNB GenCo does not within that 6 month period:

(A) provide West Somerset Council with written notice of its intention to commence within that same period the Reinstatement Works and thereafter to carry out and complete the Reinstatement Works; and

(B) actually commence the Reinstatement Works; or

3.1.2 NNB GenCo does not carry out and complete the Reinstatement Works within three years from the date of West Somerset Council's notice; or

3.1.3 following receipt of West Somerset Council's notice NNB GenCo has commenced the Reinstatement Works but there is subsequently a period of inactivity of longer than 12 months in the carrying out of the Reinstatement Works and as a result of which there is no reasonable prospect of the Reinstatement Works being completed within three years from the date of West Somerset Council's notice,

then West Somerset Council shall have the right to commence, carry out and complete the Reinstatement Works itself and West Somerset Council shall use best endeavours to commence, carry out and complete the Reinstatement Works itself **PROVIDED THAT** (i) West Somerset Council shall only be responsible to a limit of the current amount of the Bond or Bonds or Escrow for such purposes in place at the time and (ii) it is not clearly and manifestly incompatible with the proper planning of the area at the relevant time for the Reinstatement Works to be carried out and completed by West Somerset Council.

3.2 In the event that West Somerset Council exercises its right under paragraph 3.1 to carry out the Reinstatement Works EDF Energy, NGL and the Fairfield Estate acknowledge that such entry on to the Site by West Somerset Council and its remaining on the Site (with such vehicles and equipment as may be required) in compliance with the provisions of this Schedule 17 constitutes a sharing of occupation by NNB GenCo with a contractor as permitted under the Preliminary Works Leases and NNB GenCo hereby gives West Somerset Council licence to enter onto and remain on the Site as its contractor to carry out and complete the Reinstatement Works pursuant to paragraph 3.1 (and NNB GenCo acknowledges that such entry by West Somerset Council as contractor does not require West Somerset Council to enter into any further works contract or other contract with NNB GenCo nor will West Somerset Council owe any duty of care or warranty to NNB GenCo with regard to the carrying out and completion of the Reinstatement Works save as provided in this Schedule 17).

3.3 EDF Energy, NGL and the Fairfield Estate agree and accept that the Reinstatement Works comprise part of the Preliminary Works (as this term is defined in the Preliminary Works Leases).

3.4 West Somerset Council acknowledges that when carrying out the Reinstatement Works:

3.4.1 it shall use the Site as licensee and no relationship of landlord and tenant is created between NNB GenCo or the Fairfield Estate and West Somerset Council by this Deed;

3.4.2 NNB GenCo and the Fairfield Estate shall retain control and ownership of the Site (as set out in the recitals to this Deed) and West Somerset Council has no right to exclude NNB GenCo or the Fairfield Estate from the Site; and

3.4.3 EDF Energy, NGL and the Fairfield Estate shall be entitled to enter the Site pursuant to the Leases,

**PROVIDED ALWAYS** that EDF Energy, NNB GenCo, NGL and the Fairfield Estate shall not prevent the exercise by West Somerset Council of the right under paragraph 3.1 of this Schedule save to the extent that West Somerset Council fails to comply with paragraphs 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Schedule or save to the extent that exercise of the right would constitute a breach of the Nuclear Site Licence.

3.5 In exercise of its rights under paragraph 3.1 of this Schedule, West Somerset Council shall not by any default, act or omission put NNB GenCo, NGL, EDF Energy or Fairfield Estate (in respect of NGL, EDF Energy or the Fairfield Estate in respect of the matters in paragraph 3.5.2 only) in breach of any of:

3.5.1 the Preliminary Works Leases and/or the Operational Leases (so far as they are in force) and the relevant provisions of which have been notified to West Somerset Council in writing; and

3.5.2 any matters to which the title of the Site is subject as at the date of this Deed;

or render NNB GenCo or NGL or Fairfield Estate liable to pay any damages, costs, expenses and/or other compensation of whatever nature (including legal expenses) thereunder.

3.6 In the event that West Somerset Council carries out the Reinstatement Works pursuant to paragraph 3.1 and at the date when West Somerset Council commences the Reinstatement Works a scheme for the restoration and/or reinstatement of the Site has previously been submitted by NNB GenCo and approved by West Somerset Council pursuant to condition R1 of the Planning Permission, West Somerset Council shall (using the Bond and/or Escrow in place as applicable, though it shall not be obliged to do so) carry out the Reinstatement Works in accordance with such approved scheme.

3.7 In the event that on the date on which the first of the events in paragraph 3.1 occurs:

(a) no scheme for the restoration and/or reinstatement of the Site has been submitted by NNB GenCo or approved pursuant to condition R1 of the Planning Permission; and

(b) West Somerset Council intends to carry out the Reinstatement Works in accordance with paragraph 3.1,

then West Somerset Council and the Fairfield Estate shall seek to agree a Land Restoration Scheme which shall be submitted as soon as reasonably practicable thereafter by West Somerset Council (using the Bond and/or Escrow in place as applicable, though it shall not be obliged to do so) to West Somerset Council for approval (pursuant to West Somerset Council's usual planning procedures) pursuant to condition R1 of the Planning Permission.

3.8 In the event that the Land Restoration Scheme submitted pursuant to paragraph 3.7 is not approved by West Somerset Council for the purposes of condition R1 of the Planning Permission (pursuant to West Somerset Council's usual planning procedures) West Somerset Council and the Fairfield Estate shall seek to agree an alternative Land Restoration Scheme which shall be submitted as soon as reasonably practicable thereafter by West Somerset Council (using the Bond and/or Escrow in place as applicable, though it shall not be obliged to do so) to West Somerset Council for approval (pursuant to West Somerset Council's usual planning procedures) pursuant to condition R1 of the Planning Permission.

3.9 In the event that West Somerset Council and the Fairfield Estate have not agreed a Land Restoration Scheme within 6 months of the occurrence of the first of the events set out in paragraph 3.1 (or such longer period as may be agreed between West Somerset Council and the Fairfield Estate), West Somerset Council shall (using the Bond and/or Escrow in place as applicable, though it shall not be obliged to do so) as soon as reasonably

practicable thereafter submit a scheme for approval (pursuant to West Somerset Council's usual planning procedures) pursuant to condition R1 of the Planning Permission which provides for the restoration and/or reinstatement of the Site to its pre-development condition as evidenced by the Land Condition Statement (but such scheme shall include an appropriate field drainage system sufficient to allow the Site to be properly used for agricultural purposes (whether for arable or grazing) and shall not require West Somerset Council to replace any dilapidated barns that have been demolished).

- 3.10 If West Somerset Council enters the Site pursuant to paragraph 3.1, West Somerset Council shall:
- 3.10.1 observe and perform the relevant Lease Obligations on the part of the tenant;
  - 3.10.2 comply with all applicable safety regulations and NNB GenCo's site safety requirements as notified to West Somerset Council;
  - 3.10.3 comply with NNB GenCo and NGL's site emergency arrangements as notified to West Somerset Council including participating in emergency exercises;
  - 3.10.4 take care for the safety of all persons entitled to be on the Site, including by the provision of all safety notices and safety equipment required by relevant laws and regulations for the Reinstatement Works;
  - 3.10.5 provide fencing, lighting and other facilities as described in NNB GenCo's site safety requirements for the Reinstatement Works until completion and notified to West Somerset Council;
  - 3.10.6 comply with any rule or requirement or instruction of either NNB GenCo or NGL as notified to West Somerset Council which in each case is necessary in order for NNB GenCo or NGL (as relevant) to comply with its obligations under any Nuclear Site Licence and/or the NSLNSA and/or the Security Plan and/or any Nuclear Safety Co-operation Agreements (each as notified to West Somerset Council);
  - 3.10.7 take all reasonable measures to protect the environment (both on and off the Site) and prevent Contamination and damage to people and property resulting from the carrying out of the Reinstatement Works;
  - 3.10.8 without prejudice to paragraph 3.10.7 ensure that any emissions, surface discharges and effluent from the carrying out of the Reinstatement Works shall not exceed the values indicated in NNB GenCo's health, safety and environment requirements;
  - 3.10.9 comply with the reasonable requirements of the Security Plan notified to West Somerset Council and ensure that all information in relation to the Reinstatement Works will be subject to the Security Plan;
  - 3.10.10 use reasonable endeavours to take such measures as are necessary to prevent unauthorised persons being admitted to the Site and immediately notify NGL, NNB GenCo, the OCNS and the Civil Nuclear Constabulary of any unauthorised persons on the Site;
  - 3.10.11 not without the consent of NGL or (if it holds the Nuclear Site Licence at the relevant time) NNB GenCo which consent NGL or (if it holds the Nuclear Site

Licence at the relevant time) NNB GenCo shall be entitled to withhold where (in its absolute discretion) it considers it prudent to do so having regard to the requirements of security or safety of the nuclear site take photographs of the Site or the Reinstatement Works or any part of them unless reasonably necessary to carry out and/or complete the Reinstatement Works;

- 3.10.12 promptly submit to NNB GenCo any security vetting or other information NNB GenCo requires to enable any person to be given access to the Site in connection with the Reinstatement Works and West Somerset Council acknowledges that certain individuals may not satisfy NNB GenCo's security requirements and that NNB GenCo may, at its absolute discretion, require West Somerset Council not to employ in the performance of the Reinstatement Works any individuals identified by NNB GenCo as presenting a security or other risk; and
  - 3.10.13 comply at all times with the provisions of the Health & Safety at Work etc. Act 1974 and the CDM Regulations and shall ensure that all contractors engaged in connection with the Reinstatement Works shall carry out and fulfil in all respects their respective duties under the CDM Regulations.
- 3.11 West Somerset Council shall indemnify EDF Energy, NGL and the Fairfield Estate (together the "**Owners**") against all reasonable expenses costs claims damages demands and any other liability or consequence (in each case reasonably incurred) arising out of or in respect of any breach of the obligations contained in paragraphs 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 **PROVIDED THAT:**
- 3.11.1 the Owners shall (if so reasonably required by West Somerset Council) authorise West Somerset Council (at its own expense) to negotiate a settlement of any third party claim;
  - 3.11.2 the Owners shall not settle any claim or proceedings taken against it by a third party that would require West Somerset Council to indemnify the Owners pursuant to the terms of this clause without the consent of West Somerset Council (such consent not to be unreasonably withheld or delayed); and
  - 3.11.3 the Owners shall keep West Somerset Council informed of the progress of any claim and shall take into account any reasonable representations made by West Somerset Council in negotiations with any third party to settle any claim or proceedings against the Owners.
- 3.12 In the event that West Somerset Council exercises its right under paragraph 3.1 then, following completion of the Reinstatement Works, the Council shall:
- 3.12.1 forthwith return to NNB GenCo any monies which it has obtained under the Bond or Escrow and which have not been properly used in connection with the carrying out of the Reinstatement Works; and
  - 3.12.2 as soon as reasonably practicable provide NNB GenCo with copies of audited accounts showing all payments made by the Council in connection with the Reinstatement Works.

**4. ACCESS TO THE SITE FOR WEST SOMERSET COUNCIL TO CARRY OUT REINSTATEMENT WORKS UNDER THE ACCESS LICENCE**

4.1 Following receipt of notice from West Somerset Council that it wishes to exercise its rights pursuant to paragraph 3.1, NGL shall use Reasonable Endeavours to obtain the NGL Consents for the grant of the Access Licence and shall notify West Somerset Council once the NGL Consents have been obtained.

4.2 NGL shall use Reasonable Endeavours to obtain the NGL Consents (to the extent that the NGL Consents are necessary at the relevant time) for the grant of the lease by NGL to NNB GenCo of the part of the Site owned with freehold title by NGL (as referred to in Recital G) and to grant the said lease to NNB GenCo as soon as possible and NNB GenCo shall notify West Somerset Council as soon as reasonably practicable after the lease has been completed.

4.3 In the event that when West Somerset Council exercises its right under paragraph 3.1 to carry out the Reinstatement Works:

4.3.1 any of the Preliminary Works Leases and/or Operational Leases are not in force and subsisting; or

4.3.2 if in force and subsisting at the Commencement of the Reinstatement Works, the Preliminary Works Leases and/or Operational Leases come to an end (for whatever reason) prior to completion of the Reinstatement Works,

then in respect of the part of the Site which is no longer subject to any of the Preliminary Works Leases and/or Operational Leases EDF Energy and/or NGL and/or the Fairfield Estate as the case may be to the extent that they have an interest in the Site hereby each agree to grant to West Somerset Council an access licence in the form set out in Annex 11 to this Deed and West Somerset Council acknowledges that it shall be reasonable for NGL:

4.3.3 to refuse to grant such licence where they are unable having used Reasonable Endeavours to do so to obtain the NGL Consents for the grant of such licence; or

4.3.4 to require that the form of access licence be amended to reflect any reasonable requirements imposed as a condition of the issue of the NGL Consents.

**5. VARIATION OF NNB GENCO'S REINSTATEMENT OBLIGATIONS**

5.1 NNB GenCo covenants with the Councils to comply with the reinstatement obligations as set out in conditions R1 to R6 of the draft Planning Permission annexed to this Deed as Annex 1 unless (and then only to the extent that) those reinstatement obligations are expressly varied, removed, abrogated, modified or superseded pursuant to any lawful means, in which case:

5.1.1 NNB GenCo shall comply with such reinstatement obligations as expressly varied or modified and with any replacement obligations in the event that such reinstatement obligations are superseded by replacement obligations; or

5.1.2 save in relation to any antecedent breaches, NNB GenCo shall be released from all obligations pursuant to this Schedule 17 in the event that such reinstatement obligations are entirely removed, abrogated or superseded without replacement,

and this Schedule 17 shall be deemed to be varied accordingly.

- 5.2 The parties shall enter into a deed of modification in order to give effect to such variations to this Schedule 17 as are reasonably required as a result of the reinstatement obligations being varied, removed, abrogated, modified or superseded as referred to in paragraph 5.1 subject to NNB GenCo being liable for the reasonable legal costs and expenses properly incurred by the parties in relation to agreeing and entering into such deed.
- 5.3 Any express provision of any Development Consent Order or related Development Consent Obligations (once in effect following the implementation of the development authorised by the Development Consent Order) shall in any event prevail in relation to the reinstatement obligations referred to in paragraph 5.1 and the obligations in this Schedule 17 where and to the extent that there is any incompatibility with the Planning Permission or this Deed in relation thereto.
- 5.4 In relation only to any application for or appeal in connection with an application for planning permission for the Development (other than in respect of a Development Consent Order or related Development Consent Obligations) which seeks to vary, remove, abrogate, modify or supersede the reinstatement obligations referred to in paragraph 5.1, such obligations (or relevant part thereof) shall not be varied, removed, abrogated, modified or superseded unless they no longer serve a useful purpose or such obligations (or relevant part thereof) continue to serve a useful purpose, but would serve that purpose equally well if they had effect subject to the relevant proposed variation, removal, modification or superseding provision, and then shall have effect subject to the same.
- 5.5 It is acknowledged that NNB GenCo may apply to vary, remove, abrogate, modify or supersede the reinstatement obligations referred to in paragraph 5.1 or the obligations in this Schedule 17 by a Development Consent Order or related Development Consent Obligations **PROVIDED THAT** this shall not prevent the Councils from making representations in relation to any such application made by NNB GenCo.

## **SCHEDULE 18 – NOISE INSULATION SCHEME**

### **1. DEFINITIONS AND INTERPRETATIONS**

Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

"Noise Insulation Scheme" means the scheme to assist those owners of property within the eligible area to make noise insulation improvements to their windows according to the criteria set out in Annex 13 to this Deed.

### **2. NOISE INSULATION SCHEME**

- 2.1 NNB GenCo shall implement the Noise Insulation Scheme from the Implementation of the Development throughout Phases 1 and Phase 2 of the Development.
- 2.2. NNB GenCo shall submit to West Somerset Council every six months from Implementation of the Development a report on the implementation of the Noise Insulation Scheme including information on the take up of the scheme and the number of applications that have been approved and the number that have not been approved.



## **SCHEDULE 19 – THE COUNCILS' GENERAL OBLIGATIONS**

### **1. APPLICATION OF CONTRIBUTIONS**

- 1.1 The Councils each covenant with NNB GenCo that they shall on receipt of the Contributions or other amounts from NNB GenCo place the money in an interest bearing section of the relevant Council's accounts.
- 1.2 The Councils each covenant with NNB GenCo that in respect of:
- 1.2.1 monies that each of them receive pursuant to this Deed; and
  - 1.2.2 sums provided to each of them pursuant to a bond,
- not to spend the relevant monies and not to draw down and spend the relevant bond sum other than for the purposes specified in this Deed in relation to the relevant Contribution or bond.
- 1.3 The Councils each covenant with NNB GenCo that they will within 6 months of Implementation of the Development and annually thereafter until the Contributions have been spent provide NNB GenCo with an annual statement setting out details of the purposes to which the monies have been applied.
- 1.4 Notwithstanding paragraph 1.3:
- 1.4.1 NNB GenCo will require the Board to establish a financial monitoring and external audit plan and shall have the right to access external audit reports in relation to the operation of the Board; and
  - 1.4.2 NNB GenCo shall in any event have the right (at its own expense) to audit all expenditure funded from the Contributions or other amounts secured under this Deed and the Councils each covenant with NNB GenCo to provide access to all such information and evidence as may reasonably be necessary to enable NNB GenCo to carry out any such audit upon receipt of 2 months' prior notice subject to NNB GenCo agreeing the frequency and scope of such audits in advance with the Councils and **PROVIDED THAT** in default of such agreement there shall be no more than two audits in the first 12 months following the date of this Deed and no more than one audit in any subsequent 12 month period.

### **2. UNSPENT CONTRIBUTIONS**

- 2.1 If any amount of money paid to the Councils under this Deed by NNB GenCo remains unspent within 5 years of the substantial completion of Phase 2 of the Development:
- 2.1.1 if a Development Consent Order for the Project has been granted within 5 years of the completion of Phase 2 of the Development, the Councils (or each of them) may retain that amount of money and spend or use it in accordance with the provisions of this Deed;
  - 2.1.2 if a Development Consent Order for the Project has not been granted within 5 years of the completion of Phase 2 of the Development, the Councils (or each of them) may retain but not spend any further amount of such money (unless it has already been committed to be spent) until a Development Consent Order has been

granted for the Project except in connection with any Reinstatement Works and any impacts and mitigation measures in relation thereto; and

- 2.1.3 if a Development Consent Order for the Project has not been granted prior to 31 December 2025, the Councils shall repay any unspent monies to NNB GenCo or its nominee.

### 3. REGISTRATION

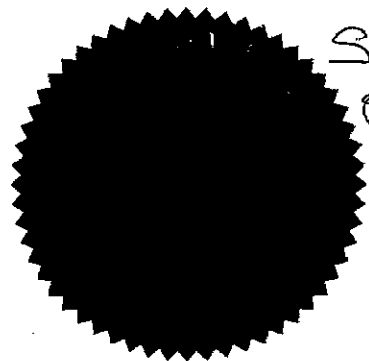
- 3.1 This Deed shall be registered by West Somerset Council promptly after the date of this Deed as a local land charge in the register of local land charges maintained by West Somerset Council.
- 3.2 Following the performance and satisfaction of all the obligations contained in this Deed, West Somerset Council will forthwith effect the cancellation of all entries made in the register of local land charges in respect of this Deed.

IN WITNESS whereof this Deed has been duly executed by the parties to this Deed on the date which appears at the head of this document.

The COMMON SEAL of WEST  
SOMERSET DISTRICT COUNCIL was  
hereunto affixed in the presence of:

)  
)  
)

Authorised signatory

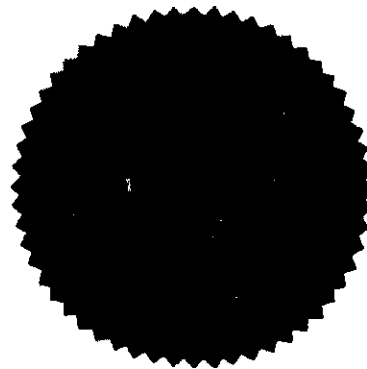


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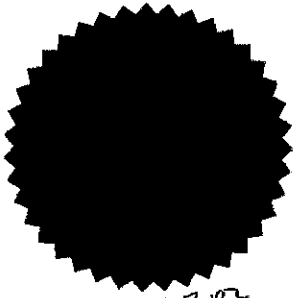
The COMMON SEAL of  
SOMERSET COUNTY COUNCIL was  
hereunto affixed in the presence of:

)  
)  
)

Authorised signatory



Number in Register 22827



4302

Authorised signatory

( The COMMON SEAL of  
( SEDGEMOOR DISTRICT COUNCIL was  
( hereunto affixed in the presence of:

*K. Richards*

( SIGNED as a DEED by EDF  
( DEVELOPMENT COMPANY LIMITED  
( acting by two directors or one director and  
( the company secretary:

Director

*[Signature]*

Director/Secretary

*[Signature]*

*R. Gwyler*

( SIGNED as a DEED by EDF ENERGY  
( NUCLEAR GENERATION LIMITED  
( acting by one director in the presence of:

Witness

*[Signature]*

Witness name, address and occupation

*CH Hanna*

*90 Whitfield St*

*London W1*

*solicitor*

EXECUTED as a DEED by ELIZABETH  
PERIAM ACLAND HOOD GASS in the  
presence of:

*Elizabeth Gass*

Witness

*Carrie Waller*

Witness name, address and occupation

.....CAROLINE.....WALLER  
SOLICITOR  
c/o CLARKE WILLMOTT LLP  
BLACKBROOK GATE  
.....BLACKBROOK PARK AVENUE  
DAUNTON  
SA1 2PG.....

SIGNED as a DEED by NNB  
GENERATION COMPANY LIMITED  
acting by two directors or one director and  
the company secretary:

Director

*[Signature]*

Director/Secretary

*[Signature]*

## LIST OF PLANS AND ANNEXES

Plan 1	Site
Plan 2	Barns
Plan 3	Fencing in Phase 0
Plan 4	Bridgwater
Plan 5	Cannington
Plan 6	Bat Mitigation Land
Plan 7	Alternative Access Way
Plan 8	Public rights of way
Plan 9	HGV Route and HGV Route 2
Plan 10	Home-based Workers
Annex 1	Draft Planning Permission
Annex 2	Financial Contributions Table
Annex 3	Community Safety Officers
Annex 4	Costs Schedule
Annex 5	Archaeology Schedule of Works (which is the Final Draft Schedule of Works dated 5 July 2011)
Annex 6	ROW Schedule of Works
Annex 7	List of the bridges, culverts and other highway structures
Annex 8	Overarching Method Statement
Annex 9	Bond
Annex 10	Escrow Agreement
Annex 11	Form of access licence for Reinstatement Works
Annex 12	Lease Obligations
Annex 13	Noise Insulation Scheme



# PLANNING DECISION NOTICE

TOWN AND COUNTRY PLANNING ACT, 1990. (AS AMENDED)



## Applicant

Dr Mannings NNB Generation Company Limited  
The Qube  
90 Whitfield House  
London

W1T 4EZ

**Date Registered** 26/11/2010

**Application No** 3/32/10/037

**Application Type** Full Planning Permission

**Parish** Stogursey

**Grid Reference** Easting: 321029    Northing: 145553

## Description of Proposal

The proposed development involves the following activities: site clearance (including fencing, vegetation removal, demolition of existing structures, and creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling, spoil screening/storage for re-use on-site); provision of earth retaining structures; deep excavations; provision and relocation of drainage infrastructure (including culverts, outfalls, balancing ponds); the provision and operation of plant and machinery (including concrete batching); site establishment works (including layover facilities, car parks, haulage roads, site access points and roundabouts, and laying replacement and/or diversion of apparatus); and other associated works, in the event that Hinkley Point C is not consented all structures would be removed and the site reinstated.

## Location of Site

Land to the West of Hinkley Point, Stogursey Bridgwater, TA5 1TP

**Planning Permission is granted for the following reasons:**

## Summary reasons for grant

In accordance with Article 30 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 the following is a summary of the reasons for the grant of planning permission, together with a summary of the policies in the development plan which are relevant to the decision to grant permission.

Section 70 of the Town and Country Planning Act 1990 provides that in dealing with an application for planning permission, a local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that:  
*"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

## 1) Development Plan

In relation to this application, the Development Plan consists of the following:

- The South West Regional Spatial Strategy: Schedule of the Secretary of State's Proposed Changes and Reasons - For Public Consultation July 2008 (note this does not have full Development Plan status, as it is not adopted)
- Saved Policies of the Somerset and Exmoor National Park Joint Structure Plan Review (adopted April 2000); and
- Saved Policies of the West Somerset District Local Plan (adopted December 2006).

The Coalition Government has announced its intention to revoke Regional Spatial Strategies (RSS). The revocation will come into effect if and when the Localism Bill is enacted and assuming the Act includes the current RSS revocation clause. Enactment is expected to take place at the end of 2011 / beginning of 2012.

Until that time, the policies of the RSSs, or emerging RSSs (given appropriate weight), remain extant and are capable of being relevant to the consideration of planning applications and in drafting Development Plan Documents. The draft RSS (published in 2006) and the Government's Proposed Changes to it following an Examination in Public (published in 2008) and their associated evidence base thus remain potentially material to planning applications.

A detailed assessment of the application against Development Plan policies is contained within Section 5 of the officers' committee report (dated 19<sup>th</sup> July 2011). A summary of the relevant policies are included in the table below:

Secretary of State's Proposed Changes to the South West Regional Spatial Strategy (22nd July 2008)

Policy	Summary of Policy and Relevance to Proposals
<b>Policy SD1</b>	Provides policy guidance on measures that will be taken in the region to reduce the intensive use of resources and move towards a lower carbon dependent region whilst providing more sustainable settlements. This policy is relevant given the underlying need to source more of the nation's energy from lower carbon sources.
<b>Policy SD2</b>	Gives guidance on how the region will respond to the pressures it will face as a direct result of the impacts of climate change. It makes specific reference to the considerations of the location of new development. This is relevant as it makes specific reference to improving the



	resilience and reliability of our existing infrastructure, including energy generation capacity.
<b>Policy SD3</b>	<p>Highlights the need to protect the region's environment and natural resources by ensuring their importance is fully taken account of in the design of new development and steps are taken to enhance the region's natural environments.</p> <p>The Site Preparation Works will remove significant proportions of on-site vegetation, which will have a knock on effect on onsite wildlife.</p>
<b>Policy SD4</b>	<p>Provides guidance on how development will be actively managed in order to help create and maintain sustainable communities in the region whilst also ensuring the long-term prosperity of the region.</p> <p>The Site Preparation Works, whilst having adverse impacts on (for example) on-site wildlife, vegetation, landscape and heritage (though mitigation measures reduce such impact), are to help prepare for a nuclear power station with some benefits to the regional economy alongside securing a potential quicker move to a lower carbon energy supply. Some benefits (e.g. employment) also arise directly from the site preparation works themselves.</p>
<b>Policy CSS</b>	<p>Sets out the core spatial strategy for the region, which makes specific reference to enhancing the economic prosperity of the region, whilst ensuring this stays within the environmental limits of the region.</p> <p>This is relevant to this proposal as a key issue is the balancing of the economic and national need of preparing for a nuclear power station, against the environmental impacts which this development is likely to cause and the certainty of whether the new nuclear power station will be consented.</p>
<b>Development Policy A</b>	<p>Provides guidance on the role of Strategically Significant Cities and Towns (SSCTs) of which Bridgwater is one. It advocates that the focus of much development will occur in these locations.</p> <p>Although the application is not located within Bridgwater, it is likely to have some impacts on Bridgwater due to the traffic volumes associated with this project.</p>
<b>Development Policy C</b>	<p>Provides guidance on the scale of development, which would be acceptable in small towns and villages. Both Stogursey and Cannington would fall within the village category. The policy highlights that any development should help to improve the self-containment of that village.</p> <p>The Site Preparation Works are not to be located within any of the identified settlements as it is to be located in the open countryside; it will however have direct and indirect impacts on the character and function of such centres.</p>
<b>Development Policy D</b>	<p>Provides guidance on the delivery of development, how it should ensure efficient and effective use of existing infrastructure and where appropriate should help facilitate the delivery of new or improved infrastructure.</p>

	Some road junctions will need to be improved in order to accommodate the level of transport movements associated with this development. The conditions and obligations secure the measures necessary to upgrade or reinforce transport or other infrastructure in the area.
<b>Policy RTS2</b>	Provides policy guidance on how traffic demand management systems should be incorporated progressively into the regions SSCT's (including Bridgwater) alongside helping to alleviate traffic congestion on the regions roads. Although the development is not located within an SSCT, there exist clear congestion issues along the A39, which may be further exacerbated as a result of this development. The conditions and obligations secure various measures to reduce or minimise impacts of the development on the highway network.
<b>Policy RTS3</b>	Provides guidance on the level of parking provision, and highlights that measure should be implemented to reduce the need to travel by car. The proposed development not only has significant HGV movements associated with it but also the need for workers to get to and from site. The conditions provide maximum levels of parking during the various phases of the development.
<b>Policy SK1</b>	Highlights the role that Local Authorities should play with other partners to help ensure the adequate provision of access for their resident population to further skills and training. The proposed development has the opportunity to be able to help provide and up skill a significant number of people within the immediate area and measures are secured to achieve this in the conditions and obligations.
<b>Policy ENV1</b>	Highlights the important need to protect the regional natural and historic environment and specifies that where proposed developments would have a detrimental impact on such assets, appropriate mitigation should be provided. The Site Preparation works are likely to have significant adverse impacts on on-site ecology and heritage assets, though mitigation is secured through the conditions and obligations.
<b>Policy ENV2</b>	Provides policy guidance on landscape character areas and how the distinctive quality and features of these areas should be protected. The Site Preparation Works will significantly alter the character and appearance of the landscape in this area, though mitigation is secured through the conditions and obligations.
<b>Policy ENV3</b>	Ensures the protection of protected landscapes such as AONBs etc. The default should be to conserve and where appropriate enhance the natural beauty and cultural heritage of such landscapes. The proposed development will likely have detrimental impacts on the setting of and views to two AONBs (Mendips and Quantocks), though landscape mitigation is secured to minimise and reduce

	these.
<b>Policy ENV4</b>	Provides policy guidance on the protection of distinctive habitats and species within the South West as outlined within the South West Regional Biodiversity Action Plan. The proposed works will likely have a detrimental impact to onsite habitats, though mitigation is secured to minimise and reduce this.
<b>Policy ENV5</b>	Seeks the protection of the historic environment of the South West and that such assets should be preserved or enhanced where possible. The proposed works will have a direct adverse impact on the setting of a scheduled ancient monument and will affect already identified archaeological remains on the site itself, though mitigation is secured through the conditions and obligations.
<b>Policy CO1</b>	Gives guidance on the undeveloped coastline around the region and acceptability of such development in these unspoilt locations. The proposed works are on undeveloped ground but are located in close proximity to the existing two power stations at Hinkley Point.
<b>Policy F1</b>	Highlights the risks from flooding within the region and gives guidance on how the location of new development should be planned for with these risks in mind. The Site Preparation works are located in an area vulnerable to flooding from coastal sources as well as onsite watercourses. Flood risk has been considered by the Environment Agency and taken into account by the Council in relation to the assessment of this application.
<b>Policy RE6</b>	Focuses on the protection of the region's network of ground, surface and coastal waters and the ecosystems, which they support. Development decisions should be taken with the protection of these resources in mind. The proposed development includes the culverting of an on-site watercourse and is located in close proximity to coastal waters and other watercourses.
<b>Policy RE9</b>	Gives guidance on the impact of development on air quality. The proposed Site Preparation Works and the associated transportation movements are likely to have a detrimental impact on local air quality although the conditions include detailed measures to monitor and manage impacts on air quality.
<b>Policy TO2</b>	Provides policy guidance on sustainable tourism. This includes improving the access, quality and diversity of existing facilities and accommodation. The site preparation works in themselves do not propose new tourism services, though they do however have the potential to have implications for the local tourism market and mitigation measures are secured in the planning obligations.

The following policies from the West Somerset District Local Plan have been considered and are summarised below:

<b>SP/1</b>	Settlement hierarchy: provides the development hierarchy for settlements within the West Somerset District. The Hinkley Point C site is located within the Parish of Stogursey although is not located within any defined settlement limits.
<b>SP/5</b>	Development outside defined settlements: outlines the criteria, which should be satisfied in order to permit development in the open countryside. As the development site is within the open countryside, the requirements of this policy (namely to benefit economic or social activity, no significant increase in car travel and maintenance or enhancement of environmental quality) have been taken into account.
<b>LC/3</b>	Landscape character: highlights that for development outside settlement limits, such as this application, particular attention should be given to protection of scenic quality and distinctive local character of the landscape.
<b>TW/1</b>	Tree and woodland protection: provides guidance on the conditions that must be satisfied in order to mitigate adverse impacts to woodlands, groups of trees or individual trees. The Site Preparation Works involve the clearance of the majority of vegetation on site although measures to mitigate and offset these impacts are secured through the conditions and obligations.
<b>TW/2</b>	Hedgerows: requires that development proposals should demonstrate the provisions made for the retention and protection of hedgerows unless they are considered to not be of value. The Site Preparation Works involve the clearance of the majority of vegetation on site.
<b>NC/1</b>	Site of Special Scientific Interest: highlights that development which adversely impacts on SSSIs either directly or indirectly will not be permitted unless the reasons for development outweigh the value of the site. The Hinkley Point C site is in close proximity to and could impact upon a SSSI. The Council has considered these potential impacts, including (where relevant) through the adopted Habitats Regulations Assessment.
<b>NC/3</b>	Sites of local nature conservation and geological interest: states that planning permission will not be granted for development which has an adverse impact on the local nature conservation/geological interests or integrity of landscape features. This policy is of direct relevance given the development's impact on the local ecology and environment.
<b>NC/4</b>	Species protection: makes provision for the protection of species protected by law, unless harm can be avoided. The presence of bats and badgers alongside other species are known to be present on site and the Council has considered the relevant environmental information and mitigation measures secured through the conditions

	and obligations.
<b>NC/5</b>	Wildlife habitats: provides the policy for the protection of species identified within the West Somerset Biodiversity Action Plan, with the management and enhancement of their habitats encouraged. Species contain within the West Somerset Biodiversity Action Plan are known to be present on site and the Council has considered the relevant environmental information and mitigation measures secured through the conditions and obligations.
<b>W/1</b>	Waste water, sewage management and infrastructure: seeks to ensure appropriate drainage, sewerage and sewage treatment facilities are provided on site. Given the nature of the application, particularly in relation to the culverting of the Holford Stream, this policy is of relevance. Such facilities are secured through the conditions.
<b>W/2</b>	Surface water protection: makes provisions for the protection of the quantitative and quality aspects of surface, underground or coastal waters. Given the proximity of the development to the coast and the presence of on-site watercourses such as the Holford Stream, this policy is of direct importance. Where possible, measures are secured through the obligations and conditions to minimise such impacts.
<b>W/3</b>	Groundwater source protection: highlights that development that would adversely affect the quality and quantity of water in watercourses will not be permitted. The application involves the culverting of the Holford Stream but includes measures (secured by conditions) in relation to the flow and control of water through the culvert.
<b>W/4</b>	Water resources: makes provisions for proposals where the development would increase the requirement for water. The Site Preparation Works would require additional water resource to facilitate the development.
<b>W/5</b>	Surface water run-off: highlights that where proposed development would result in significant additional surface water run-off and result in increasing the flood risk on site or elsewhere will only be permitted where appropriate mitigating measures are taken as part of the development. The proposals will significantly alter the site's surface water run-off capacity and this policy has been taken into account. Measures are secured through the conditions in relation to surface water control.
<b>W/6</b>	Flood plains: specifies that where development would result in increased flood risk of water courses, land or property, then development would only be permitted should suitable mitigation measures be provided. The proposed development will result in a significant alteration to on-site watercourses, alongside changes to the topographical layout of the site. Measures in relation to flood risk are secured through the conditions.

<b>W/7</b>	River corridor protection: prescribes that where development would harm the landscape, nature conservation, fisheries or recreational interest of water courses will only be permitted where damage is limited and compensatory measures provided. The proposals see the culverting of the Holford stream on site and this is likely to have an impact on the surrounding landscape and nature conservation interest of the stream.
<b>CO/1</b>	The coastal zone: deals specifically with development proposed along the West Somerset coast and stipulates the criteria for which proposals must comply including character of the coastline and impact on heritage and landscape features. The Site Preparation works are proposed at and will impact on the coast.
<b>AH/2</b>	Locally important archaeological remains: seeks to ensure that locally important archaeological remains are protected unless the importance of the proposed development outweighs their value. Archaeological remains are known to be present on the Hinkley Point C site – the conditions and obligations secure mitigation measures in relation to the historic environment.
<b>AH/3</b>	Areas of high archaeological potential: specifies that in areas of high archaeological potential development will only be permitted once an evaluation of the potential has been determined. Archaeological investigations have taken place on the Hinkley Point C site, reported through the environmental information and considered by the Council.
<b>BD/1</b>	Local distinctiveness: states that new development will only be permitted where it is sympathetic to the scale and layout of existing buildings and spaces. The scale of the proposed development is an important consideration in relation to the requirements of this policy.
<b>BD/2</b>	Design of new development: provides guidance on the design implications and consideration of new development. This is considered appropriate due to the visual impact that will result from these development proposals, considered within the environmental information and in relation to which mitigation measures are secured through the conditions and obligations.
<b>BD/8</b>	Re-use of existing building materials: highlights that the maximum possible use of materials within a site is encouraged. The terracing involved within this development will make use of soil excavated from the site (i.e. an on-site cut and fill operation where possible).
<b>BD/9</b>	Energy and waste conservation: has a requirement for development to demonstrate that the conservation of energy and water has been considered in the design process. The Council has considered this policy, including in relation to the on-site re-use of materials (cut and fill).
<b>A/2</b>	Best and most versatile agricultural land: states that the most valuable agricultural land should be protected unless there is an

	overriding need for the development. The Site Preparation works application boundary encompasses such agricultural land.
<b>T/3</b>	Transport requirements of new development: specifies the design principles for the delivery of new roads and improvement schemes resulting from new developments. This policy is relevant as there are highway improvement schemes, which are secured through the conditions and obligations.
<b>T/7</b>	Non-residential development car parking – specifies the car parking requirements for non-residential development. This is applicable due to the nature and location of the development and the requirement for associated vehicle journeys to enable workers to access the site. Maximum car parking numbers are secured through planning conditions.
<b>T/9</b>	Existing footpaths: highlights that where a proposed development would impact on an existing footpath, then it should be incorporated into the scheme design. The Site Preparation proposals seek the closure and divergence of several PRoW on the Hinkley Point C site due to the nature of the scheme. The obligations secure alternative footpaths around and in the vicinity of the site.
<b>PC/1</b>	Air pollution: stipulates that where developments would cause harm or offence to human health, senses or property these will not be permitted. Due to the scale of the traffic movements associated with this proposal, air pollutions impacts are potentially relevant and have been considered by the Council. Monitoring and mitigation measures are secured within the conditions.
<b>PC/2</b>	Noise pollution: where proposals would cause a noise nuisance to existing receptors this requires suitable measures to limit the noise impact to be put in place. The Site Preparation works involve significant works, which will generate noise. Noise limits and mitigation schemes are imposed through conditions.
<b>PC/4</b>	Contaminated land: has a requirement that when development proposals are brought forward on or in close proximity to contaminated land then suitable measures to protect human health. The Built Development Area East (BDAE) within the site is being remediated pursuant to a separate planning permission. Conditions secure appropriate remediation of the site.
<b>PO/1</b>	Planning Obligations: highlights that the council may seek to negotiate appropriate planning obligations commensurate with the development proposals. Planning obligations are secured alongside the planning permission.

The following policies from the Somerset and Exmoor National Park Joint Structure Plan Review have been considered and are summarised below:

<b>STR1</b>	<p>Sustainable development: provides the sustainable principles for development to achieve within the Somerset and Exmoor National Park Area.</p> <p>The policy gives broad guidance on sustainable development principles, which have been taken into account.</p>
<b>STR6</b>	<p>Development outside towns, rural centres and villages: provides that development should be strictly controlled and restricted to that which benefits economic activity, maintains or enhances the environment.</p> <p>The Site Preparation proposals are located in the open countryside and the Council has considered the impacts and benefits of the development.</p>
<b>STR7</b>	<p>Implementation of the strategy: this policy relates specifically to the wider community and environmental benefits which would be required to help support the sustainable development aims of the strategy and to ensure sufficient and appropriate contributions are received.</p> <p>The planning obligations related to the permission provide mitigation and compensation for impacts resulting from these proposals.</p>
<b>1</b>	<p>Nature Conservation: this policy affords protection to nature conservation sites, particularly those of international and national importance.</p> <p>The proposed development will impact directly on the County Wildlife site and on other on-site ecology. The Council has also considered (including through the Habitats Regulations Assessment) the potential impact on European Sites and has secured mitigation measures in relation to ecology through the conditions and planning obligations.</p>
<b>5</b>	<p>Landscape character: this policy identifies that there is a distinctive character to the Somerset countryside and due to its quality it should be protected for its own sake. This is with particular reference to landscape, cultural heritage and conservation terms.</p> <p>The proposals would see a significant change to the appearance and character of the landscape in this location when compared to the site's existing use.</p>
<b>7</b>	<p>Agricultural land: makes the provision that no permanent development proposal should be granted which involves the loss of the best and most versatile agricultural land. Unless there are no suitable alternative sites of lower quality land. The site preparation works will result in the removal of a significant area of such agricultural land.</p>
<b>8</b>	<p>Outstanding heritage settlements: Stogursey is identified as an Outstanding Heritage Settlement. Although the Site Preparation</p>



	development is located at a significant distance from the village of Stogursey, the works are likely to result in a significant change to the overall character and appearance of the village.
<b>9</b>	<p>The built historic environment: seeks the protection of the setting, local distinctiveness and variety of buildings and structures of architectural or historic interest.</p> <p>The development affects the setting of Wick Barrow and (less directly) on the nearby Fairfield Estate. Otherwise, the application does not generally directly impact on historic buildings or structures but will have a detrimental impact on the local distinctiveness of this area. Mitigation measures, which will help to reduce such impacts, are secured through conditions and obligations.</p>
<b>10</b>	<p>Historic landscapes: seeks to protect the character of registered historic landscapes e.g. historic parks and gardens. Although the site itself is not such a landscape, such features are in close proximity to the site and will be impacted upon by the proposal. Mitigation measures are secured.</p>
<b>11</b>	<p>Areas of high archaeological potential: prescribes that in areas of high archaeological potential appropriate assessment and protection should be put in place.</p> <p>The site is known to support archaeological remains and therefore the Council considered the archaeological works method statement. The works will involve the destruction of all on-site archaeological remains. The Council has secured mitigation measures through the conditions and obligations.</p>
<b>12</b>	<p>Nationally important archaeological remains: where nationally important remains are present there is a presumption in favour of keeping the remains in situ. The policy also prescribes that the setting and amenity value of the remains should also be protected. Nationally significant remains are believed to be in situ on the site, but due to the nature of the proposed works it is impossible for these to remain undisturbed in situ. Mitigation measures are secured.</p>
<b>13</b>	<p>Locally important archaeological remains: specifies that the presence of locally important archaeological remains should be taken account of when development proposals are considered. It also specifies that if preservation in situ cannot be justified then arrangements for their recording should be made.</p> <p>Archaeological remains are known to be present on the Hinkley Point C site, but due to the nature of the proposed works it is impossible for them to be left in situ. Mitigation measures are secured, including recording.</p>
<b>15</b>	<p>Coastal development: highlights that the initial focus of coastal development should be located within existing towns, rural centres and villages. However, in this instance the development requires an undeveloped coastal location. The policy goes on to highlight that proposals should respect the natural beauty, biodiversity and geology of the coast.</p>

<b>39</b>	<p>Transport and development: provides guidance on the considerations that should be given to the proposals impact on transport movements and suitability of existing transport infrastructure.</p> <p>The proposals will result in a significant number of HGV and other vehicular movements, which need to be appropriately managed and controlled – this is achieved through various controls in the conditions and obligations</p>
<b>42</b>	<p>Walking: advocates that maintaining and extending the footpath network should improve facilities for pedestrians. The proposals will see the closure of certain PRow routes within the site and alternative routes provided.</p>
<b>43</b>	<p>Access for people with disabilities: seeks to ensure that provision of suitable footpaths, bridleways and cycle routes should be improved so as to ensure they can be safely used by people with disabilities.</p>
<b>44</b>	<p>Cycling: advocates the improvement, where appropriate using existing road infrastructure, facilities and routes for cyclists. Although the site is fairly remote from significant settlements and road access is therefore key, a degree of suitable sustainable alternative methods of transportation are secured, including provision of cycle parking facilities on site.</p>
<b>48</b>	<p>Access and parking: highlights that where developments would generate significant transport movements they should be located where they can be accessed by a variety of modes of transport. It notes that parking should be no more than is necessary to enable the development to proceed.</p> <p>Whilst the site preparation proposals do involve significant transport movements, it is not possible to locate them elsewhere given the location of the intended new nuclear power station. Alternative modes of transport to the site have been considered and a number of measures secured through conditions and obligations (including controls on parking levels).</p>
<b>49</b>	<p>Transport requirements of new development: highlights that proposals for new development should ensure that they could be integrated with the existing transport infrastructure network. If not, then suitable measures to provide for other modes of transport and to deliver safe access.</p> <p>The Hinkley Point proposals will generate significant vehicular movements, both in terms of cars and HGVs. The Council has considered these potential impacts and measures to minimise, manage and deal with these are secured through conditions and obligations.</p>
<b>51</b>	<p>Road hierarchy: this policy delineates those roads within the plan area which fall into two road type categories namely National Primary Routes and County Routes. This policy therefore indicates those roads, which are a significant status. The proposals are likely to have a detrimental impact on the immediate highway network</p>

	within the parishes of Cannington, Stogursey and Bridgwater. Mitigation measures are secured through conditions and obligations, including highway improvement works and monitoring mechanisms.
<b>52</b>	Freight traffic (lorries in the environment): highlights that traffic, particularly lorries should use National Primary Routes wherever possible. Lorry routeing measures are secured through conditions and obligations.
<b>54</b>	Transport proposals and the environment: provides guidance that new transport proposals must take account of the wider environmental impacts of that scheme including minimising the impacts of the proposals through suitable mitigation and compensatory measures. This policy is relevant given the proposed junction improvements along the C182 down onto the A39, as well as the integration with the on-site road network. These mitigation measures are secured in the conditions and obligations.
<b>59</b>	Safeguarding water resources: seeks to protect surface, underground and marine water resources. The proposal would see the culverting of the Holford stream. Various measures to monitor and control impacts on water are secured through the conditions and obligations.
<b>60</b>	Floodplain protection: indicates that development should be restricted if it would cause a net loss of flood storage area, interrupt the free flow of water or adversely affect their environmental or ecological value. The proposal includes significant site terracing which is likely to have an impact on the flood storage cell, although the Council is satisfied with the measures secured to mitigate potential flooding.
<b>61</b>	Development in areas liable to marine flooding: highlights that only essential development which cannot be provided elsewhere, should be located in areas susceptible to marine flooding and even then adequate measures should be undertaken to protect that development. The Hinkley Point C site is located on the West Somerset coast and that area has previously experienced flooding issues. Flood risk has been taken into account in the assessment of the application.
<b>63</b>	Utilities development: indicates that utility developments should be facilitated provided they respect the environment and are located in favourable positions. Although this application is not for an energy generating station itself, it does however seek consent for levelling works for a potential future nuclear power station.
<b>64</b>	Renewable energy: makes the provision for renewable energy sources to be promoted as part of new development provided that it is environmentally acceptable. Although this application is not for an energy generating station itself (nor a renewable energy source –

	nuclear is considered 'low carbon'), it does however seek consent for levelling works for a potential future nuclear power station.
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In relation to the Somerset and Exmoor National Park Joint Structure Plan Review, Policy STR1 sustainable development, and Policy STR6 development outside towns are considered relevant to the principle of development.

Through the mitigation secured, the proposal can be considered to be generally compliant with the relevant parts of policy STR1. To the extent that there is a conflict with this and other policies of the Development Plan, then the Council considers that there are other material considerations, including policies of EN-1 (Overarching Energy NPS) and EN-6 (EN-6 Nuclear Power Generation NPS) (see further on these below), which outweigh the conflict.

Although the Site Preparation proposals are located beyond the development boundary within the open countryside, and therefore conflict with policy STR6, the Council considers that there are other material considerations, including the policies of EN-1 and EN-6, which outweigh the conflict.

The Council's emerging Local Development Framework has not yet been completed and nor has the development plan been updated to take account of EN-6, which includes Hinkley Point as a potentially suitable site for the development of a new nuclear power station.

In relation to the Council's saved Local Plan, Policies SP/1 and SP/5 are relevant to the principle of development. Policy SP/1 relates to settlement hierarchy whilst Policy SP/5 refers to development outside of defined settlements. Although the proposals conflict with policy SP1 and SP5, the Council considers that there are other material considerations, including policies of EN-1 and EN-6, which outweigh the conflict.

## **2) Material Considerations:**

There are a wide range of material considerations, including Government Policy (including National Policy Statements for Energy Infrastructure), emerging policy, policy of other Councils and representations received in relation to this application. Appropriate weight has been attributed to these material considerations, alongside policies set out within the Development Plan.

The National Policy Statements for Energy Infrastructure are one of the material considerations for determination of this application, in particular:

- EN-1 Overarching Energy NPS; and
- EN-6 Nuclear Power Generation NPS.

The energy NPSs provide the primary policy basis for decision-making by the Infrastructure Planning Commission in relation to individual applications for development consent for nationally significant energy infrastructure, such as nuclear power stations.

Having regard to EN-1 and EN-6 and in particular:

- paragraphs 1.2.1 to 1.2.3 of EN-1;
- paragraphs 1.2.3 to 1.2.4 of EN-6; and
- paragraphs 13 to 19 of Annex A of the letter to Chief Planning Officers issued by the Department for Communities and Local Government on 9 November 2009.

the Council has concluded that EN-1 and EN-6 are material considerations which carry significant weight in the determination of the application, recognising that it is not an application to the IPC for development consent but is an application connected to, and in preparation for, a potential Nationally Significant Infrastructure Project.

EN-1 emphasises the need and urgency for new energy infrastructure to be consented and built with the objective of contributing to a secure, diverse and affordable energy supply.

EN-6 establishes why development of new nuclear power stations is needed significantly earlier than the end of 2025.

Paragraph 4.1.1 of EN-6 states that the site at Hinkley Point is amongst those that the Government has determined are potentially suitable for the deployment of new nuclear power stations in England and Wales before the end of 2025.

A significant material consideration for determination of this application is therefore the identified and urgent need for new nuclear generating capacity to be operating as quickly as possible. It is also material that Hinkley Point is identified in EN-6 as a potentially suitable site for a new nuclear power station.

In granting planning permission for the site preparation works, the Council considers that, if a DCO were subsequently granted for a new nuclear power station at Hinkley Point, the site preparation works would allow that power station to be delivered significantly earlier than would otherwise be the case.

In this context, the Council also considers that national policy advice on the determination of development consent applications is a material consideration and this has therefore been given significant weight in the Council's determination of the site preparation application. Paragraph 2.2.4 of EN-6 states that:

*“... when considering an application for a new nuclear power station that is capable of deployment by a date significantly earlier than the end of 2025, the IPC should give substantial weight to the benefits (including the benefit of displacing carbon dioxide emissions) that would result from the application receiving development consent”*

It is a material consideration to which the Council gives significant weight that the site preparation works would help enable a new nuclear power station to be deployed at Hinkley Point C by a date significantly earlier than the end of 2025.

The legal challenge to NPS EN-6 has been taken into account.

It is considered that the site preparation development would enable the Hinkley Point C nuclear power station, if granted consent, to be delivered significantly earlier than would otherwise be the case, by allowing the developer to start the works (the site preparation development) ahead of any development consent order that may be granted for the power station.

Amongst the other material considerations taken into account in determining the planning application are:

- Draft National Planning Policy Framework (DCLG, 25 July 2011)
- West Somerset Council's Core Strategy Options Paper (January 2010)
- The West Somerset Sustainable Community Strategy 2007-2010

- West Somerset Economic Strategy (Draft, April 2011)
- West Somerset Corporate Plan 2011-2012 (September 2011)
- West Somerset Obligations Supplementary Planning Document 2010 (SPD)
- West Somerset Environment, Community Liaison, Arts and Culture and Economic Growth Service Delivery Plan
- Sedgemoor Proposed Submission Core Strategy (March 2011)
- Sedgemoor Sustainable Community Strategy for Sedgemoor (2009 – 2026)
- Sedgemoor Corporate Strategy (2009 – 2014)
- Bridgwater Challenge Bridgwater Vision
- Sedgemoor Housing Strategy 2010-2015
- Sedgemoor Economic Masterplan (2008)
- Sedgemoor Economic Strategy (Draft, April 2011)
- Hinkley Point C – Draft Supplementary Planning Document (February 2011)
- Planning Performance Agreement with EDFE in relation to Hinkley Point Nuclear Power Station (October 2009)
- All consultation responses

### **3) Environmental information**

The site preparation works planning application included an environmental statement and this has been supplemented by further environmental information and by the Council's and others' consideration of the assessment. The Council concluded that the environmental information is sufficient for it to be able to consider the impacts of the development, including any cumulative impacts with other developments (including other related 'HPC project development components') in determining the planning application.

The Council, following review of the environmental information has been able to consider the likely significant and other impacts of the development, including any cumulative impacts with other developments. These impacts and the environmental information have informed the Council's assessment of the development and the Council has considered the environmental information in determining the application.

With the mitigation proposed and to be secured by planning conditions and obligations, the Council considers that the adverse environmental impacts of the development and departures from the development plan are sufficiently outweighed by the need for the development and other material considerations to grant planning permission, noting also the positive impacts of the development including those relating to job creation and economic activity.

### **4) Planning Committee - Member's Considerations**

The Planning Committee on the 28<sup>th</sup> July 2011 considered the report and updates to it prepared by the Planning Officer Team relating to plans deposited by the applicant in accordance with the planning legislation. Members, where appropriate, were advised of correspondence received and subsequent updates or amendments since the agenda had been prepared.

The Minutes of the 28 July 2011 Planning Committee provide an account of the discussion, debate and voting at the Committee meeting, these minutes are available for inspection. The Planning Committee's considerations included the following:

- Traffic impact including on the residents of Cannington and Bridgwater
- Washford Cross roundabout
- Traffic flows and highway safety

- Noise mitigation
- Air quality and dust monitoring
- Landscape issues, including bunding, planting and lighting
- Vegetation clearance – hedges and other habitats and landscape features
- Housing accommodation
- Dead animals
- Flooding and drainage issues, including Holford stream
- Fire and emergency rescue services – alternative access
- Top soil storage
- Badger colonies and TB
- Roll-back of the site boundary and site reinstatement, including condition R1 and financial security for reinstatement by the Council
- Habitats Regulations Assessment
- Health issues
- Conditions
- Section 106 planning obligations
- Rights of way
- Flood risk
- Justification for nuclear at the national level

The final form of conditions attached to this permission and the provisions of the associated legal agreement have been approved by the Chair and Vice Chair of the Planning Committee in accordance with the resolution to grant permission.

#### **5) Habitat Regulations Assessment**

The Habitats Regulation Assessment Report dated 13th July 2011 was agreed and adopted by the Council, as the competent authority, as an appropriate assessment having regard to the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010. In reaching the decision to adopt the Habitats Regulations Assessment Report, the Council considers that the proposed development would not have an adverse impact on the integrity of a European site.

#### **6) Conclusions**

In conclusion in relation to the principle and context of the development, on balance, the application for development is one which West Somerset Council is the appropriate body to determine, it is considered to comply with and be supported by EN-1 and EN-6 National Policy Statements, and as a matter of the Council's judgment, is one where material planning considerations, including EN-1 and EN-6, are considered sufficient to outweigh conflicts with the development plan, so as to make the development acceptable in principle. The Council also considers from the review of the environmental information that the presence of adverse impacts that are not mitigated or dealt with by the mitigation proposed and secured are outweighed by the material considerations noted above.

Following the Appropriate Assessment undertaken by the Council in accordance with the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010, the Council considers that the proposed development would not have an adverse impact on the integrity of a European site.

## Planning Permission is subject to the following conditions:

### 1. Schedule of Conditions

- i. Where in these conditions details are required to be submitted they shall be submitted in writing to the local planning authority and where any approval is to be given by the local planning authority, such approval shall be in writing and wherever possible undertaken under the delegated authority of the Planning Manager
- ii. Where any condition specifies “unless otherwise approved in writing by the Local Planning Authority” or requires the applicant to demonstrate the existence of exceptional circumstances such approval shall not be given or exceptional circumstances agreed except in relation to minor or immaterial changes where it has been demonstrated to the satisfaction of the Local Planning Authority that the subject-matter of the approval sought or the applicant’s proposed response to exceptional circumstances is unlikely to give rise to any materially new or materially different environmental effects in comparison with the Development or works as approved
- iii. In these conditions unless otherwise agreed by the local planning authority, the following terms shall have the meanings given to them for the purposes of interpretation of any of the provisions of this planning permission

**"Commencement"** means the carrying out of a material operation as defined in section 56(4) of the Town and Country Planning Act 1990 comprised in the Development (or a Phase as the case may be) and the words **"Commence"** and **"Commenced"** and cognate expressions shall be construed accordingly.

**"Development"** means development involving the following activities: site clearance (including fencing, vegetation removal, demolition of existing structures, and creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling, spoil screening/storage for re-use on site); provision of earth retaining structures; deep excavations; provision and relocation of drainage infrastructure (including culverts, outfalls, balancing ponds); the provision and operation of plant and machinery (including concrete batching); site establishment works (including construction compounds and associated (including layover) facilities, car parks, haulage roads, site access points and roundabouts, and laying, replacement and/or diversion of apparatus); and other associated works and in the event that the Project (other than the Development) is not consented all structures would be removed and the site reinstated and which includes the Reinstatement Works.

**"Exceptional circumstances"** will be defined within a Construction Traffic Management Plan to be submitted to and approved in writing by the Local Planning Authority, in accordance with the requirements of Condition FP12.

**"HGV"** means a heavy goods vehicle or any other goods vehicle with three or more axles travelling to or from the Site for the purposes of the Development;

**"Local Highway Authority"** means Somerset County Council, which is the local highway authority for the area in which the Site is situated (and including any successor body as local highway authority).



**“Local Planning Authority”** means West Somerset Council, which is the local planning authority for the area in which the Site is situated (and including any successor body as local planning authority).

**“Maintenance”** means essential maintenance activities, which are required to be carried out on the Site (with relevant equipment necessary) to maintain the integrity of the development during the carrying out of the Development.

**“Planning Obligation”** means a deed of planning obligations pursuant to section 106 of the Town and Country Planning Act 1990 relating to the Development

**“Security”** means activities associated with the management of the Site to ensure it remains secure at all times and to enable the developer (and its appointed contractors) to meet their requirements outlined in any Security Plan relating to the Site, and as approved by the Office for Civil Nuclear Security.

**“Site”** means the land at Hinkley Point, Somerset, shown for the purposes of identification only edged in a solid red line on HPCSPW001b.

## **CONDITIONS RELATING TO ALL PHASES OF THE DEVELOPMENT (GENERAL - "G" CONDITIONS)**

### **G1 Time Limit – Commencement of Development**

The Development and works hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: in accordance with Section 91 of the Town and Country Planning Act 1990

### **G2 Approved Drawings**

The Development and works hereby permitted shall be carried out (as applicable and subject to conditions R1 and R2) in accordance with the approved drawings as follows:

<b>Drawing Title</b>	<b>Drawing Number</b>	<b>Submission Date</b>
Location Plan	HPCSPW001a	26/11/10
Site Boundaries	HPCSPW001b	26/11/10
Site Layout Plan	HPCSPW002a Rev1	21/04/11
Beach Access Road Plan and Cross Sections	HPCSPW002b	26/11/10
Existing Public Rights of Way around Hinkley Point	HPCSPW003a	26/11/10
Proposed Alternative Rights of Way	HPCSPW003b Rev1	21/04/11
Temporary Proposed Alternative Public Rights of Way	HPCSPW003c	21/04/11
Re-established Network ProW after	HPCSPW003d	21/04/11

reinstatement		
Planning Application Fencing Arrangement (Sheet 1 of 3)	HPCSPW004 Rev1	21/04/11
Fencing Enlarged Detail West (Sheet 2 of 3)	HPCSPW005 Rev1	21/04/11
Fencing Enlarged Detail East (Sheet 3 of 3)	HPCSPW006 Rev1	21/04/11
Indicative Earthworks Cut and Fill Arrangement	HPCSPW007 Rev1	21/04/11
Early Works Water Management Zone (Q1 2011 Approx)	HPCSPW008	26/11/10
Surface Water Catchment Area Overall General Arrangement	HPCSP009 Rev1	21/04/11
Arrangement of Construction Drainage Outfall to Foreshore	HPCSPW010	26/11/10
Surface Water Drainage Holford Stream Culvert	HPCSPW011 Rev1	21/04/11
Deep Water Drainage Arrangement	HPCSPW012a	26/11/10
Deep Water Arrangement Spine Drain Sections A & B	HPCSPW012b	26/11/10
Deep Water Assessment Spine Drain Sections C	HPCSPW012c	26/11/10
Proposed Site Access Points and Roundabouts	HPCSPW013a Rev1	21/04/11
Typical Cross Section Through Haul Road	HPCSPW013b	26/11/10
11kv Sub Station Plan & Elevations	HPCSPW014	26/11/10
Raw Water Reservoir Plans & Sections	HPCSPW015	26/11/10
Surface Water Drainage in the Built Development Areas	HPCSPW016 Rev1	21/04/11
Site Access Control Arrangement	HPCSPW017	26/11/10
Existing Landscape	HPCSPW018 Rev1	21/04/11
Landscape Proposal Plan	HPCSPW019 Rev1	21/04/11
Reinstated Landscape	HPCSPW020 Rev1	21/04/11
Existing Site Topography	HPCSPW021	26/11/10
Proposed Sewage Treatment Plant – Plans & Sections	HPCSPW022	26/11/10
Existing & Reinstated	HPCSPW023a	26/11/10

Ground Level Cross Sections		
Earthworks Platforms Cross Sections	HPCSPW023b	26/11/10
Tree & Hedgerow Retention & Removal	HPCSPW025a Rev2	26/07/11
Proposed Advanced Planting	HPCSPW025b Rev1	21/04/11
Primary and Secondary Access Tracks	HPCSPW026	21/04/11
NW Boundary Mitigation During Construction Cross Sections A and B	HPCSPW027	21/04/11
NW Boundary Mitigation During Construction Cross Sections C and D	HPCSPW028	21/04/11
NW Boundary Mitigation During Construction Planting Plan	HPCSPW029	21/04/11
Proposed Southern Roundabout	9S4862/PR/SK/66 Rev C	21/04/11
Proposed Southern Roundabout Proposed Levels	9S4862/PR/SK/67 Rev C	21/04/11
Proposed Southern Roundabout Contour Information	9S4862/PR/SK/68 Rev B	21/04/11
Proposed Southern Roundabout Visibility Splays	9S4862/PR/SK/69 Rev C	21/04/11
Proposed Southern Roundabout Swept Path Analysis	9S4862/PR/SK/70 Rev B	21/04/11

Reason: To ensure that all works are properly implemented and retained.

### **G3 Approvals Pursuant to Permission**

Any application or submission for any approval pursuant to these conditions shall be made in writing to the Local Planning Authority and no approval shall be given unless approved in writing.

Reason: To ensure that a proper record is kept.

## G4 Phasing of the Development

The Development and works shall be commenced and carried out in accordance with the phasing programme specified in the table below unless otherwise approved in writing by the Local Planning Authority:

Phase	Authorised Development within Phase
Pre-commencement works (Phase 0)	Removal of three barns and trees as shown on Plan 2; Construction of site fencing and associated perimeter access road as shown on Plan 3 in accordance with the submitted details (Appendix 2.1 of the Further Environmental Information [Part A] and Other Clarification Material [Part B] April 2011); Archaeological work comprising the set-piece excavations approved pursuant to Condition G31; Provision and operation of plant and machinery directly associated with Phase 0 works; No other Development or works, unless expressly authorised pursuant to the conditions of this permission.
Site Preparation Works – Vegetation Clearance (Phase 1)	Construction of site fencing and associated perimeter access road as shown on Plan 3 in accordance with the submitted details (Appendix 2.1 of the Further Environmental Information [Part A] and Other Clarification Material [Part B] April 2011); Establishment of the alternative footpaths in accordance with Plan 7; Archaeological works comprising the recording of important hedgerows approved pursuant to Condition G33; Removal of trees and hedgerows in accordance with Drawing HPCSPW025a Rev2; Provision and operation of plant and machinery directly associated with Phase 1 works; Site establishment works; No other Development or works, unless expressly authorised pursuant to the conditions of this permission.
Site Preparation Works – Main Earthworks (Phase 2)	Earthworks; Provision of earth retaining structures; Deep excavations; Provision and relocation of drainage infrastructure; Provision and operation of plant and machinery; Site establishments works; and associated works as listed in the description of development and shown on approved application drawings; and Access to site as required for Phase 2 works.
Post completion pre-"follow on" works period (Phase 3)	Ongoing management and maintenance of site, keeping site tidy and safe and Access to site as required for Phase 3 works.
Potential Site Preparation Works	Removal of all structures installed during Phases 1 and 2 and reinstatement of whole application

Reinstatement (Phase 4)	site in accordance with the Detailed Landscape Mitigation and Reinstatement Strategy submitted to and approved by the Local Planning Authority pursuant to Condition R1 and R2.
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Save for removal of the barns and trees as shown on Plan 2 within Phase 0 specified in the table above, not less than 2 weeks notice of the planned commencement date of each of Phases 0, 1 and 2, and, as applicable, Phases 3 and 4, shall be provided to the Local Planning Authority.

Within 1 calendar month of completion of each of the Phases 0, 1, 2, 3 and 4, the relevant completion date of the relevant Phase shall be notified to the Local Planning Authority.

Unless otherwise approved by the Local Planning Authority, no development shall commence in a subsequent Phase until completion of the previous Phase has occurred and this has been notified to the Local Planning Authority.

References to "Phases" of the Development throughout this planning permission shall be construed in accordance with this condition.

Reason: To ensure the proper regulation of the Development.

#### **G5 Geology and Land Contamination: Spoil Mound Remediation**

Unless otherwise approved by the Local Planning Authority, no Development or works pursuant to this planning permission shall commence or be undertaken within the Built Development Area East (as shown on drawing number HP/MR/01 Rev A of planning permission reference 3/32/10/025 dated 13 January 2011 (issued by Somerset County Council) until:

(a) remediation works in any defined area of the site pursuant to planning permission reference 3/32/10/025 dated 13 January 2011 (issued by Somerset County Council) have been completed to the satisfaction of the Local Planning Authority and the validation report and completion certificate for that defined area have been submitted to and approved in writing by the Local Planning Authority; except

(b) within areas confirmed in writing by the Local Planning Authority in which there is no known or identified contamination, whereby development can proceed subject to condition G38.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the Development is carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having regard to Saved Policy PC/4 accordance with policy of the West Somerset District Local Plan (2006) and advice set out in Planning Policy Statement 23: Planning and Pollution Control.

#### **G6 Working Hours**

No development, works or construction activity whatsoever shall take place on the Site outside the hours of 07:00 to 18:00 Mondays to Fridays and 07:00 to 13:00 on

Saturdays. There shall be no working outside of these hours, or at all on Sundays and public holidays. For the avoidance of doubt, this condition shall not apply where the developer has demonstrated to the satisfaction of the Local Planning Authority that there are Exceptional Circumstances, or to Security and Maintenance activities (so far as required to be carried out outside these hours).

Reason: To safeguard the amenity of local residents and occupiers having regard to the provisions of Saved Policy BD/1 of the West Somerset District Local Plan (2006).

### **G7 Delivery Hours**

Save where the applicant has demonstrated to the satisfaction of the Local Planning Authority that there are Exceptional Circumstances, no deliveries shall arrive, be received or dispatched from the Site outside the hours of 07.00 to 18.00 Monday to Friday and 07.00 to 13.00 on Saturdays. For the avoidance of doubt there shall be no deliveries at all on Sundays or on public holidays.

Reason: To safeguard the amenities of local residents and occupiers, having regard to the provisions of Saved Policy PC/2 of the West Somerset District Local Plan (2006).

### **G8 On Site Vehicular Movements – Permitted Hours**

Save where the applicant has demonstrated to the satisfaction of the Local Planning Authority that there are Exceptional Circumstances, there shall be no use of any construction or demolition vehicles (including no vehicle engines started, no vehicle movements and no reversing alarms operated) on the Site except during the hours of 07:00 to 18:00 Mondays to Fridays and 07:00 to 13:00 on Saturdays. There shall be no onsite construction or demolition vehicular movements outside of these hours, on Saturday after 13:00, or at all on Sundays and public holidays. For the avoidance of doubt, this condition shall not apply to Security or Maintenance activities (so far as required to be carried out outside these hours).

Reason: To safeguard the amenities of local residents and occupiers having regard to the provisions of Saved Policy PC/2 of the West Somerset District Local Plan (2006).

### **G9 Landscape and visual: External Storage of Contractors Materials**

Other than in the site compounds shown on drawing no. HPCSPW002a Rev1, there shall be no external storage of any contractors' materials (excluding aggregates/bulk materials/spoil in temporary or working stockpiles, or in long-term storage) on the Site during any Phase of the Development in excess of 4m in height unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of visual and residential amenity having regard to the provisions of Saved Policies BD/1 of the West Somerset District Local Plan (2006).

### **G10 Landscape and visual and air quality: No Burning of Materials**

There shall be no burning of waste, materials or refuse on the Site at any time during any Phase of the Development.

Reason: In the interests of residential amenity having regard to the provisions of Saved Policy PC/1 of the West Somerset District Local Plan (2006).

### **G11 Noise and Vibration: No Amplified Sound**

No amplified sound shall be generated at any time within the Site or at any time in the course of carrying out any Phase of the Development save where the applicant has demonstrated to the satisfaction of the Local Planning Authority that there are Exceptional Circumstances and as necessary for the health, safety or welfare of persons on site during such Exceptional Circumstances or in an emergency.

Reason: To safeguard the amenities of local residents and occupiers having regard to the provisions of Saved Policy PC/2 of the West Somerset District Local Plan (2006).

### **G12 Noise and Vibration: Noise Levels**

The level of noise emitted from the Site during all Phases shall not exceed 65dBLAeq, 1 hour during the permitted working hours as measured at the nearest residential receptors and monitoring of the noise levels during the works shall be carried out as part of the management plans submitted and approved pursuant to Condition FP6.

The above noise level restriction shall apply except for specific, short duration construction or demolition activities (to the extent only permitted as described in the noise management plans approved pursuant to Conditions FP6, SP14 and R3) during which an increased noise threshold of 75dBLAeq, 1 hour shall apply. Any such activities and duration of such activities shall be notified to the Local Planning Authority and local residents at least 48 hours before they commence and the duration of such activities and number of such activities during the carrying out of the Development and Works shall be limited to those approved by the Local Planning Authority.

Reason: To minimise the effect of noise from the Development on local residents and occupiers in the interests of residential amenity having regard to the provisions of Saved Policy PC/2 of the West Somerset District Local Plan (2006).

### **G13 Infill Material**

Only uncontaminated rock, subsoil, brick rubble, crushed concrete and ceramic shall be permitted as infill material used within the Development. All site won fill materials shall be used subject to the controls established within the Materials Management Plan approved pursuant to condition SP19, and shall follow the protocols defined within CL:AIRE.

Reason: To prevent pollution of the water environment having regard to the provisions of Saved Policy W/3 of the West Somerset District Local Plan (2006).

### **G14 Trial Concrete Batching**

The concrete batching plant to be installed as part of the Development or works may only be used for the purpose of mixing trial mixes and batches of concrete to be used on-site.

Reason: To safeguard the amenities of neighbouring residential properties having regard to the provisions of Saved Policy LC/3 of the West Somerset District Local Plan (2006).

## **G15 Southern Construction Boundary**

The area shown on Plan HPCSPW002A Rev1 within the application redline but outside the "Development Site – Indicative Boundary" (to the south of the Site) shall only be used for the following purposes and shall not, unless otherwise approved by the Local Planning Authority, be used during any Phase of the Development for any other purpose (including general construction works, storage or other purposes):

- planting and landscape mitigation measures (as specified in the application documents);
- activities directly related to any emergency and then only to the extent necessary to adequately deal with any such emergency; and
- bat mitigation measures in accordance with the Further Clarification in Relation to Barbastelle Bats (July 2011).

Reason: To safeguard the amenities of neighbouring residential properties having regard to the provisions of Saved Policy LC/3 of the West Somerset District Local Plan (2006).

## **G16 Socio-Economics: On-site Medical Facilities**

On-site medical facilities are to be provided by converting and refurbishing an existing room adjacent to Building 586 (former Induction and Training Centre) and shall be provided and retained within the Site for the duration of the Development, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the health and safety of workers on the Site.

## **G17 Landscape and Visual: Lighting Strategy**

Lighting shall be installed and operated in accordance with the Lighting Strategy (November 2010), unless otherwise approved in writing by the Local Planning Authority.

Reason: To minimise the impacts of the Development on local residents and occupiers and on ecological receptors.

## **G18 Landscape and Visual: Temporary Lighting**

Save for the removal of the barns and trees shown on Plan 2 within Phase 0 as set out in Condition G4, prior to the Commencement of relevant works and development where temporary construction lighting is proposed, details of any temporary construction lighting to be installed at the Site (including measures to prevent light spillage) to ensure safe working practices are adhered to shall be submitted to and approved by the Local Planning Authority. The lighting shall be installed and operated in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

Reason: To minimise the impacts of the Development on local residents and occupiers and on ecological receptors.

## **G19 Landscape and Visual: Other Lighting**

Prior to the Commencement of relevant works and development where lighting other



than temporary construction lighting is proposed (such as fixed columns and luminaries), details of such lighting to be installed at the Site (including measures to prevent light spillage) to ensure safe working practices are adhered to shall be submitted to and approved by the local planning authority. The lighting shall be installed and operated in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

Reason: To minimise the impacts of the Development and works on local residents and occupiers and on ecological receptors.

### **G20 Storage of Oils, Fuels, Concrete and Chemicals**

Any facilities for the storage of oils, fuels, concrete or chemicals shall be sited on an impervious base and either graded to drain to a sump/collector or surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work must be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets must be designed to discharge into the bund. All works and facilities as referred to in this condition shall be constructed and completed prior to the first use of the facilities and shall thereafter be retained.

Reason: To prevent pollution of the water environment having regard to the provisions of Saved Policy W/3 of the West Somerset District Local Plan (2006).

### **G21 Provision of Mitigation**

In carrying out the Development and works, mitigation specified in the environmental statement accompanying the application and all additional and supplemental application information (including further environmental information and other clarification material dated 21<sup>st</sup> April 2011) shall be provided as specified in accordance with the relevant plan, programme, strategy or scheme of mitigation specified unless otherwise specified by conditions in this permission or any Planning Obligations binding the Site.

Reason: To ensure that the impacts of the development are appropriately mitigated.

### **G22 General Permitted Development Order – Sleeping accommodation**

Notwithstanding the provisions of Parts 4 and 5 of Schedule 2 of the Town and Country Planning (GPDO) 1995, no part of the Site shall be used for the stationing of sleeping accommodation for site workers, unless the written approval of the Local Planning Authority has first been obtained.

Reason: To provide control over use of the Site during construction

### **G23 General Permitted Development Order – Temporary use of adjoining land**

Notwithstanding the provisions of Part 4 Class A of Schedule 2 of the Town and Country Planning (GPDO) 1995, no land outside but adjoining the Site shall be used for the provision of temporary buildings, works, plant or construction machinery, unless the written approval of the Local Planning Authority has first been obtained.

Reason: To provide control over the use of land adjoining the Site during construction

#### **G24 General Permitted Development Order – Temporary uses on the Site**

None of the rights contained in Part 4 Class B of Schedule 2 of the Town and Country Planning (GPDO) 1995 shall be exercised, unless the written approval of the Local Planning Authority has first been obtained.

Reason: To provide control over potential temporary uses of the Site

#### **G25 General Permitted Development Order – Demolition**

None of the rights contained in Part 31 of Schedule 2 of the Town and Country Planning (GPDO) 1995 shall be exercised, unless the written approval of the Local Planning Authority has first been obtained.

Reason: To provide control over demolition of buildings and structures on the Site.

#### **G26 Transport: HGV Flows**

Movements of HGVs for the duration of the Development or works, shall not exceed the following limits save in Exceptional Circumstances set out in the Construction Traffic Management Plan approved pursuant to Condition FP12:

- a) Monday to Friday: Maximum 24 two-way HGVs per hour in the AM (08:00-09:00) and PM (17:00-18:00) network peak hours;
- b) Monday to Friday: Maximum 30 two-way HGVs per hour within the hours of 07:00-08:00 and 09:00 - 17:00;
- c) Saturday: Maximum 30 two-way HGVs per hour between 07:00 – 13:00.

At all other times no HGVs shall arrive be received or dispatched from the Site save where the applicant has demonstrated to the satisfaction of the Local Planning Authority that there are exceptional circumstances as set out in the Construction Traffic Management Plan approved pursuant to Condition FP12.

Reason: To control and mitigate the effect of construction traffic on the highway network

#### **G27 Transport: Shift Patterns**

The Development or works shall only be carried out by workers operating in a single shift from 07:00 to 18:00 weekdays and provision for Saturday working 07:00 to 13:00.

Reason: To control and mitigate the effect of construction traffic on the highway network and to safeguard the amenity and character of the area

#### **G28 Transport: Vehicle Movements:**

The total number of cars and minibuses accessing the site each day for the purpose of carrying out of the Development or works shall not exceed the levels shown in the table below, unless otherwise agreed in the Travel Plan approved pursuant to condition FP13.

	<b>Phase 0</b>	<b>Phase 1</b>	<b>Phase 2 Quarter 1</b>	<b>Phase 2 Quarter 2</b>	<b>Phase 2 Quarter 3</b>	<b>Phase 2 Quarter 4</b>
<b>Total number of cars and minibuses</b>	<b>59</b>	<b>78</b>	<b>94</b>	<b>155</b>	<b>155</b>	<b>235</b>

Reason: To control and mitigate the effect of construction traffic on the highway network and safeguard the amenity and character of the area.

### **G29 Transport: Parking**

The maximum number of car and minibus parking spaces to be provided and available for the purpose of the Development or Works shall not exceed the levels in the table below, unless otherwise agreed in the Travel Plan approved pursuant to condition FP13:

<b>Phase</b>	<b>Number of Parking Spaces</b>
Phase 0	59
Phase 1	78
Phase 2 Q1	94
Phase 2 Q2	155
Phase 2 Q3	155
Phase 2 Q4	235

No more than 78 cars and minibuses may be parked at the Site for the purpose of the Development or Works on any Saturday during any Phase of Development. Weighted cones or similar barriers shall be erected at the end of each Friday shift to restrict the number of spaces available on the following day to 78.

Reason: To manage the total number of vehicles on the highway network associated with the proposed Development and the implementation of the Travel Plan.

### **G30 Ecology: Ecological Method Statement**

All Development and works shall be carried out in accordance with the Site Preparation Works Ecological Method Statement (Appendix 2.5 of the Further Environmental Information [Part A] and Other Clarification Material [Part B]; April 2011), unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that appropriate mitigation measures are incorporated into the development to minimise the impact on species protected by law having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006).

### **G31 Ecology: Tree Protection**

Save for the removal of the barns and trees shown on Plan 2 within Phase 0 as set out in Condition G4, no Development or works in any Phase shall commence until

protective fencing which conforms with British Standard 5837:2005 have been erected around existing trees which are to be retained in the Development or works in that particular Phase in accordance with drawing HPCSPW025a Rev 2. Until the Development or works have been completed these fences shall not be removed and the protected areas are to be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works, unless otherwise approved by the Local Planning Authority.

Reason: To safeguard the areas to be landscaped and the existing trees and planting to be retained within the Site having regard to the provisions of Saved Policies BD/1, TW/1 and TW/2 of the West Somerset District Local Plan (2006).

### **G32 Historic Environment: Excavation and Recording of Buried Heritage Assets**

The programme of Archaeological works relating to buried heritage assets shall be implemented in accordance with the Written Scheme of Investigation for Archaeological Mitigation: Set-Piece Excavation (Annex 2 of Appendix 2.3 of the Further Environmental Information [Part A] and Other Clarification Material [Part B]; April 2011) and results published in monograph form within ten years of Commencement of the Development.

Reason: To enable the remains of archaeological interest which may exist within the Site to be recorded having regard to the provisions of Saved Policies AH/2/ & AH/3 of the West Somerset District Local Plan (2006).

### **G33 Historic Environment: Building Recording**

The programme of archaeological works relating to the three existing barn structures (Benhole Barn; Langborough Barn; and Sidwell Barn) shall be implemented in accordance with the Written Scheme of Investigation for Historic Building Recording (Annex 4 of Appendix 2.3 of the Further Environmental Information [Part A] and Other Clarification Material [Part B]; April 2011) and results published in monograph form within ten years of Commencement of the Development.

Reason: To ensure that features of archaeological or architectural importance within the buildings on the Site are recorded before their destruction having regard to the provisions of Saved Policies AH/2 & AH/3 of the West Somerset District Local Plan (2006).

### **G34 Historic Environment: Recording of Important Hedgerows**

The programme of archaeological works relating to Important Hedgerows shall be implemented in accordance with the Written Scheme of Investigation for Archaeological Mitigation: Trenches through Green Lane and Historic Hedgerows (Annex 3 of Appendix 2.3 of the Further Environmental Information [Part A] and Other Clarification Material [Part B]; April 2011) and results published in monograph form within ten years of Commencement of the Development.

Reason: To mitigate the impacts of the Development or works on important hedgerows of interest having regard to the provisions of Saved Policy TW/2 of the West Somerset District Local Plan (2006).

### **G35 Drainage: Oil Interceptors**

Unless otherwise approved in writing by the Local Planning Authority, surface water drainage from impermeable parking areas and hardstanding for vehicles and lorry parks shall be passed through oil interceptors prior to being discharged to any watercourse, surface water sewer or soakaway system. The oil interceptors shall have a sufficient capacity for the areas being drained and shall be constructed prior to the first use of the parking areas or handstanding and shall thereafter be retained throughout all Phases of the Development or works. Roof water shall not pass through the oil interceptors.

Reason: To prevent pollution of the water environment having regard to the provisions of Saved Policy W/3 of the West Somerset District Local Plan (2006).

### **G36 Residential Amenity: Information Dissemination and Complaints Handling**

Save for removal of the barns and trees approved pursuant to Condition G4, no Development or works shall commence until a system for the provision of information to local residents and occupiers about the Development and works and for the handling of complaints shall have been submitted to and approved in writing by the Local Planning Authority. The information to be disseminated shall include general provision of information in relation to the phasing and carrying out of the Development and works and specifically in relation to activities on-site that may lead to nuisance. The approved information dissemination and complaints handling systems shall be implemented as approved throughout the period of the Development and works, unless otherwise approved by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring residential properties and the area.

### **G37 Historic Environment, Ecology and Landscape: Green Lane - Preservation in situ**

Save for removal of the barns and trees approved pursuant to Condition G4, no Development or Works in any Phase shall commence until a scheme showing the method of working which ensures the preservation in-situ of the Green Lane as shown on approved drawing no. HPCSPW025A Rev2 has been approved in writing by the Local Planning Authority. The method of working for each Phase shall be implemented as approved, shall be carried out in its entirety and all development works shall be carried out in compliance with the provisions of the approved methods of working.

Reason: In the interests of visual and residential amenity, ecological and archaeological / historical interest in Green Lane and having regard to the provisions of Saved Policies BD/1 and other policies of the West Somerset District Local Plan (2006).

### **G38 Geology & Contaminated Land: Previous Contamination Unidentified**

If in undertaking any Development or works, contamination not previously identified is found to be present at the Site, then no further Development or works shall be carried out (except within a defined area or areas confirmed by the Local Planning Authority in writing in which works can continue) until details as to how this contamination not previously identified is to be dealt with have been submitted to and approved in writing by the Local Planning Authority in consultation with Somerset County Council.

Reason: To ensure that risks from land contamination to the future users of the land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the Development and works can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having regard to Saved Policy PC/4 of the West Somerset Local Plan (2006) and advice set out in Planning Policy Statement 23: Planning and Pollution Control.

## **CONDITIONS RELATING TO SITE PREPARATION WORKS - (PHASE 1 – "FP" (FIRST PHASE) CONDITIONS)**

### **FP1 Ecological Mitigation and Monitoring Plan**

No Phase 1 works shall commence until an Ecological Mitigation and Monitoring Plan has been submitted to and approved in writing by the Local Planning Authority. The Ecological Mitigation and Monitoring Plan should reflect the survey results and ecological mitigation and enhancement measures included in the Environmental Statement and include an implementation timetable to include monitoring of:

1. Plant community development (NVC) across the habitats (grassland/woodland/hedgerow);
2. Invertebrate monitoring (butterflies and other agreed indicator species);
3. Scale and timing of habitat creation and enhancement works;
4. Bat activity monitoring during Phases 1 to 4;
5. Additional native hedgerow to be planted as a bat corridor;
6. Management of bat boxes.
7. A scheme for the protection of badgers;
8. Breeding bird counts;
9. Bird counts in the immediate intertidal area during Phases 1, 2 and 4, and
10. Monitoring of activity along the coastal path and onto the intertidal shoreline.

The Ecological Mitigation and Monitoring Plan shall be fully implemented as approved. unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of local residents and occupiers and to safeguard the natural environment within the Site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2, PC/4 of the West Somerset District Local Plan (2006).

### **FP2 Dust Management Plan**

No Phase 1 works shall commence until a Dust Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Dust Management Plan should detail the air quality monitoring and methods for control of air pollution and dust suppression measures. The Dust Management Plan shall be fully implemented as approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of local residents and occupiers and to safeguard the natural environment within the Site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2, PC/4 of the West Somerset District Local Plan (2006).

### **FP3 Habitat Management Plan**

No Phase 1 works shall commence until a Habitat Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Habitat Management Plan should detail all areas of habitats being retained or created and include information on the management and monitoring of retained features.

The Habitat Management Plan shall be fully implemented as approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect the population of Barbastelle bats in the Exmoor and Quantocks Oakwoods SAC and other species and to safeguard the natural environment within the Site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2, PC/4 of the West Somerset District Local Plan (2006).

### **FP4 Drainage: Surface Water Drainage Works**

No Phase 1 works shall commence until written details of the surface water drainage system (including, as relevant, means of pollution control and a schedule of implementation) relating to Phase 1 have been, after consultation with the relevant drainage authority, submitted to and approved by the Local Planning Authority.

The drainage details shall be designed for exceedances up to the 3.33% Annual Exceedance Probability (AEP). The surface water drainage system relating to Phase 1 shall be constructed, maintained and retained in accordance with the approved details throughout the period of Phase 1 works.

Reason: To prevent pollution to the water environment and to ensure the adequate provision of drainage infrastructure having regard to the provisions of Saved Policies W/1 and W/3 of the West Somerset District Local Plan (2006).

### **FP5 Air Quality Monitoring**

No Phase 1 Development or works shall commence until an air quality-monitoring scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following elements:

- a. Air quality monitoring comprising continuous ambient particle (PM10, PM2.5 and TSP) monitoring at or near to Doggetts, Bishops Farm House, Knighton Farm and one close to the hamlet of Wick. The monitoring sites should be sited in agreement with the Local Planning Authority. Monitoring should include where possible real time logging of averaging periods not less than 15 minutes and remote interrogation and downloading. Automatic notification of concentrations above the trigger levels should be agreed with the Local Planning Authority (including the frequency, averaging period, threshold(s), format (e.g. text message, email) and relevant persons (e.g. site manager, EHO).
- b. Monitoring should start at least one month prior to any Phase 1 site activities in order to establish a baseline. The most suitable open monitoring station shall also monitor wind speed, direction, temperature, relative humidity and rainfall.
- c. Maximum hourly mean concentrations of PM10, PM2.5 and TSP must be set at trigger levels to be agreed by the Local Planning Authority in consultation with Environmental Health.

- d. Concentrations above the trigger levels should be notified automatically within 10 minutes of the end of the relevant averaging period and action must immediately be taken to reduce any dust generating activities being undertaken, to include additional mitigation measures and/or cessation of any or all dust generating activities being undertaken as part of the works, until the monitored concentrations are below the trigger values.
- e. Trigger values may be set as short term means with averaging periods of 1 hour or less and so monitoring should be carried out in accordance with these trigger levels. An initial trigger level of  $200\mu\text{g}/\text{m}^3$  PM10 as a 15-minute mean is proposed which shall be reviewed by the Local Planning Authority and the developer and revised levels approved by the Local Planning Authority if it proves to be too high or too low the aim being to ensure adequate protection without excessive alerts.
- f. Suitable and competent persons to carry out visual inspections at locations and frequencies approved by the Local Planning Authority in order to review the potential for dust nuisance and in the event of dust nuisance complaints being made, to help quantify the actual or potential dust nuisance.
- g. Dust deposition (total dust) monitoring to be commenced at least one month prior to the commencement of the Phase 2 works, for the duration of the works and continue 3 months after the works are completed. Monitoring shall be at 1.8 metres above ground level at locations every 500 metres taking account of the presence of potential receptors (unless otherwise approved by the Local Planning Authority or unless there are no receptors within 500 metres of the proposed monitoring point along the Site boundary and at other locations as approved by the Local Planning Authority.
- h. Monitoring shall be for continuous periods of 30 days for the first year of works after which the effectiveness of the monitoring shall be reviewed by the developer and the Local Planning Authority and other stakeholders as approved by the Local Planning Authority, to determine whether modifications should be made. Sampling and averaging should be designed to yield data comparable with and indicative threshold criterion of  $200\text{mg}/\text{m}^2/\text{day}$  (30-day mean). As soon as practicable after any data become available they shall be reviewed and where any data are above this threshold, activities on Site shall be reviewed along with any other dust monitoring to determine if additional mitigation can and should be applied and if required, such measures shall be submitted to the Local Planning Authority for approval and if approved implemented and carried out in accordance with such approval.
- i. Measures to ensure that any diesel fuel used on Site shall be ultra low sulphur diesel (ULSD) ( $<10\text{mgS}/\text{kg}$ ). Diesel fuelled construction vehicles travelling off-site shall also use ULSD.

The air quality scheme shall be fully implemented as approved throughout Phase 1 and all subsequent Phases of the Development. The data resulting from the scheme monitoring shall be submitted in an agreed format to the Local Planning Authority and Environmental Health and shall be in compliance with the statutory guidance.

Reason: to monitor and protect human health and the environment.

#### **FP6 Noise and Vibration: Control of Noise During Construction and Maintenance**

No Development or works shall commence during Phase 1 unless a written scheme for noise management during the Phase 1 works has been submitted to and approved



in writing by the Local Planning Authority. The scheme shall set out the particulars of:

1. The works, and the method by which they are to be carried out;
2. Any plant and machinery to be used in the works;
3. The noise attenuation measures to be taken to minimise noise resulting from the works, including any noise limits;
4. A scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures, including submission of the monitoring information to the Local Planning Authority and publishing of monitoring information in a format accessible by the public; and
5. Further measures to be implemented if the noise limits are being breached during the works.

The noise management scheme shall be fully implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To minimise the impact of noise resulting from the Development activities or uses referred to having regard to the provisions of Saved Policy PC/2 of the West Somerset District Local Plan (2006)

### **FP7 Vegetation Clearance**

Vegetation clearance (removal of trees and hedgerows in accordance with Drawing HPCSPW025aRev2) undertaken in Phase 1 of the Development shall not take place during the period from October to March inclusive unless appropriate measures to avoid or prevent impacts on relevant bird species which would or could constitute an impact on the integrity of the nearby European Sites have first been submitted to and approved by the Local Planning Authority. The measures shall be implemented as approved throughout the Phase 1 Development or works (or relevant part thereof).

Reason: To ensure that any impacts on ecology are minimised and that the impacts are in accordance with the predictions in the Environmental Statement and Habitats Regulation Assessment report, having regard to the provisions of Saved Policy CO/1 of the West Somerset District Local Plan (2006).

### **FP8 Transport: Traffic Incident Management Plan**

No Development or works shall commence within Phase 1 until a Traffic Incident Management Plan (TIMP) has been submitted to and agreed in writing by the Local Planning Authority to ensure that the arrangements for the control of site bound vehicles are sufficiently robust to deal satisfactorily and appropriately with all significant incidents (such as public protest and any emergency situations that might require emergency services, other emergency responders and the public to enter or leave the relevant traffic incident management area).

The TIMP shall be fully implemented as approved throughout Phase 1 and all subsequent Phases of the Development unless otherwise approved in writing by the Local Planning Authority.

Reason: to prevent the site-bound vehicles from affecting the deployment of emergency services or local authority vehicles involved with emergency response or the safe removal of the public from an emergency situation. To ensure the site bound vehicle drivers are prevented from entering a potentially hazardous area or situation.

### **FP9 Transport: AILs**

No Development or works shall commence within Phase 1 until a scheme has been submitted to and approved by the Local Planning Authority with details of a system for prior agreement with Somerset County Council and the police on the proposed routing and timings of each abnormal indivisible load (AIL) delivery prior to the transportation of goods (to be approved by the Local Planning Authority prior to movement of first AIL). The scheme shall be fully implemented as approved throughout Phase 1 and all subsequent Phases of the Development.

Reason: In the interests of regulating traffic impact and environmental management of pollution from HGVs.

### **FP10 Transport: HGV emissions**

No Development or works shall commence within Phase 1 until a scheme has been submitted to and approved by the Local Planning Authority showing how all HGVs to be used in the Development or works will be of the Euro standard that is at least EURO IV. The scheme shall include a requirement for all HGVs to be used in the Development of Works to register on a database held by the developer but accessible to Somerset County Council and the Local Planning Authority. The scheme shall be fully implemented as approved throughout Phase 1 and all subsequent Phases of the Development.

Reason: In the interests of environmental management of pollution from HGVs.

### **FP11 Transport: Clearway**

No Development or works shall commence within Phase 1 until a scheme has been submitted to and approved by the Local Planning Authority (in consultation with the Local Highway Authority) for the implementation and monitoring of a Clearway between the site and north of Claylands Corner on the C182.

The highway between the site and north of Claylands Corner on the C182 will be monitored within Phases 1 and 2 by the developer and the results of the monitoring provided to the Local Planning Authority and Local Highways Authority every three months during the carrying out of Phases 1 and 2 of the development. Should the monitoring show that this is necessary (as notified by to the developer by the Local Planning Authority), and subject to the required statutory approvals, the developer shall formally apply for a Clearway Order implement the approved Clearway Order in accordance with the Traffic Signs Regulations and Directions (TSRGD).

Reason: In the interests of highway safety

### **FP12 Transport: Construction Traffic Management Plan**

No Development or works shall commence within Phase 1 until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall be fully implemented as approved throughout Phase 1 and subsequent Phases of the Development, and in compliance with Condition G7 unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of road safety and amenity of transport and to minimise the

impacts of the Development on the highway network.

### **FP13 Transport: Travel Plan**

No Development or works shall commence within Phase 1 until a Travel Plan prepared in accordance with relevant Department for Transport and Somerset County Council guidance has been submitted to and approved in writing by the Local Planning Authority, the Local Highways Authority and the Highways Agency. The Travel Plan shall be fully implemented as approved throughout Phase 1 and subsequent Phases of the Development, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the carrying out of the Development and works is adequately served by all modes of transport and to minimise the impacts of the Development on the highway network.

### **FP14 Ecology: Wildlife Mitigation Measures – Reptiles**

Design details of reptile crossings and associated fencing to be installed on both haul road crossings of the Green Lane shall be submitted to and approved by the Local Planning Authority prior to the use of the haul roads and shall remain in situ for the duration of the Development and works.

Reason: To ensure that suitable mitigation measures are incorporated into the Development and works to minimise the impact on species protected by law having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006).

### **FP15 Ecology: Wildlife Mitigation Measures – Bats**

Mitigation measures to maintain bat flights corridors across haul roads and along hedgerows shall be installed prior to the use of haul roads and the removal of hedgerows, which create gaps of over 10m. Bat habitat areas shall be retained, enhanced and created in accordance with the application documents entitled Appendix 9 Further Clarification in Relation to Barbastelle Bats (June 2011) and Further Clarification in Relation to Barbastelle Bats (July 2011), unless otherwise approved by the Local Planning Authority.

Reason: To ensure that suitable mitigation measures are incorporated into the Development and/or works to minimise the impact on species protected by law having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006).

## **CONDITIONS RELATING TO SITE PREPARATION WORKS – MAIN EARTHWORKS (PHASE 2 – "SP" (SECOND PHASE) CONDITIONS)**

### **SP1 Drainage: Surface Water and Foul Drainage Works**

No Phase 2 Development or works shall commence until details of the surface and foul water drainage system (including details of the engineering construction of the proposed water management zones, new outfall to the foreshore, all other associated pipe work, manholes, flow controls, means of pollution control and a schedule of implementation) have been, after consultation with the relevant sewerage and drainage authority, submitted to and approved in writing by the Local Planning

Authority. All surface water drainage works submitted for approval shall be in accordance with the concept details indicated on drawings HPCSPW008, 009 Rev 1 and 016 Rev 1 unless otherwise approved by the Local Planning Authority. The details of the proposed freshwater outfall drainage pipe shall be in accordance with the specification proposed in option 2 of the three discharge options outlined in Chapter 10, Volume 2 of the Environmental Statement. The drainage details shall be designed for exceedances up to the 3.33% AEP. The surface and foul water drainage system relating to Phase 2 shall be constructed, maintained and retained in accordance with the approved details throughout the period of Phase 2 works unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent pollution to the water environment and to ensure the adequate provision of drainage infrastructure having regard to the provisions of Saved Policies W/1 and W/3 of the West Somerset District Local Plan (2006).

### **SP2 Drainage: Culvert of Holford Stream**

No Phase 2 Development or works shall commence until details of the Holford Stream Culvert and/or infilling earthworks in the Holford Stream valley have been submitted to and approved by the Local Planning Authority. The construction details for the culvert shall be in accordance with the concept details indicated on Drawing HPCSPW011 Rev 1 unless otherwise approved by the Local Planning Authority. The construction details shall include details of the method of working (including the direction of working, measures for dealing with any flows in the watercourse, backfilling of the original channel, culvert foundations, compaction of fill around the culvert etc), demonstration of whether the proposed perforated land drains will be able to support the structural loading of the 12m of fill material and operate as intended for their design life, future ownership, maintenance and inspection (including of the proposed trash and security screen), repair, and operation of the culvert, and the full hydraulic design of the Holford Stream to demonstrate that there will be no loss of depth upstream or downstream during low flow conditions. The culvert works to the Holford Stream shall be carried out in accordance with the approved method of working and details. The culvert works shall thereafter be retained for the duration of Phase 2 and Phase 3 of the Development.

Reason: To ensure that a satisfactory means of working is maintained during construction and use of the culvert so that land drainage and water quality are not adversely affected at any time in the Holford Stream catchment.

### **SP3 Drainage: Holford Culvert Flood Risk Management Strategy**

No Development or works shall commence during Phase 2 of the Development in respect of any construction of the culvert and/or infilling earthworks in the Holford Stream valley until a flood risk management strategy, including for the existing sea defences protecting third party flood risk receptors has been submitted to and approved by the Local Planning Authority. The strategy shall specify the scope, monitoring regime and remedial repair schedule for the sea defences for the duration of Phases 2 and 3 of the Development or works.

The strategy shall be implemented as approved throughout Phases 2 and 3.

Reason: To ensure that any third party flood risk is minimised for the duration of the Development or works.

#### **SP4 Drainage: Water & Sediment Management Plan**

No Development or works shall commence during Phase 2 of the Development or works until a Water and Sediment Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Water and Sediment Management Plan shall be fully implemented as approved throughout Phases 2 and 3 of the Development or works, unless otherwise approved by the Local Planning Authority.

Reason: To prevent pollution of the water environment having regard to the provisions of Saved Policy W/3 of the West Somerset District Local Plan (2006).

#### **SP5 Engineering Details of Foreshore Access Road**

No works to construct the foreshore access road shall be commenced until engineering construction details for the road including any associated drainage works have been submitted to and approved in writing by the Local Planning Authority. The foreshore access road shall be constructed, retained and removed in accordance with the approved details, unless otherwise approved by the Local Planning Authority.

Reason: To ensure satisfactory construction of the road and protection of the land and marine environments.

#### **SP6 Access to Foreshore (1)**

Construction access to and works on the foreshore shall be carried out for no more than a single six week period (unless otherwise approved in advance in writing by the Local Planning Authority) and there shall be no access to or works carried out below Mean High Water Springs line and all materials, excavations and arisings shall be immediately removed from the foreshore onto the main site.

Reason: To ensure that any impacts on marine and terrestrial ecology are minimised and that the impacts are in accordance with the predictions in the Environmental Statement, having regard to the provisions of Saved Policy CO/1 of the West Somerset District Local Plan (2006).

#### **SP7 Access to Foreshore (2)**

Prior to construction and use of the foreshore access road and construction of the outfall, the works area/access corridor shall be fenced, or otherwise demarcated, to prevent the movement of construction vehicles or plant on intertidal habitats that form part of the designated features of the Severn Estuary European sites.

Reason: To ensure that any impacts on marine and terrestrial ecology are minimised and that the impacts are in accordance with the predictions in the Environmental Statement, having regard to the provisions of Saved Policy CO/1 of the West Somerset District Local Plan (2006).

#### **SP8 Flooding: Foreshore Access**

Prior to first use of the foreshore access road for any construction activities, flood-warning notices shall be erected in suitable and visible positions, such positions and wording of the signs to be first approved in writing by the Local Planning Authority. The flood warning notices shall be retained throughout the period during which the

foreshore access road is in place.

Reason: To ensure that construction operatives are adequately warned of tidal flood risks when accessing the foreshore environment.

### **SP9 Flooding / Erosion: Retaining Wall**

No works to construct the temporary earthworks retaining wall on the cliff / foreshore shall be commenced until engineering construction details of the temporary earthworks retaining wall have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and retained in accordance with the approved details.

Reason: To protect the Site from flooding and/or erosion from the sea.

### **SP10 Geology & Contaminated Land: Radiological Monitoring**

No Development or works shall commence during Phase 2 of the Development or works until a scheme for radiological monitoring of Built Development Area East has been submitted to and approved in writing by the Local Planning Authority. The radiological monitoring scheme shall be implemented as approved prior to and during the Phase 2 Development or works. This scheme should focus on the land within a 30-metre radius of sample locations GB2 and TE312 specified on figure 16-8 B (Volume 3 Chapter 16 of the Environmental Statement for the Site Preparation Works dated November 2010).

Reason: To prevent pollution of the environment having regard to the provisions of Saved Policy W/3 of the West Somerset District Local Plan (2006).

### **SP11 Geology & Contaminated Land: Contamination Risk Assessment and Implementation**

No Development or works shall commence during Phase 2 of the Development or works until the following components of a scheme to deal with the risks associated with potential and known contamination of the Site shall each have been submitted to and approved in writing by the Local Planning Authority. The scheme must ensure that the Site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation:

1. A preliminary risk assessment which identifies all previous uses of the Site and surrounding land, potential contaminants associated with those uses and a conceptual model of the Site indicating sources, pathways and receptors and potentially unacceptable risks arising from contamination at the Site.
2. A site investigation scheme, based on 1 above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off Site.
3. The site investigation results and the detailed risk assessment in 2 above and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in 3 above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to the scheme require the prior written approval of the Local Planning

Authority. The scheme shall be implemented in full as approved.

The Local Planning Authority shall be given two weeks prior written notification of commencement of the remediation strategy works. Following completion of measures identified in the approved remediation strategy, a verification report (as set out in 4 above and referred to in Planning Policy Statement 23 as "a validation report") that demonstrates the effectiveness of the remediation carried out must be produced and submitted to the Local Planning Authority for approval prior to the commencement of any further works. No further Development or works shall be undertaken until the Local Planning Authority has given such approval in writing.

Reason: To ensure that risks from land contamination to the future users of the land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the Development or works can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having regard to Saved Policy PC/4 of the West Somerset Local Plan (2006) and advice set out in Planning Policy Statement 23: Planning and Pollution Control.

### **SP12 Landscape and Visual: Concrete Batching Plants**

The concrete batching plants and associated integral silos to be constructed on the Site, as part of Phase 2, shall be finished in a neutral colour and matt finish unless otherwise approved in writing by the Local Planning Authority.

Reason: In order to minimise the landscape and visual impacts of the structures.

### **SP13 Landscape and Visual: Planting on North West Bund**

Construction of the North West bund shown on drawing HPCSPW029 shall commence within two months of Commencement of the Phase 2 works, in tandem with the construction of the adjoining platform, and shall be completed within three months of Commencement of the adjoining platform, and shall be completed before the adjacent compound area (marked "B" on drawing HPCSPW002a Rev 1) is used for significant construction activities, and before Commencement of any other significant development of over 4m in height within the Site (excluding aggregates/bulk/materials/spoil in temporary or working stockpiles, or in long-term storage but including batching plants). Screen planting of the bund shall be undertaken in the first available planting season (November to March inclusive) following the completion of the construction of the bund.

Reason: In the interests of visual and residential amenity having regard to the provisions of Saved Policies BD/1 of the West Somerset District Local Plan (2006).

### **SP14 Noise and Vibration: Control of Noise During Construction and Maintenance**

No Development or works shall commence during Phase 2 of the Development or works until a Noise and Vibration Management Plan has been submitted to and approved in writing by the Local Planning Authority. The scheme shall set out the particulars of:

1. The works and the method by which they are to be carried out;
2. Any plant and machinery to be used in the works;
3. The noise attenuation measures to be taken to minimise noise resulting from the

works, including any noise limits;

4. A scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures, including submission of the monitoring information to the Local Planning Authority and publishing of monitoring information in a format accessible by the public; and

5. Further measures to be implemented if the noise limits are being breached during the works.

The noise management scheme shall be fully implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To minimise the impact of noise resulting from the Development, works, activities or uses referred to having regard to the provisions of Saved Policy PC/2 of the West Somerset District Local Plan (2006)

### **SP15 Historic Environment: Monitoring of Paleontological Remains**

No Phase 2 development or works shall commence until a monitoring scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with Somerset County Council Historic Environment Service, to ensure that any significant fossil finds are identified, removed, conserved and deposited with the Museum of Somerset. The scheme shall be fully implemented as approved, unless otherwise approved by the Local Planning Authority.

Reason: To enable the remains of paleontological interest which may exist within the Site to be recorded having regard to the provisions of Saved Policy AH/2 & AH/3 of the West Somerset District Local Plan (2006).

### **SP16 Groundwater: Monitoring**

No Phase 2 Development or works shall commence until a scheme for the management and monitoring of groundwater levels and quality has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of how the management and monitoring will be undertaken and how the system will be configured to respond to the exceedance of particular contaminants. The approved scheme shall be fully implemented as approved throughout Phase 2 unless otherwise approved in writing by the Local Planning Authority and the results of the monitoring shall be submitted to the Local Planning Authority once every three months during Phase 2.

Reason: In order to adequately monitor and manage groundwater levels and quality having regard to the provisions of Saved Policy W/3 of the West Somerset District Local Plan (2006).

### **SP17 Construction Method Statement**

No Phase 2 Development or works shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement should provide the following detail:

1. the parking of vehicles of site operatives and visitors;
2. the loading and unloading of plant and materials;
3. the storage of plant and materials used in constructing the Development; and
4. wheel washing facilities.



The Construction Method Statement shall be fully implemented as approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of local residents and occupiers and to safeguard the natural environment within the Site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2, PC/4 of the West Somerset District Local Plan (2006).

### **SP18 Construction and Environmental Management Plan**

No Phase 2 Development or works shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include (but not necessary be limited to) details of the following:

1. Site Security
2. Fuel, oil, chemical and concrete storage, bunding, delivery and use
3. How both minor and major pollution or other spillages will be dealt with
4. How precipitation events exceeding the drainage system capacity will be dealt with
5. Containment of silt/soil contaminated run off
6. Disposal of contaminated drainage, including water pumped from excavations
7. Discharge of silty or discoloured water from excavations should be irrigated over grassland or a settlement lagoon be provided to remove solids. The Environment Agency must be advised if a discharge to a watercourse is proposed.
8. Construction vehicles should not cross or work directly in a watercourse. Temporary bridges should be constructed for vehicles to cross and excavations done from the bank. Any work in or near a watercourse should be done in a dry area e.g. river water should be diverted away from the working area using cofferdams.
9. Site induction for workforce highlighting pollution prevention and awareness

The CEMP should include the details of the monitoring schedule and site-specific methods of pollution prevention and awareness and shall be fully implemented as approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To prevent pollution to the land and/or water environment, protect the amenities of local residents and occupiers and to safeguard the natural environment within the Site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2, PC/4 of the West Somerset District Local Plan (2006)

### **SP19 Materials Management Plan**

No Phase 2 Development or works shall commence until a Materials Management Plan (MMP) has been submitted to and approved in writing by the Local Planning Authority. The MMP should include (but not necessarily be limited to):

1. Details of the scenarios in which the various materials relating to the development are to be managed
2. Site details
3. Name of landowners producing and receiving material
4. A location plan of the Site, showing where different materials are to be excavated from, stockpile locations, where materials are to be treated and where they are to be re-used
5. A diagram schematic of proposed material movement

6. Names of contractors involved including treatment contractors
7. Line of evidence (suitability for use, certainty of use and quantity)
8. Contingency arrangements
9. Tracking and recording of all material movements with associated plans indicating their origin and final place of deposition
10. Details of what records will be kept, by whom and where.
11. A verification plan
12. An implementation schedule.

The Materials Management Plan shall be fully implemented as approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of local residents and occupiers and to safeguard the natural environment within the Site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2, PC/4 of the West Somerset District Local Plan (2006).

### **SP20 Site Waste Management Plan**

No Phase 2 Development or works shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Site Waste Management Plan should detail the means by which construction wastes will be managed in order to ensure that the waste hierarchy is respected.

The Site Waste Management Plan shall be fully implemented as approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of local residents and occupiers and to safeguard the natural environment within the Site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2, PC/4 of the West Somerset District Local Plan (2006).

### **SP21 Soil Management Plan**

No Phase 2 Development or works shall commence until a Soil Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Soil Management Plan should detail the methods and procedures for soil stripping, handling and stockpiling. This plan should include (but not exclusively):

- a. Description of methods for soil stripping, handling, screening and stockpiling of topsoils and subsoils;
- b. A suitable material stockpile plan which shows the location (ideally including a grid reference), composition, movement and time period for the stockpile;
- c. Layout plans that show the locations of proposed treatment facilities (mobile and/or fixed), areas where soils have been or will be treated in-situ, and areas where treated soils and imported soils have been or will be deposited;
- d. Heights of stockpiles; and
- e. Appropriate restrictions on activities on stored topsoil including traversing by vehicles.

The Soil Management Plan shall be fully implemented as approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of local residents and occupiers and to safeguard

the natural environment within the Site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2, PC/4 of the West Somerset District Local Plan (2006).

### **SP22 Historic Environment: Scheduled Monument Management Plan**

No Phase 2 Development or works shall commence until a Monument Management Plan for Wick Barrow (SM No. 28) has been submitted to and approved in writing by the Local Planning Authority in consultation with English Heritage. The Monument Management Plan is to include:

- a. Investigation of the landscape in which the monument was constructed;
- b. Excavation of earlier archaeological trenches and reinstatement of material;
- c. Scrub management / husbandry;
- d. Details of the timing and implementation of the removal of the existing road adjacent to Wick Barrow (following construction of the replacement road and roundabout) and details of the grassing over of the existing road land.
- e. Phasing of landscaping
- f. Updating of information relating the barrow to the National Monument Record, SCC Historic Environment Record and production of display material (including virtual and illustrated material).

The Monument Management Plan shall be fully implemented as approved unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure adequate protection and associated mitigation of a Scheduled Ancient Monument.

### **SP23 Landscape & Visual Amenity: Proposed Planting**

No Phase 2 Development or works shall commence until details of the hard and soft landscaping and proposed planting and maintenance and aftercare of new planting have been submitted to and approved in writing by the Local Planning Authority, including details of:

- a. All walls, fences, trees, hedgerows and other planting which are to be retained;
- b. A planting specification to include numbers, density, size, species and positions of all new trees and shrubs, positions, species and size of all new trees and the location of grassed areas and areas for shrub planting;
- c. Details of the hard surface treatment of the open parts of the Site; and
- d. A programme of implementation.

The landscaping and planting works and maintenance and aftercare shall be fully implemented unless otherwise approved in writing by the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next available planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority.

Reason: To ensure the provision of and implementation of an appropriate landscape setting to the development having regard to the provisions of Saved Policies BD/1 of the West Somerset District Local Plan (2006).

## **SP24 Socio-Economics: Construction Workforce Development Strategy**

No Phase 2 Development or works shall commence until details of:

- a. The performance indicators covering the Construction Workforce Development Strategy; and
- b. The detailed implementation plan related to all activities supported under the Construction Workforce Development Strategy (the implementation plan to include detailed outputs against key performance indicators covering training and skills and enterprise for people and businesses in West Somerset, Sedgemoor, and the wider Somerset area in relation to the Development or Works).

have been submitted to and approved in writing by the Local Planning Authority. The approved Construction Workforce Development Strategy implementation plan shall be implemented as approved in relation to this Development and reports on all measures supported under the Construction Workforce Development Strategy which relate to this Development shall be submitted to the Local Planning Authority every three months starting from the commencement of the Phase 2 Development or works.

Reason: To mitigate the impacts of the Development and works on the local workforce.

## **SP25 Ecology: Wildlife Mitigation Measures – Birds**

Prior to the commencement of construction works on the foreshore, netting is to be erected on any fencing on the outside of the works area to screen the works from birds, which may be present on the water or within intertidal areas.

Reason: To ensure that suitable mitigation measures are incorporated into the Development to minimise the impact on species protected by law having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006).

## **SP26 Transport: Traffic Monitoring and Management System**

No Development or Works shall commence within Phase 2 until a Traffic Monitoring and Management System (such scheme to comprise a series of automatic number plate recognition cameras, CCTV, variable message signs and associated information and communication technologies and a programme for implementation) to identify, analyse and communicate information related to traffic incidents has been submitted to and approved in writing by West Somerset Council in consultation with the County Council. The Developer shall provide such system as approved on routes between the M5 and the Site in accordance with the programme to be approved as part of the scheme. The scheme shall be fully implemented as approved throughout Phase 2 and all subsequent Phases of the Development, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to enable the Local Planning Authority to adequately monitor and enforce planning conditions and traffic impacts.

## **SP27 Transport: Parking**

No Development or works shall commence within Phase 2 until 30 motorcycle spaces and covered stands for at least 15 cycles have been provided. The motorcycle spaces and cycle stands shall be retained for the duration of the Development or works.

Reason: In order to encourage and achieve sustainable travel to and from the Site.

### **SP28 Transport: Parking**

No Development or works shall commence within Phase 2 until a scheme has been submitted to and approved by the Local Planning Authority (in consultation with the Highways Authority) containing details of:

- (a) a needs based car parking permitting scheme for Phase 2 of the development;
- (b) how that scheme will give preference to parking for car sharers; and
- (c) how off site parking will be prevented.

The approved scheme shall be implemented in full for the duration of Phases 2 and 3.

Reason: In order to limit the number of car parking spaces and achieve sustainable travel to the Site

### **SP29 Transport - Parking**

No Development or works programmed for the fourth quarter of Phase 2 shall commence until the car park at the Site has been laid out and marked to provide 153 spaces for single occupancy vehicles and 71 spaces for cars used for car sharing journeys to the Site. Those spaces and markings shall be retained throughout Phase 2.

Reason: In order to limit the number of car parking spaces and achieve sustainable travel to the Site.

## **CONDITIONS RELATING TO POST COMPLETION PRE-FOLLOW ON WORKS PERIOD (PHASE 3 – "TP" (THIRD PHASE) CONDITIONS)**

### **TP1 Permitted Works / Activity During Phase 3**

Following the completion of Phase 2 works and prior to the implementation of any Phase 4 reinstatement works (if applicable) there shall be no Development, activity or works on the Site except for:

1. Site security;
2. Management and maintenance of structures constructed as part of the Phase 0, Phase 1 or Phase 2 works as required by a condition of this planning permission in relation to the Phase 0, Phase 1 or Phase 2 works;
3. Landscape and ecological management and maintenance to the extent approved by the Local Planning Authority;
4. Development, works or activity permitted by another planning permission;
5. Car parking necessitated by 1-4 above.

For the avoidance of doubt there shall be no other parking or storage of plant or vehicles in the car park during Phase 3.

Reason: To ensure satisfactory management and maintenance of the Site during Phase 3 and minimisation of impact of the Development during Phase 3.

## **CONDITIONS RELATING TO SITE PREPARATION WORKS – POTENTIAL REINSTATEMENT (PHASE 4 – "R" CONDITIONS)**

### **R1 Potential Site Reinstatement**

Unless otherwise approved by the Local Planning Authority:

(a) in the event that development consent for a new nuclear generating station at the Site:

- (i) has not been granted within 4 years of the date of this permission; or
- (ii) has been granted but has not been implemented within the relevant time period specified in the development consent order,

then the Site shall be restored in accordance with a Detailed Landscape Mitigation and Reinstatement Strategy submitted to and approved by the Local Planning Authority before the commencement of the reinstatement works, such reinstatement works to be carried out and completed as soon as reasonably practicable and in any event within three years of such commencement unless otherwise approved by the Local Planning Authority; and

(b) in the event that development consent for a new nuclear generating station at the Site has been granted and has been implemented but the development authorised by such development consent to be carried out on the Site:

- (i) ceases to be capable of being lawfully continued or completed (and any appeal or legal proceedings in relation to the reasons therefore have been exhausted); or
- (ii) neither of the nuclear reactors authorised by the development consent has been substantially completed and is producing electricity by 31 December 2025,

then the Development and any other works or activities in connection with the Development shall be discontinued (if ongoing) and the Site shall be reinstated in accordance with a Detailed Landscape Mitigation and Reinstatement Strategy submitted to and approved by the Local Planning Authority before the commencement of the reinstatement works, such reinstatement works to be carried out and completed as soon as reasonably practicable and by 31 December 2028 unless otherwise agreed by the Local Planning Authority.

Reason: To ensure satisfactory reinstatement of the Site if development consent for a new nuclear generating station at the Site is not granted within 4 years of the date of the permission; or, if granted, is not implemented within the relevant time period specified in the development consent order; or, if implemented, ceases to be capable of being lawfully continued or completed; or neither of the nuclear reactors authorised by the development consent has been substantially completed and is producing electricity by 31 December 2025.

### **R2 Detailed Landscape Mitigation and Reinstatement Strategy**

Any Detailed Landscape Mitigation and Reinstatement Strategy submitted to the Local Planning Authority pursuant to Condition R1 shall be in general accordance with the Landscape Mitigation and Reinstatement Strategy (November 2010) submitted with the application and shall include details of the following:

- proposed finished levels or contours;
- pattern of field boundaries and means of enclosure;
- hard and soft landscaping;
- proposed agricultural land use;
- the shape, pattern and distribution of proposed woodland across the Site;
- the network of public rights of way across the Site and reinstated landscape;
- the distribution and area of the other principal habitats to be created;
- Habitat Management Plan;
- site levels in accordance with the Site levels indicated on Drawing No:023a;
- proposed mitigation measures updated by reference to such further details.

unless otherwise approved by the Local Planning Authority.

Reason: To ensure that the works of reinstatement of the Site are consistent with the details proposed in the planning application and otherwise to the Local Planning Authority's satisfaction in order to ensure the visual, landscape and other amenity is appropriately safeguarded in the event that reinstatement works are required to be carried out.

### **R3 Noise and Vibration: Control of Noise During Construction and Maintenance**

Prior to the commencement of Phase 4 a written scheme for noise management during the Phase 4 Development or works shall be submitted to and approved in writing by the LPA. The scheme shall set out the particulars of:

- a. The works, and the method by which they are to be carried out;
- b. Any plant and machinery to be used in the works;
- c. The noise attenuation measures to be taken to minimise noise resulting from the works, including any noise limits;
- d. A scheme for monitoring the noise during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures, including submission of the monitoring information to the Local Planning Authority; and
- e. Further measures to be implemented if the noise limits are being breached during the works.

The approved noise management scheme must be implemented at all times during Phase 4 and the Phase 4 Development or works must be undertaken in accordance with the approved noise management scheme.

Reason: To minimise the impact of noise resulting from the Development activities or uses referred to having regard to the provisions of Saved Policy PC/2 of the West Somerset District Local Plan (2006)

### **R4 Control of Reinstatement Phase**

No Phase 4 Development or works shall commence until updates to the plans, programmes, strategies or schemes of mitigation approved (in relation to prior Phases, as relevant) pursuant to the following conditions have been submitted to the Local Planning Authority for approval such updates relating to Phase 4 of the Development or works:

1. FP1 – Ecological Mitigation and Monitoring Plan
2. FP2 – Dust Management Plan
3. FP3 – Habitat Management Plan

4. FP5 – Air Quality Monitoring
5. FP8 - Traffic Incident Management Plan
6. FP12 – Construction Traffic Management Plan
7. FP13 – Travel Plan
8. FP14 – Wildlife Mitigation Measures – Reptiles
9. FP15 – Wildlife Mitigation Measures – Bats
10. SP3 – Holford Culvert Flood Risk Management Strategy
11. SP4 – Water & Sediment Management Plan
12. SP6 – Access to Foreshore (1)
13. SP7 – Access to Foreshore (2)
14. SP8 – Foreshore Access
15. SP10 – Radiological Monitoring
16. SP11 – Contamination Risk Assessment and Implementation
17. SP16 – Groundwater Monitoring
18. SP17 – Construction Method Statement
19. SP18 – Construction and Environmental Management Plan
20. SP19 – Materials Management Plan
21. SP20 – Site Waste Management Plan
22. SP21 – Soil Management Plan
23. SP22 – Scheduled Monument Management Plan
24. SP24 – Construction Workforce Development Strategy
25. SP25 – Wildlife Mitigation Measures – Birds
26. SP26 – Traffic Monitoring and Management System

Those details may be submitted to the Local Planning Authority for approval as part of the Detailed Landscape Mitigation and Reinstatement Strategy Update under condition R1.

Phase 4 of the Development or works shall be carried out in accordance with the plans, programmes, strategies and schemes of mitigation approved pursuant to this condition.

Reason: To ensure satisfactory reinstatement and/or use of the Site if development consent for a new nuclear generating station at the Site is not granted within 5 years of the date of the permission or, if granted, is no longer capable of lawfully being implemented or continued and to ensure that any reinstatement Phase of the development is carried out in a way which avoids or minimises the harm to residential, environmental, ecological and other amenities and receptors (as further set out in the reason for each of the above conditions).

### **R5 Transport: Parking**

No Development or works shall commence within Phase 4 until details of:

- a) the location of the car park;
- b) the number of spaces for each vehicle type; and
- c) how the car park will be reduced in size during Phase 4

have been submitted to and approved by the Local Planning Authority (in consultation with The Local Highway Authority). No Development or works shall commence within Phase 4 until the car park has been laid out in accordance with the approved details. The car park shall be retained and reduced in size in accordance with the approved details.



Reason: In order to limit the number of car parking spaces and achieve sustainable travel to the Site

#### **R6 Coastal Hydrology: Cliff Monitoring and Maintenance Plan**

No Phase 4 Development or works shall commence until a Cliff Monitoring and Maintenance Plan (CMMP) describing the monitoring and maintenance arrangements and responsibilities for the artificial sections of cliff comprising gabions and backfill, following removal of the drainage outfall and foreshore access road, has been submitted to and approved in writing by the Local Planning Authority. The CMMP shall include, but not be limited, to the following provisions:

- a. Notification to the Local Planning Authority on completion of the artificial reinstatement of the cliff.
- b. The proposed works, and any remedial works required should there be a failure, shall be inspected and approved by the Local Planning Authority.
- c. Proposals for monitoring the work post-completion including through supply of a photographic record on a monthly basis and also after any major storm event to the Local Planning Authority for the period of 2 years.

The CMMP shall be implemented in full as approved and the commencement date for implementation of the CMMP shall be approved by the Local Planning Authority. Implementation of the CMMP shall continue until one year after the completion of all Phase 4 Development or works.

Reason: In order to minimise the landscape and visual impacts of the structures having regard to the provisions of Saved Policy CO/1 of the West Somerset District Local Plan (2006).

## **Informatives (INF) to the applicant**

### **INF1**

The Planning Committee urges, in the strongest possible terms, the applicant to deliver the proposed Cannington Bypass at the earliest possible stage of the overall project to minimise the cumulative traffic impacts on the community of Cannington.

### **INF2**

Any culverting of the Holford Stream will require the separate written consent of the Somerset Consortium of Drainage Boards under the terms of the Land Drainage Act 1991. The Board should be consulted, and their consent obtained, prior to any construction of the culvert. The culverting of a watercourse does not change its status to that of a sewer, consequently the responsibility for maintenance of the watercourse remains with the riparian owner(s).

### **INF3**

The proposal includes the interruption of flow and subsequent diversion or infilling of the Hinkley Point C drainage ditch (ordinary watercourse). Under the terms of the Land Drainage Act 1991, the prior written Flood Defence Consent of the Environment Agency is required for these works, and our permission should be sought prior to any construction affecting this watercourse.

### **INF4**

There must be no interruption to the surface water drainage system of the surrounding land as a result of operations on the site. Provision must be made to ensure that all existing drainage systems continue to operate efficiently and that riparian owner(s) upstream and downstream of the site are not adversely affected.

### **INF5**

Under the terms of the Environmental Permitting Regulations 2010, the prior written consent of the Environment Agency is normally required for any discharge of sewage or trade effluent into controlled waters, and may be required for any discharge of surface water to such controlled waters or for any discharge of sewage or trade effluent from buildings or fixed plant into or onto the ground or into waters which are not controlled waters. (Controlled waters include rivers, streams, groundwater, reservoirs, estuaries and coastal waters).

### **INF6**

The applicant's attention is drawn to the need to obtain a formal temporary or permanent order (under the Town and Country Planning Act 1990 section 247 / 257) prior to carrying out any works, which would affect a public right of way.

### **INF7**

The applicant's attention is drawn to Somerset County Council's role as Lead Local Flood Authority and therefore the need for the County Council to be involved in all consenting processes which relate to drainage and / or flooding, including in particular works to and maintenance of the Holford Stream culvert.

### **INF8**

The applicant's attention is drawn to Somerset County Council's comments in responses to the application in relation to emergency plans which must be in place to protect the workforce and members of the public.

**INF9**

The provisions of the Fire Risk Assessment should be discussed with Devon and Somerset Fire and Rescue Service in the implementation and carrying out of the Development.

**INF10**

The size, type and location of the water tankers to be provided on the Site as part of the Development should be discussed with Devon and Somerset Fire and Rescue Service.

**INF11**

The construction of foul drainage in Phase 2 shall be undertaken in accordance with the details approved pursuant to condition SP1 but shall not be used for disposal (they shall only be used for the purpose of disposal under and in accordance with any Development Consent Order made in respect of the Hinkley Point C).

**INF12**

The proposed development falls within the Detailed Emergency Planning Zone surrounding the Hinkley Point Nuclear Power Stations (Hinkley Point A and B). HSE / Somerset County Council advise that:

EDF Energy/EDF Energy Nuclear Generation Limited should assess (with the relevant authorities) the impact of the proposed development on both the On-Site and Off-Site Emergency Plans.

This assessment should include consultation with the multi-agency emergency responders and the proposer of the development. Such review and assessment is a requirement detailed within the Radiation (Emergency Preparedness and Public Information) Regulations 2001

**INF13**

Part of the planned works falls on land currently licensed to EDF Energy Nuclear Generation Limited (Hinkley Point B) under the Nuclear Installations Act 1965. HSE advise the applicant to consider the conditions that are attached to the Nuclear Site Licence and their potential impact on the proposed works. None of the conditions contained in this planning permission shall affect, restrict or prejudice the operation of the Hinkley Point B Generating Station or any rights of EDF Energy Nuclear Generation Limited in relation thereto.

**INF14**

National Grid recommends that no permanent structures are built directly beneath overhead lines. The developer should ensure that any changes to raise ground levels beneath overhead lines do not infringe statutory safety clearances and that at least 10 metres clearance is maintained at the base of our towers. The Grid will also need to ensure that our tower access is maintained during and after construction. Safe clearances to existing overhead lines must be maintained in all instances and circumstances. If a landscaping scheme is proposed, we request that only low growing and slow growing species of trees and shrubs are planted either directly beneath or immediately adjacent to the existing overhead line, to avoid compromising any safe statutory clearances to conductors.

**INF15**

There are High Voltage Underground Cables, which run outside but in proximity to the proposed development. Unrestricted and safe access to any of the Grid's cables must

be maintained at all times. In addition ground cover above our cables should not be reduced or increased.

#### **INF16**

National Grid uses the main access road to access the two substations on site. The proposed development affects this access road. National Grid requires unrestricted access to these substations and the development must ensure that 24-hour access is maintained for our sites.

#### **INF17**

The applicant is reminded that the granting of any planning permission does not avoid the requirements of relevant law protecting habitats and species including obtaining and complying with the terms and conditions of any licences that may be required.

#### **INF18**

Network Rail has reservations if during the construction or operation of the site abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact their Asset Protection Engineer, Richard Selwood email ([AssetProtectionWestern@networkrail.co.uk](mailto:AssetProtectionWestern@networkrail.co.uk)) to confirm that any proposed route is viable and to agree a strategy to protect their asset(s) from any potential damage caused by abnormal loads. Network Rail advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

#### **INF19**

Byelaw 3 of the Parrett Internal Drainage Boards Byelaws, (made under Paragraph 66 of the Land Drainage Act 1991), prohibits the introduction of any water into the Boards area without the consent of the Board.

#### **INF20**

Byelaw 10 of the Parrett Internal Drainage Board Byelaws, (made under Paragraph 66 of the Land Drainage Act 1991), prohibits the construction of any building or structures including landscaping within 9.0 metres of any watercourse other than Main River without the consent of the Board.

#### **INF21**

Land Drainage Consent will be required from the Parrett Internal Drainage Board for the construction of the Holford Stream culvert and any modifications to the channel or works within 9m metres of it. The Board are unlikely to be able to undertake the future maintenance and operation of this structure. However they will require a legal agreement with EDF to be drawn up that commits them to future operations, maintenance and repair in perpetuity.

#### **INF22**

Under the terms of the Water Resources Act 1991 and Land Drainage Bylaws, the prior written Flood Defence Consent of the Environment Agency (in addition to any landowner and/or planning permissions) is required for any proposed remedial works either affecting or within 8 metres of the landward toe of the existing sea defences between Hinkley Point and Stolford village.

#### **INF23**

The Environment Agency has advised that, with regard to the contamination scheme required to be submitted for approval pursuant to condition SP11 above, components 1, 2 and 3 (as listed in condition SP11) are considered to be complete and component

4 is considered to be ongoing.

#### **INF24**

In the event that the nuclear generating station at the Site has been started but neither of the proposed nuclear reactors is substantially completed and generating electricity by 31 December 2025 (the date by which EN-1 and EN-6 NPS considers it realistic for the construction of the new nuclear power stations set out in NPS EN-6), and if EDF considers it unreasonable to have to begin reinstatement of the Site pursuant to Condition R1 (for example on the basis that it is intending to complete the generating station works), EDF would be able to apply through the DCO process under section 73 of the Town and Country Planning Act 1990 to modify or discharge this condition, a decision which would be taken by the IPC/MIPU/Secretary of State or Local Planning Authority or, if refused and appealed, by the Secretary of State in the normal way.

#### **INF25**

In the event that the IPC/MIPU/Secretary of State does not require a similar R1 condition requiring reinstatement of the DCO works after 31 December 2025 in the event that construction works at the Site have been started but neither of the nuclear reactors is substantially completed and generating electricity by such date, and EDF considers it unreasonable for a condition requiring site preparation works reinstatement to remain in such a scenario, EDF would be able to apply through the DCO process under section 73 of the Town and Country Planning Act 1990 to modify or discharge this condition, a decision which would be taken by the IPC/MIPU/Secretary of State or Local Planning Authority or, if refused and appealed, by the Secretary of State in the normal way.

#### **INF26**

The plans referred to in the table in Condition G4 are included in the Deed of Planning Obligations attached to this Planning Permission.



Bruce Lang  
Corporate Director  
27/01/2012

## NOTES

### TOWN AND COUNTRY PLANNING ACT 1990

#### Town and Country Planning (General Development Procedure) Order 1995

**Discharge/compliance with conditions:** A fee is payable from 1 September 2008 where a written request is made for the discharge or compliance with one or more conditions on the same permission. The fee is payable for each request and not for each condition. If when the development has been completed you apply for confirmation of compliance with a condition or conditions then a separate fee will also be payable. Please see the following webpage on West Somerset Council's website: <http://www.westsomersetonline.gov.uk/Planning---Building/Planning/Discharge-of-Conditions> for more detailed information.

**Appeals to the Secretary of State:** If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for Transport, Local Government and Regions under Section 78 of the Town and Country Planning Act 1990 (Please note, only the applicant possesses the right of appeal). If you want to appeal, then you must do so within 6 months of the date of this notice, you must use a Planning Appeal form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require, which you can get from the Planning Inspectorate at Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal, and you should not rely on this concessionary power.

**The Secretary of State** need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

**Purchase Notices:** If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provision of Part VI of the Town and Country Planning Act 1990.

**Compensation:** In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to the conditions by the Secretary of State on appeal or on reference of the application to him. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act.

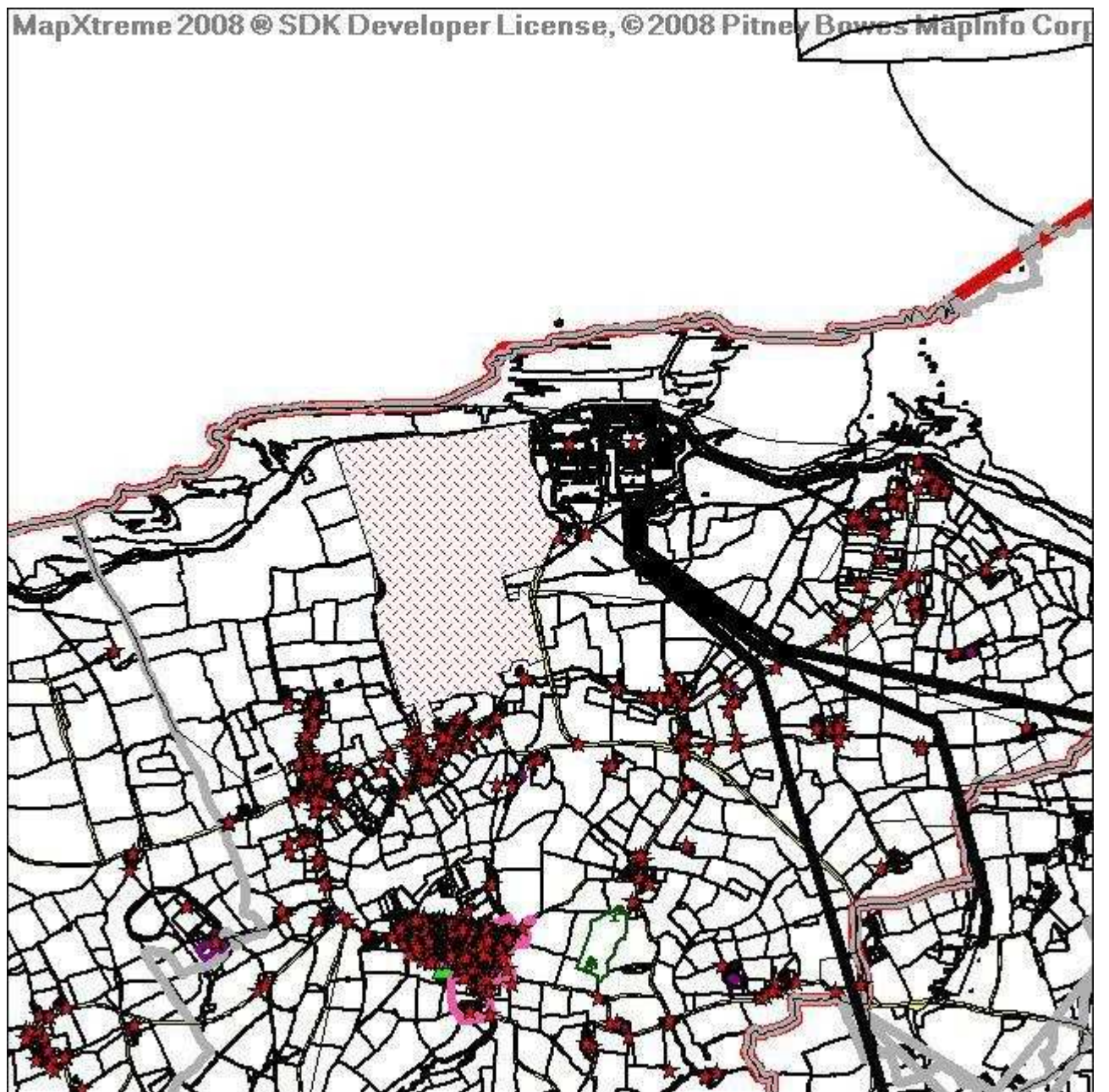
You are reminded that this permission does not convey any necessary approval under the Building Regulations 1991 (as amended). Further information can be obtained from my Council's Consumer Services Unit should you be unsure of the requirements.

Having regard to the powers of the Highway Authority under the Highways Act 1980 you should consult them by telephoning 01643 700700, if any work connected with the development hereby permitted takes place within or immediately adjacent to a public highway (e.g. footpath and margin crossings, piping of ditches, construction of waiting bays etc).

**This permission does not authorise you to stop up or divert a public right of way in order to enable the development permitted to be carried out. Separate legal steps are necessary for this, and if required, further information in connection therewith can be obtained from the Chief Executive, Council Offices, Williton.**

Your attention is drawn to the provisions of the Party Walls Act 1996. In many cases this requires notices to be served and a formal procedure to be followed. You should contact your legal advisor, architect, surveyor or other professional advisor for details.

This planning certificate does not purport to convey any approval or consent which may be required by any bye-law, order or regulation or any enactment other than the Town and Country Planning Act, 1990.







## Appendix 1

### Proposed modifications to the Section 106 Agreement

The proposed modifications to Schedule 17 to the Section 106 Agreement are shown below (deletions are shown in ~~red strikethrough~~ text and additions are shown in blue underlined text):

#### "SCHEDULE 17 – SITE REINSTATEMENT WORKS"

##### 1. DEFINITIONS AND INTERPRETATION

- 1.1 Where in this Schedule the following defined terms and expressions are used they shall have the following respective meanings unless otherwise stated:

~~"Bank" means a bank incorporated under the laws of England and Wales, Scotland or Northern Ireland or which has a branch registered in such jurisdictions and which has Investment Grade Rating;~~

~~"Bond" means a financial bond (or separate bonds) from a Bank (or Banks) to be provided for a period of 364 days in substantially the form annexed at Annex 9 to this Deed and for an amount determined in accordance with paragraph 2 of this Schedule;~~

"CDM Regulations" means the Construction (Design and Management) Regulations 2007;

"Contamination" means any substance or organism which alone or in combination with others may cause harm or damage to the environment, human health and safety, flora or fauna and/or pollution of controlled water (as more particularly referred to in section 78(A) of the Environmental Protection Act 1990), and includes:

- (a) any actual or threatened emissions, seepages, discharges, escapes, releases or leaks of pollutants, contaminants or toxic materials;
- (b) any hazardous or toxic materials, pollutants, contaminants and substances; and
- (c) any discarded, unwanted, broken, spoiled or surplus substance, material or article (including any waste as defined in the Environmental Protection Act 1990)

which are in, on or under the Site;

~~"Costs Estimate" means a written estimate of the cost of carrying out and completing the Reinstatement Works (including a reasonable contingency in accordance with commercially prudent practice) in accordance with a joint instruction provided by NNB GenCo and West Somerset Council;~~

~~"Credit Rating" means, in relation to any entity and at any particular time, the long term senior unsecured debt instrument rating or the individual corporate rating assigned to that entity by each of the Rating Agencies;~~

~~"Escrow" means an escrow sum to be provided in accordance with the Escrow Agreement and for an amount determined in accordance with paragraph 2 of this Schedule;~~

~~"Escrow Agreement" means an agreement substantially in the form annexed at Annex 10 to this Deed;~~

~~"Investment Grade Rating" means a Credit Rating;~~

- (a) ~~of at least BBB with Standard & Poor's; or~~
- (b) ~~of at least Baa3 with Moody's;~~

**"Land Condition Statement"** means the document of that name recording the condition of those parts of the Site which are owned freehold by the Fairfield Estate prepared by AMEC and agreed between EDF Energy and the Fairfield Estate and dated March 2011;

**"Land Restoration Scheme"** means a scheme for the restoration and/or reinstatement of those parts of the Site which are owned freehold by the Fairfield Estate to a condition suitable for agricultural use which shall include the following:

- (a) topographical contours and drainage requirements to which the relevant land is to be restored and/or reinstated;
- (b) an appropriate field drainage system sufficient to allow the relevant land to be properly used for agricultural purposes (whether for arable or grazing) or any other use agreed between the Fairfield Estate and West Somerset Council as part of the scheme;
- (c) such stipulations as the Fairfield Estate (acting reasonably) requires as to the location of hedges, stock proof fencing and gates to enclose the relevant land or any part of it required by the Fairfield Estate to be fenced or secured;
- (d) the relevant land shall be suitable (as to whole or part) either for grazing of livestock, growing of cereal crops and grassland as may be reasonably specified by the Fairfield Estate or for use as an ecology area or natural habitat (as contemplated below);
- (e) the replacement of the top soil of a quality appropriate to the state and condition and purposes to or for which the relevant land is to be restored and/or reinstated;
- (f) arrangements for the reinstatement of the coastal path which is at the date of this Deed a public right of way;
- (g) the scheme shall not require the replacement of any dilapidated barns that have been demolished;
- (h) if requested by the Fairfield Estate (and subject to obtaining any necessary approvals from the local planning authority or other competent authority) the proposed use of the relevant land may be (as to whole or part) as an ecology area or other natural habitat so long as the cost of restoration of the relevant land for such proposed use does not exceed to a material extent the cost of restoration for agricultural use unless the Fairfield Estate agrees to pay the excess cost as previously agreed between the Fairfield Estate and West Somerset Council (acting reasonably);

**"Leases"** means together the Operational Leases and the Preliminary Works Leases;

**"Lease Obligations"** means those covenants and conditions on the part of the tenant contained in the extracted clauses from the Preliminary Works Leases annexed at Annex 12 to this Deed;

~~**"Moody's"** means Moody's Investors Service, Inc (or its successor rating business);~~

**"NGL Consents"** means:

- (a) the consent of the Office for Nuclear Regulation under the Nuclear Site Licence;
- (b) the consent of Nuclear Liabilities Fund Limited pursuant to the debenture made on 14 January 2005 (and amended and restated on 5 January 2009);
- (c) the consent of Magnox Limited pursuant to the NSLNSA; and
- (d) the consent of the Secretary of State pursuant to the option agreement made on 14 January 2005 (and amended and restated on 5 January 2009);

"**NSLNSA**" means the nuclear site licensees nuclear safety agreement between Magnox (1) and NGL (2) replicated from the agreement of 22 April 1996 and made between Magnox Electric plc (1) the Landlord (then known as Nuclear Electric Limited) (2) such replication having been effected under the terms of the nuclear transfer scheme dated 29 September 2008 made in accordance with section 40 of the Energy Act 2004;

"**Nuclear Safety Co-operation Agreements**" means any agreements to be completed between NNB GenCo and any parties holding a nuclear site licence on land adjoining the Site relating to the operation of adjacent nuclear sites;

"**Nuclear Site Licence**" means any nuclear site licence for the Site or any part thereof together with other land granted pursuant to the Nuclear Installations Act 1965;

"**OCNS**" means the Office for Civil Nuclear Security, or any body having responsibility for civil nuclear security in the United Kingdom or any part thereof which replaces the same from time to time;

"**Operational Leases**" means together the two 999 year leases which it is currently intended will be granted to NNB GenCo by EDF Energy and NGL following the grant of the Development Consent Order and the terms of such leases shall not (as compared to the Preliminary Works Leases) prevent or make it more onerous for West Somerset Council to carry out the Reinstatement Works;

"**Preliminary Works Leases**" means together the lease and the three underleases pursuant to which NNB GenCo has an interest in the Site and the lease of part of the Site due to be granted by NGL to NNB GenCo on or around the date hereof (such lease being substantially in the form as disclosed to West Somerset Council and which shall not prevent or make it more onerous for West Somerset Council to carry out the Reinstatement Works) and the associated deed of indemnity, each as referred to in Recital G of this Deed;

~~"**Rating Agencies**" means Moody's and Standard & Poor's, each a "Rating Agency";~~

"**Security Determination Date**" means the earliest of:

- (a) the date on which one of the nuclear reactors authorised by the Development Consent Order has been substantially completed and is producing electricity; and
- (b) the date of completion of the Reinstatement Works; and

"**Security Plan**" means NNB GenCo's or NGL's security plan as approved by the OCNS;

~~"**Standard & Poor's**" means Standard & Poor's Rating Services (or its successor rating business); and~~

~~"**Surveyor**" means an independent quantity surveyor of at least 10 years' experience who has specialist knowledge of large scale earthworks and restoration schemes, having due regard to the scope of the Reinstatement Works.~~

## 2. SECURITY

- 2.1 ~~NNB~~Not used GenCo covenants with West Somerset Council that it shall not Implement Phase 2 unless a Bond or Bonds or an Escrow (in NNB GenCo's absolute discretion) has been put in place for a sum of (or sums totalling) ~~£63,000,000~~.
- 2.2 ~~Not used~~NNB GenCo covenants with West Somerset Council not to excavate more than 1,500,000 cubic metres of soil and/or rock at the Site before complying with paragraph 2.4.
- 2.3 ~~Not used~~NNB GenCo shall keep records as to the amount of soil and/or rock excavated and shall provide West Somerset Council with details of such amounts when reasonably requested by West Somerset Council to do so.

2.4 ~~Not used~~ At any time prior to the earlier of more than 1,500,000 cubic metres of soil and/or rock being excavated at the Site or the expiration of 12 months from the Implementation of Phase 2 of the Development, NNB GenCo covenants that it will instruct a Surveyor (jointly with West Somerset Council at no cost to West Somerset Council) to provide a Costs Estimate as soon as reasonably practicable and within 45 days (and in the event that the terms of such joint appointment cannot be agreed between NNB GenCo and West Somerset Council within 28 days of either party proposing the terms of such instruction, the matter shall be deemed a Dispute and shall be determined in accordance with clause 12) and if such Costs Estimate is more than £63,000,000 then prior to more than 1,500,000 cubic metres of soil and/or rock being excavated at the Site the amount of the Bond or Bonds or Escrow in place at that time shall subject to paragraph 2.6 be increased by NNB GenCo to the amount of the Costs Estimate but shall otherwise remain at £63,000,000.

2.5 ~~On each anniversary of the provision of the Costs Estimate until the Security Determination Date the amount of the Bond or Bonds or Escrow in place at that time shall subject to paragraph 2.6 be adjusted by reference to increases in the Tender Price Index in accordance with the following formula:~~

$$\begin{array}{l} \text{Revised amount of} \\ \text{Escrow/Bond} \end{array} = \frac{\text{Existing Amount of} \\ \text{Escrow/Bond Sum} \\ \text{as at relevant} \\ \text{anniversary}}{\text{Date/Index at today's} \\ \text{date}} \times (\text{Index at Payment} \\ \text{Date/Index at today's} \\ \text{date})$$

2.5 ~~Not used~~

2.6 ~~Not used~~ Following the grant of any Development Consent Order, West Somerset Council and NNB GenCo agree that:

2.6.1 ~~on the provision of the Costs Estimate pursuant to paragraph 3.4 (if not already provided); and~~

2.6.2 ~~on each anniversary of the provision of the Costs Estimate,~~

~~the amount of the Bond or Bonds or Escrow in place at those times shall be decreased by the amount of any other security provided by NNB GenCo in respect of the restoration or reinstatement of the Site in respect only of the Development as required by that Development Consent Order (it being acknowledged that such restoration or reinstatement may be part of the restoration or reinstatement of the wider restoration of the land and/or watercourses of which the Site forms part).~~

2.7 ~~Not used~~ Until the Security Determination Date:

2.7.1 ~~NNB GenCo covenants with West Somerset Council that no less than 30 days prior to the expiry of any Bond or Bonds provided pursuant to paragraph 2.1 a replacement Bond or Bonds or Escrow (in NNB GenCo's absolute discretion) shall be provided for a sum of not less than the current amount of the Bond or Bonds or Escrow respectively as at that date (excluding any interest accrued) taking into account the effect of paragraphs 2.4 and 2.5 as applicable on such amount; and~~

~~West Somerset Council agrees that NNB GenCo may at any time replace any Escrow with a Bond or Bonds or any Bond or Bonds with an Escrow for a sum of not less than the current amount of the Escrow or Bonds (as relevant) as at that date (excluding any interest accrued).~~

2.8 ~~West Somerset Council covenants with NNB GenCo that:~~ Not used

2.8.1 ~~upon provision of a replacement Bond or Escrow for a sum of not less than the current amount of the Bond or Bonds as at that date taking into account the effect~~

~~of paragraphs 2.4 and 2.5 as applicable on such amount (excluding any interest accrued); and~~

~~2.8.2 — upon the Security Determination Date,~~

~~it shall release the Bank and NNB GenCo from all liabilities under the Bond or Bonds in place up to that time and that on the Security Determination Date NNB GenCo's obligations under paragraphs 2.1 to 2.7 inclusive shall cease and determine.~~

- 2.9 NNB GenCo shall notify the occurrence of the Security Determination Date to West Somerset Council and the Fairfield Estate in writing, provided that such notification shall not of itself mean that the Security Determination Date has occurred.

### 3. **CARRYING OUT OF REINSTATEMENT WORKS BY WEST SOMERSET COUNCIL**

- 3.1 In the event that NNB GenCo is in breach of its obligation to carry out the Reinstatement Works and West Somerset Council has given NNB GenCo not less than 6 months' written notice of its intention to carry out the Reinstatement Works itself and:

- 3.1.1 NNB GenCo does not within that 6 month period:

- (A) provide West Somerset Council with written notice of its intention to commence within that same period the Reinstatement Works and thereafter to carry out and complete the Reinstatement Works; and
- (B) actually commence the Reinstatement Works; or

- 3.1.2 NNB GenCo does not carry out and complete the Reinstatement Works within three years from the date of West Somerset Council's notice; or

- 3.1.3 following receipt of West Somerset Council's notice NNB GenCo has commenced the Reinstatement Works but there is subsequently a period of inactivity of longer than 12 months in the carrying out of the Reinstatement Works and as a result of which there is no reasonable prospect of the Reinstatement Works being completed within three years from the date of West Somerset Council's notice,

then West Somerset Council shall have the right to commence, carry out and complete the Reinstatement Works itself and West Somerset Council shall use best endeavours to commence, carry out and complete the Reinstatement Works itself **PROVIDED THAT** ~~(i) West Somerset Council shall only be responsible to a limit of the current amount of the Bond or Bonds or Escrow for such purposes in place at the time and~~ (ii) it is not clearly and manifestly incompatible with the proper planning of the area at the relevant time for the Reinstatement Works to be carried out and completed by West Somerset Council.

- 3.2 In the event that West Somerset Council exercises its right under paragraph 3.1 to carry out the Reinstatement Works EDF Energy, NGL and the Fairfield Estate acknowledge that such entry on to the Site by West Somerset Council and its remaining on the Site (with such vehicles and equipment as may be required) in compliance with the provisions of this Schedule 17 constitutes a sharing of occupation by NNB GenCo with a contractor as permitted under the Preliminary Works Leases and NNB GenCo hereby gives West Somerset Council licence to enter onto and remain on the Site as its contractor to carry out and complete the Reinstatement Works pursuant to paragraph 3.1 (and NNB GenCo acknowledges that such entry by West Somerset Council as contractor does not require West Somerset Council to enter into any further works contract or other contract with NNB GenCo nor will West Somerset Council owe any duty of care or warranty to NNB GenCo with regard to the carrying out and completion of the Reinstatement Works save as provided in this Schedule 17).

3.3 EDF Energy, NGL and the Fairfield Estate agree and accept that the Reinstatement Works comprise part of the Preliminary Works (as this term is defined in the Preliminary Works Leases).

3.4 West Somerset Council acknowledges that when carrying out the Reinstatement Works:

3.4.1 it shall use the Site as licensee and no relationship of landlord and tenant is created between NNB GenCo or the Fairfield Estate and West Somerset Council by this Deed;

3.4.2 NNB GenCo and the Fairfield Estate shall retain control and ownership of the Site (as set out in the recitals to this Deed) and West Somerset Council has no right to exclude NNB GenCo or the Fairfield Estate from the Site; and

3.4.3 EDF Energy, NGL and the Fairfield Estate shall be entitled to enter the Site pursuant to the Leases,

**PROVIDED ALWAYS** that EDF Energy, NNB GenCo, NGL and the Fairfield Estate shall not prevent the exercise by West Somerset Council of the right under paragraph 3.1 of this Schedule save to the extent that West Somerset Council fails to comply with paragraphs 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 of this Schedule or save to the extent that exercise of the right would constitute a breach of the Nuclear Site Licence.

3.5 In exercise of its rights under paragraph 3.1 of this Schedule, West Somerset Council shall not by any default, act or omission put NNB GenCo, NGL, EDF Energy or Fairfield Estate (in respect of NGL, EDF Energy or the Fairfield Estate in respect of the matters in paragraph 3.5.2 only) in breach of any of:

3.5.1 the Preliminary Works Leases and/or the Operational Leases (so far as they are in force) and the relevant provisions of which have been notified to West Somerset Council in writing; and

3.5.2 any matters to which the title of the Site is subject as at the date of this Deed;

or render NNB GenCo or NGL or Fairfield Estate liable to pay any damages, costs, expenses and/or other compensation of whatever nature (including legal expenses) thereunder.

3.6 In the event that West Somerset Council carries out the Reinstatement Works pursuant to paragraph 3.1 and at the date when West Somerset Council commences the Reinstatement Works a scheme for the restoration and/or reinstatement of the Site has previously been submitted by NNB GenCo and approved by West Somerset Council pursuant to condition R1 of the Planning Permission, West Somerset Council shall ~~(using the Bond and/or Escrow in place as applicable, though it shall not be obliged to do so)~~ carry out the Reinstatement Works in accordance with such approved scheme.

3.7 In the event that on the date on which the first of the events in paragraph 3.1 occurs:

(a) no scheme for the restoration and/or reinstatement of the Site has been submitted by NNB GenCo or approved pursuant to condition R1 of the Planning Permission; and

(b) West Somerset Council intends to carry out the Reinstatement Works in accordance with paragraph 3.1,

then West Somerset Council and the Fairfield Estate shall seek to agree a Land Restoration Scheme which shall be submitted as soon as reasonably practicable thereafter by West Somerset Council ~~(using the Bond and/or Escrow in place as applicable, though it shall not be obliged to do so)~~ to West Somerset Council for approval (pursuant to West Somerset Council's usual planning procedures) pursuant to condition R1 of the Planning Permission.



- 3.8 In the event that the Land Restoration Scheme submitted pursuant to paragraph 3.7 is not approved by West Somerset Council for the purposes of condition R1 of the Planning Permission (pursuant to West Somerset Council's usual planning procedures) West Somerset Council and the Fairfield Estate shall seek to agree an alternative Land Restoration Scheme which shall be submitted as soon as reasonably practicable thereafter by West Somerset Council ~~(using the Bond and/or Escrow in place as applicable, though it shall not be obliged to do so)~~ to West Somerset Council for approval (pursuant to West Somerset Council's usual planning procedures) pursuant to condition R1 of the Planning Permission.
- 3.9 In the event that West Somerset Council and the Fairfield Estate have not agreed a Land Restoration Scheme within 6 months of the occurrence of the first of the events set out in paragraph 3.1 (or such longer period as may be agreed between West Somerset Council and the Fairfield Estate), West Somerset Council shall ~~(using the Bond and/or Escrow in place as applicable, though it shall not be obliged to do so)~~ as soon as reasonably practicable thereafter submit a scheme for approval (pursuant to West Somerset Council's usual planning procedures) pursuant to condition R1 of the Planning Permission which provides for the restoration and/or reinstatement of the Site to its pre-development condition as evidenced by the Land Condition Statement (but such scheme shall include an appropriate field drainage system sufficient to allow the Site to be properly used for agricultural purposes (whether for arable or grazing) and shall not require West Somerset Council to replace any dilapidated barns that have been demolished).
- 3.10 If West Somerset Council enters the Site pursuant to paragraph 3.1, West Somerset Council shall:
- 3.10.1 observe and perform the relevant Lease Obligations on the part of the tenant;
  - 3.10.2 comply with all applicable safety regulations and NNB GenCo's site safety requirements as notified to West Somerset Council;
  - 3.10.3 comply with NNB GenCo and NGL's site emergency arrangements as notified to West Somerset Council including participating in emergency exercises;
  - 3.10.4 take care for the safety of all persons entitled to be on the Site, including by the provision of all safety notices and safety equipment required by relevant laws and regulations for the Reinstatement Works;
  - 3.10.5 provide fencing, lighting and other facilities as described in NNB GenCo's site safety requirements for the Reinstatement Works until completion and notified to West Somerset Council;
  - 3.10.6 comply with any rule or requirement or instruction of either NNB GenCo or NGL as notified to West Somerset Council which in each case is necessary in order for NNB GenCo or NGL (as relevant) to comply with its obligations under any Nuclear Site Licence and/or the NSLNSA and/or the Security Plan and/or any Nuclear Safety Co-operation Agreements (each as notified to West Somerset Council);
  - 3.10.7 take all reasonable measures to protect the environment (both on and off the Site) and prevent Contamination and damage to people and property resulting from the carrying out of the Reinstatement Works;
  - 3.10.8 without prejudice to paragraph 3.10.7 ensure that any emissions, surface discharges and effluent from the carrying out of the Reinstatement Works shall not exceed the values indicated in NNB GenCo's health, safety and environment requirements;

- 3.10.9 comply with the reasonable requirements of the Security Plan notified to West Somerset Council and ensure that all information in relation to the Reinstatement Works will be subject to the Security Plan;
  - 3.10.10 use reasonable endeavours to take such measures as are necessary to prevent unauthorised persons being admitted to the Site and immediately notify NGL, NNB GenCo, the OCNS and the Civil Nuclear Constabulary of any unauthorised persons on the Site;
  - 3.10.11 not without the consent of NGL or (if it holds the Nuclear Site Licence at the relevant time) NNB GenCo which consent NGL or (if it holds the Nuclear Site Licence at the relevant time) NNB GenCo shall be entitled to withhold where (in its absolute discretion) it considers it prudent to do so having regard to the requirements of security or safety of the nuclear site take photographs of the Site or the Reinstatement Works or any part of them unless reasonably necessary to carry out and/or complete the Reinstatement Works;
  - 3.10.12 promptly submit to NNB GenCo any security vetting or other information NNB GenCo requires to enable any person to be given access to the Site in connection with the Reinstatement Works and West Somerset Council acknowledges that certain individuals may not satisfy NNB GenCo's security requirements and that NNB GenCo may, at its absolute discretion, require West Somerset Council not to employ in the performance of the Reinstatement Works any individuals identified by NNB GenCo as presenting a security or other risk; and
  - 3.10.13 comply at all times with the provisions of the Health & Safety at Work etc. Act 1974 and the CDM Regulations and shall ensure that all contractors engaged in connection with the Reinstatement Works shall carry out and fulfil in all respects their respective duties under the CDM Regulations.
- 3.11 West Somerset Council shall indemnify EDF Energy, NGL and the Fairfield Estate (together the "**Owners**") against all reasonable expenses costs claims damages demands and any other liability or consequence (in each case reasonably incurred) arising out of or in respect of any breach of the obligations contained in paragraphs 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10 **PROVIDED THAT:**
- 3.11.1 the Owners shall (if so reasonably required by West Somerset Council) authorise West Somerset Council (at its own expense) to negotiate a settlement of any third party claim;
  - 3.11.2 the Owners shall not settle any claim or proceedings taken against it by a third party that would require West Somerset Council to indemnify the Owners pursuant to the terms of this clause without the consent of West Somerset Council (such consent not to be unreasonably withheld or delayed); and
  - 3.11.3 the Owners shall keep West Somerset Council informed of the progress of any claim and shall take into account any reasonable representations made by West Somerset Council in negotiations with any third party to settle any claim or proceedings against the Owners.
- ~~3.12 In the event that West Somerset Council exercises its right under paragraph 3.1 then, following completion of the Reinstatement Works, the Council shall:~~
- ~~3.12.1 forthwith return to NNB GenCo any monies which it has obtained under the Bond or Escrow and which have not been properly used in connection with the carrying out of the Reinstatement Works; and~~



~~3.12.2 as soon as reasonably practicable provide NNB GenCo with copies of audited accounts showing all payments made by the Council in connection with the Reinstatement Works.~~

#### 4. ACCESS TO THE SITE FOR WEST SOMERSET COUNCIL TO CARRY OUT REINSTATEMENT WORKS UNDER THE ACCESS LICENCE

- 4.1 Following receipt of notice from West Somerset Council that it wishes to exercise its rights pursuant to paragraph 3.1, NGL shall use Reasonable Endeavours to obtain the NGL Consents for the grant of the Access Licence and shall notify West Somerset Council once the NGL Consents have been obtained.
- 4.2 NGL shall use Reasonable Endeavours to obtain the NGL Consents (to the extent that the NGL Consents are necessary at the relevant time) for the grant of the lease by NGL to NNB GenCo of the part of the Site owned with freehold title by NGL (as referred to in Recital G) and to grant the said lease to NNB GenCo as soon as possible and NNB GenCo shall notify West Somerset Council as soon as reasonably practicable after the lease has been completed.
- 4.3 In the event that when West Somerset Council exercises its right under paragraph 3.1 to carry out the Reinstatement Works:
  - 4.3.1 any of the Preliminary Works Leases and/or Operational Leases are not in force and subsisting; or
  - 4.3.2 if in force and subsisting at the Commencement of the Reinstatement Works, the Preliminary Works Leases and/or Operational Leases come to an end (for whatever reason) prior to completion of the Reinstatement Works,

then in respect of the part of the Site which is no longer subject to any of the Preliminary Works Leases and/or Operational Leases EDF Energy and/or NGL and/or the Fairfield Estate as the case may be to the extent that they have an interest in the Site hereby each agree to grant to West Somerset Council an access licence in the form set out in Annex 11 to this Deed and West Somerset Council acknowledges that it shall be reasonable for NGL:

- 4.3.3 to refuse to grant such licence where they are unable having used Reasonable Endeavours to do so to obtain the NGL Consents for the grant of such licence; or
- 4.3.4 to require that the form of access licence be amended to reflect any reasonable requirements imposed as a condition of the issue of the NGL Consents.

#### 5. VARIATION OF NNB GENCO'S REINSTATEMENT OBLIGATIONS

- 5.1 NNB GenCo covenants with the Councils to comply with the reinstatement obligations as set out in conditions R1 to R6 of the draft Planning Permission annexed to this Deed as Annex 1 unless (and then only to the extent that) those reinstatement obligations are expressly varied, removed, abrogated, modified or superseded pursuant to any lawful means, in which case:
  - 5.1.1 NNB GenCo shall comply with such reinstatement obligations as expressly varied or modified and with any replacement obligations in the event that such reinstatement obligations are superseded by replacement obligations; or
  - 5.1.2 save in relation to any antecedent breaches, NNB GenCo shall be released from all obligations pursuant to this Schedule 17 in the event that such reinstatement obligations are entirely removed, abrogated or superseded without replacement, and this Schedule 17 shall be deemed to be varied accordingly.

- 5.2 The parties shall enter into a deed of modification in order to give effect to such variations to this Schedule 17 as are reasonably required as a result of the reinstatement obligations being varied, removed, abrogated, modified or superseded as referred to in paragraph 5.1 subject to NNB GenCo being liable for the reasonable legal costs and expenses properly incurred by the parties in relation to agreeing and entering into such deed.
- 5.3 Any express provision of any Development Consent Order or related Development Consent Obligations (once in effect following the implementation of the development authorised by the Development Consent Order) shall in any event prevail in relation to the reinstatement obligations referred to in paragraph 5.1 and the obligations in this Schedule 17 where and to the extent that there is any incompatibility with the Planning Permission or this Deed in relation thereto.
- 5.4 In relation only to any application for or appeal in connection with an application for planning permission for the Development (other than in respect of a Development Consent Order or related Development Consent Obligations) which seeks to vary, remove, abrogate, modify or supersede the reinstatement obligations referred to in paragraph 5.1, such obligations (or relevant part thereof) shall not be varied, removed, abrogated, modified or superseded unless they no longer serve a useful purpose or such obligations (or relevant part thereof) continue to serve a useful purpose, but would serve that purpose equally well if they had effect subject to the relevant proposed variation, removal, modification or superseding provision, and then shall have effect subject to the same.
- 5.5 It is acknowledged that NNB GenCo may apply to vary, remove, abrogate, modify or supersede the reinstatement obligations referred to in paragraph 5.1 or the obligations in this Schedule 17 by a Development Consent Order or related Development Consent Obligations **PROVIDED THAT** this shall not prevent the Councils from making representations in relation to any such application made by NNB GenCo."





<b>Application Details</b>	
Application Reference Number:	3/39/22/006
Application Type:	Full Planning Permission
Earliest decision date:	12 July 2022
Expiry Date	25 March 2022
Decision Level	Planning Committee
Description:	Conversion of buildings of part of former print works into a mixed use development comprising of 5 No. dwellings, a Class E building and use of front building on Long Street as Class E with ancillary parking and vehicular access to North Street
Site Address:	5, Long Street, Williton, TA4 4QN
Parish:	39
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment Area:	No
AONB:	Quantock Hills
Case Officer:	<u>Kieran Reeves</u>
Agent:	Mr S Thwaites,
Applicant:	Cogito Consulting
Committee Date:	15 Sept 2022
Reason for reporting application to Committee	Officer recommendation is contrary to the views of the Parish Council and members of the public

## 1. Recommendation

1.1 That permission be GRANTED subject to conditions

## 2. Executive Summary of key reasons for recommendation

2.1 The principle of the loss of employment space and the creation of residential units on the site is considered to be compliant with the adopted Local Plan. The design of the development and its impact on the locality and the setting of nearby listed buildings are considered to be acceptable. There would not be material harm to highway safety and wildlife interests, subject to the attachment of certain planning conditions. The impact on neighbouring residential amenity is not considered to warrant refusal of the application.

## 3. Planning Obligations and conditions and informatives

### 3.1 Conditions

3.1.1 Standard three year time limit

- 3.1.2 Plans condition
- 3.1.3 Bat licence condition
- 3.1.4 Bird nesting condition
- 3.1.5 Bat mitigation measures
- 3.1.6 Bat roosts provision
- 3.1.7 Demolition and construction management plan
- 3.1.8 Measures for preventing pollution
- 3.1.9 Contamination condition
- 3.1.10 Materials to be approved
- 3.1.11 Flush matt black solar panels
- 3.1.12 Flush fitting rooflights
- 3.1.13 Height of balustrade on Flat 3's balcony
- 3.1.14 Landscaping scheme to be approved
- 3.1.15 Sewage and surface water drainage to be approved
- 3.1.16 Water consumption condition
- 3.1.17 Access, parking and turning areas to be implemented
- 3.1.18 Existing northern access to be closed
- 3.1.19 Scheme for electric vehicle charging points to be approved
- 3.1.20 Waste storage and access to be approved
- 3.1.21 Cycle parking facilities to be implemented
- 3.1.22 Lighting design for bats to be approved
- 3.1.23 Ecological enhancement measures to be implemented
- 3.1.24 PD rights removed
- 3.1.25 Restriction on the use of the commercial buildings
- 3.2 Informatives

### 3.2.1 Proactive statement

### 3.3 Obligations

#### 3.3.1 No obligations secured

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

### 4.1 Details of proposal

4.1.1 Planning permission is sought for the partial demolition of the former printworks in Williton and the conversion of the remaining building and erection of new buildings to provide five residential dwellings. The originally submitted scheme was for six dwellings but one has been omitted during the application process. The erection of a commercial building also forms part of the proposal. The central historic core of the building would be converted to flats and an additional dwelling would be erected at the northern end of the site. The commercial building would be erected at the southern end of the site. A parking area would be formed in a courtyard in the centre of the site and this would be accessed off North Street via a new vehicular access.

### 4.2 Sites and surroundings

4.2.1 The application site is the former printworks at the rear of the editorial offices of the West Somerset Free Press, which is located in Williton. It is not within a conservation area. The editorial offices are part of the application but they would not be subject to alteration and they would be retained in commercial use. The printworks consists of a historic core and additions attached to the northern and southern elevations that were constructed in the late 20th Century. The site has been redundant and not in use for a number of years and it currently sits in a derelict state. There are residential properties surrounding the site and a listed hotel to the east of the site. The curtilage listed wall of the hotel is adjacent to the eastern boundary of the site and there is also a listed building adjacent to the site on its south western boundary. The application building itself is not listed. There is an existing on-site parking area that is located at the northern end of the site.

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

5.1 No planning history relevant to this planning application.

## **6. Environmental Impact Assessment**

6.1 No Environmental Impact Assessment submitted in relation to this application as the proposal does not fall within criteria that requires an EIA.

## **7. Habitats Regulations Assessment**

7.1 The site is not within the catchment area for the Somerset Moors & 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: 28 June 2022

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

8.3 Press Date: N/A

8.4 Site Notice Date: 24 February 2022

### 8.5 Statutory Consultees

Consultee	Comment
Williton Parish Council	<p>Williton Parish Council (WPC) welcomes the fact that something is proposed to be done with the buildings and that the iconic red brick printing building is to be retained. WPC however do have reservations on a number of aspects of the proposal as follows:</p> <p>1. The proposed two new dwellings WPC object to these new dwellings on the grounds that these dwellings will result in poor living conditions for the occupiers of both properties due to being a cramped form development squeezed in between the boundary and the printing works. In addition disabled access to these dwellings appears to be an issue especially for the dwelling at the rear. The fact that solar panels are to be provided again is welcomed but would question whether they will work due to the shadowing effects of the adjoining printing works.</p> <p>The two new dwellings have exceedingly little gardens and a poor outlook and overlooking issues being so close to each other and the other proposed flats. The new houses will also be surrounded by tall buildings and a bank with the new house nearest the road worst affected. They look as if they are shoe horned in. They will get little sun and will be quite dark.</p> <p>WPC consider that these houses should be removed from the scheme and the land used for garden area for the flats and/or extra parking.</p> <p>2. WPC object to the size of the parking spaces in that they appear to be too small to be useable.</p>



	<p>The spaces in the car ports are far too small according to what is required by SCC as the proposed spaces will measure 2.5 x 4.8m (as annotated on the submitted plan) and this does not take into account the internal piers compared to what they should be: 6m x 3m. This will mean the spaces probably cannot be used.</p> <p>In addition it would appear that there will be no parking for the existing West Somerset Free Press staff.</p> <p>Also will the dustbin lorry park on the road as there does not appear to be enough room on the site to turn etc. The bins are in the undercroft so it is assumed that the bin men will collect them from there or do the residents have to put them on kerbside? If so, where, as there is no room unless the bins are put on the visibility splays thus reducing visibility, creating a highway safety issue.</p> <p>3. Should planning permission be granted WPC consider that a recreation contribution is required especially as there is not really useable garden space for any of the proposed dwellings. WPC object if this is not included especially as this contribution is considered to be necessary and relevant to the proposed development , and, West Somerset Council on adopting their local plan outlined in the policy document named below that such contributions should be asked for where relevant.</p> <p>4. A number of years ago an investigation was undertaken by a gentleman on saving the presses in the print building as they are either the only example left or one of 2. One proposal was to keep them in situ and create a museum and the other was to take them elsewhere but the cost was very high (£1 million?) WPC consider that should planning permission be granted that as part of the permission the presses are found a new home as they are of great interest.</p> <p>5. Should planning permission be granted WPC request that a condition be imposed to ensure that there are no windows overlooking the boundaries as they may cause adverse overlooking problems to the existing dwellings and hotel.</p>
Wessex Water Authority	<p>Wessex Water has no objections to this application and can advise the following information for the applicant:</p> <p><u>The Planning Application</u> – The planning application indicates that foul sewerage will be disposed of via the main sewer. Rainwater running off new driveways and roofs will require consideration so as not to increase the</p>

	<p>risk of flooding. The current planning submission indicates that rainwater (also referred to as “surface water”) will be disposed of via sustainable drainage systems.</p> <p><u>Applying for new drainage and water supply connections</u>  – The use of an existing sewer connection is subject to building control approval. The proposal is located in an area prone to sewer flooding caused by high levels of groundwater during prolonged periods of wet weather. Separate systems of drainage on site must be completely watertight and vent stacks rather than durgo valves must be used to prevent restricted toilet use during these prevailing conditions.</p> <p><u>Are existing public sewers or water mains affected by the proposals?</u> – According to our records there are no recorded public sewers or water mains within the red line boundary of the development site.</p> <p><u>The surface water strategy</u> – One of our main priorities in considering a surface water strategy is to ensure that surface water flows, generated by new impermeable areas, are not connected to the foul water network which will increase the risk of sewer flooding and pollution.</p> <p>You have indicated that surface water will be disposed of via sustainable drainage systems.</p> <p>The planning authority will need to be satisfied that soakaways will work here and arrangements are clear for any shared obligations. Soakaways will be subject to Building Regulations. The use of 2 soakaways currently attracts a discount in the sewerage infrastructure charge, proof of arrangements will be required when applying for foul sewerage connection. There must be no surface water connections into the foul sewer network.</p>
Highways Development Control	<p><b>Initial Comments</b> - The application is for the conversion of existing commercial buildings into residential development, the construction of new dwellings and commercial area and the retention of an existing office building along the frontage of Long Street.</p> <p>The proposal site lies between Long Street (A39) and North Street (B3191) in Williton. The posted speed limit at and around the existing vehicular access points is 30mph.</p> <p>In terms of traffic impact on the local highway network, the Highway Authority view it as unlikely that the</p>

development proposed would have a severe impact.

The applicant has proposed to close and permanently abandon the most northern access and reconfigure the southern access to accommodate 9 vehicle parking spaces for the residential and commercial development put forward. Both existing accesses onto the public highway are limited in terms of visibility onto the public highway and turning space within the internal layout to allow entering the public highway in a forward gear.

Whilst the revised access does not accord to modern day design standards, consideration is given for the existing arrangement and classification of use on the site which in terms of vehicular access to/from the public highway would appear to be of a betterment.

The applicant has proposed a pedestrian footway and crossing within the private element of the site to allow NMUs to cross over to the western side of North Street which consists of an established footway as denoted in supporting drawing 21411 Rev 2. The proposed footway is intended to remain private, where, if consent was to be granted the Highway Authority would require contact details of the party responsible for its maintenance.

It is advised that the proposed crossing area however is relocated further north of the site to afford a more balanced non-motorised user (NMU) visibility in both directions. Any crossing point adjacent to the proposed parking area will need an appropriate buffer to separate NMU and vehicular activity. This can be discussed with the Highway Authority as the scheme develops if necessary.

Turning to the vehicle parking proposed, based on the information received, the existing arrangement accommodates 6 recognised vehicle parking spaces. The proposed level of vehicle parking for this application is 9, to cater for the residential and commercial floor space. Whilst this falls below the Somerset Parking Strategy optimum standard, the Highway Authority, in this instance have factored in the existing classification on the site and the current parking levels associated to the gross floor area. The proposal would also remove one of the points of access which currently sees vehicles reversing onto the public highway. The access proposed would appear to now accommodate egressing onto the public highway in a forward gear for the 9 vehicle spaces proposed.

	<p>Whilst the applicant has stated their commitment to delivering cycle parking for the proposal, detailed drawings of their proximity will be required prior to the associated conditions discharge. EVC charging points are also recommended by the Highway Authority.</p> <p>On balance, of the above, the Highway Authority advise that the proximity of the pedestrian cross over as currently proposed is revised. Once this has been appropriately addressed to the satisfaction of the Highway Authority, appropriate conditions can be recommended.</p> <p><b>Additional Comments</b> - No objection was raised to the principle of the proposed development however the repositioning of the informal pedestrian crossing was suggested.</p> <p>On review of this issue and following receipt of clarifying information from the agent it is agreed that its position on the south side of the vehicular access, as proposed, would be optimum. If repositioned to the north side it is acknowledged that the pillars of the adjacent building would obstruct visibility in a northerly direction, the direction from which the nearside traffic is approaching, and as such would be of no betterment.</p> <p>Further to the above comments and for the reasons set out in our earlier correspondence, the Highway Authority does not objection to this proposal. Should the LPA be minded to approve the application then the recommended conditions should be attached.</p>
SCC - Ecologist	<p>An ecological assessment of the application site was carried out in May, July and August 2021 by Jomas Engineering Environmental. The building was identified as having moderate bat roost potential and follow up surveys identified a day roost for brown long-eared bats, a day roost for common pipistrelle and soprano pipistrelle bats. Furthermore, the buildings are expected to host nesting birds.</p> <p>To comply with local and national policy, wildlife legislation, and the requirements of the mitigation hierarchy and for biodiversity net gain, conditions were recommended by the ecologist, which are discussed in detail in the main body of this report.</p> <p>As compensation and enhancement measures, and in accordance with National Planning Policy Framework</p>

	(NPPF) and the Environment Act, a further condition was recommended by the ecologist, which is also discussed in detail in the main body of the report.
Environment Agency	The Environment Agency would have no objection, in principle, to the proposed development, subject to the attachment of conditions relating to contamination and pollution.

## 8.6 Internal Consultees

Consultee	Comment
Economic Regeneration and Tourism	No comments received
Conservation Officer	<p>Initially recommended approval, subject to amendments being made to the architectural finish of the retained and converted building. The following comments were made after amendments to the scheme:</p> <p>The amendments received on 16.06.2022 have addressed previous concerns and go towards retaining the industrial architectural and historic interest of the old printworks.</p> <p>In considering the glazed rail to the south elevation entrance, it would be beneficial to the overall character of the building, if this element is reconsidered as a black railing more reflective of its industrial character.</p>
Landscape Officer	The only landscape concerns relate to the surface treatment of the parking courts, where there would be an expectation to see a high quality unit paving solution made from blue engineering stable block units. Such a treatment would suit the historic context. Also concern that there is a lack of vegetation include in the scheme and any opportunity to incorporate a small tree, wall shrubs or climbers should be grasped. There would seem to be opportunities at the edges of the parking court.

## 8.7 Local Representations

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

8.7.2 Ten public representations have been received. Seven people have objected to the application or raised concerns. Two people have supported the application or are neutral on the proposal.

8.7.3 The reasons for people objecting and raising concerns are summarised below:

- The loss of the existing use of the building would reduce employment opportunities in the village and lead to more people travelling from the village to places of work
- Overlooking of neighbouring properties
- Not a sufficient level of parking on site for the proposed development
- It would be more viable for the developer to demolish the entire building and erect a new building on the site
- The pedestrian crossing would reduce the useable width of the pavement
- Any lights or other controls on the crossing would cause light and noise disturbance
- Restrictions should be placed on the hours of construction work and deliveries
- Restrictions should be placed on construction and resident on-street parking
- One of the residential units would be against the boundary of a neighbouring property making it difficult to maintain the dwelling and the boundary
- The existing building is attached to a neighbouring building and the owner is concerned there is not enough information on how the external wall of their property would be left
- The existing building is attached to a curtilage listed wall and it has been requested that any works do not reduce the stability or damage the wall
- The works could disturb rats and other rodents and it has been asked that the developer take full responsibility for any issues rats and rodents may cause

8.7.4 The one person supporting the application has commented that the proposal would be a great improvement in the village and it would conserve a local heritage asset.

8.7.5 Somerset Wildlife Trust have also commented on the application. They have noted the preliminary ecological assessment and the preliminary roost assessment as well as the subsequent bat emergence and re-entrance survey, and they fully support the recommendations in Section 4.2 of both reports in respect of mitigation and enhancements. The Trust comments that the recommendations must be included in the planning conditions if it is decided to grant planning permission

## **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 West Somerset area. The Development Plan comprises the Adopted West Somerset Local Plan to 2032, Somerset Mineral 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 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

9.3 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  
SC1 - Hierarchy of settlements  
SC2 - Housing provision  
SC3 - Appropriate mix of housing types and tenures  
SC4 - Affordable housing  
WI1 - Williton development  
EC1 - Widening and strengthening of the local economy  
EC5 - Safeguarding existing employment uses  
TR1 - Access to and from West Somerset  
TR2 - Reducing the reliance on the private car  
NH1 - Historic environment  
NH2 - Management of heritage assets  
NH6 - Nature conservation and the protection and enhancement of biodiversity  
NH13 - Securing high standards of design

Retained Saved Policies of the West Somerset Local Plan (2006)

BD/3 - Conversions, alterations and extensions  
T/8 - Residential car parking  
R/6 - Public open space and small developments

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)

National Planning Policy Framework

## **10. Material Planning Considerations**

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

### **10.1 The principle of development**

10.1.1 The proposal is for the conversion of part of the existing former printworks building and the erection of buildings in place of other parts of the printworks. Five

dwellings would be created, together with a commercial building that would be used for Class E purposes. The West Somerset Free Press building on Long Street would be used as a Class E commercial use as well.

10.1.2 Policy EC5 of the adopted Local Plan relates to the safeguarding of existing employment sites. It states that *sites and premises with existing commercial activities will be safeguarded against change of use to residential or other non-employment generating uses unless it can be demonstrated that:*

- *the activity is no longer appropriate or sustainable in that location,*
- *the business is no longer viable in that location,*
- *the business/site has been marketed (at a competitive price for comparable uses) for a minimum of twelve months and has generated no interest, and, where appropriate,*
- *it must be demonstrated that any new use proposed would not prejudice adjacent existing or proposed uses, and;*
- *the new use will result in a reduction in undesirable transport movements to the location over minor roads linking it to the national primary and county highway principal route network.*

*Consideration will also be taken account of businesses relocating from the site/premises to more sustainable locations nearby.*

10.1.3 As stated above, a commercial building would be constructed on site and this would provide employment opportunities. However, the overall floorspace of commercial use across the site would reduce and this could reduce the overall employment generation on site. As such, Policy EC5 should be given due consideration in the determination of this planning application.

10.1.4 A marketing report has been provided with the application papers, which was prepared by Greenslade Taylor Hunt. The report explains that advertisement of the site for rent commenced in November 2020 and it has been marketed for at least 12 months. The report confirms that they had interest from a few parties and that none wanted to take their interest further forward. The majority were looking to buy and had residential development in mind, whilst those looking to rent did not want all of the building and had limited resources to invest in the buildings. It is asserted that the Roughmoor Trading Estate to the east of the town considerably more suitable for industrial and storage use than the subject premises. The report also states that the building is in a dilapidated state and it would be unviable to refurbish the building to bring it back into commercial use. It is also stated that to demolish the building and erect new commercial buildings would also not be viable. Officers are satisfied that the existing level of commercial floorspace on this site cannot be maintained and made viable. The comments made regarding the viability of the proposal and the loss of employment use from the site are noted, but the loss of the majority of the site to provide residential development is considered to be compliant in principle with the adopted Local Plan, particularly as there would be an element of commercial use retained on site in the form of the new Class E building.

10.1.5 Turning to the proposed residential development, the site is located in Williton, which is designated as a rural service centre. Policy SC1 states that the



majority of development will be directed towards Minehead and the rural service centres. This will be on a scale generally proportionate to their respective roles and functions to their own communities and those in surrounding settlements that rely on their larger neighbours for essential services and facilities. The proposed residential development would be located in a sustainable location that is close to the village centre with all the services and facilities, and access to local bus service that connects to Taunton and Minehead. The provision of five dwellings on site would be proportionate to the scale of the settlement and the additional residents that the development would bring would help to sustain the services and facilities within the settlement. In terms of affordable housing, the total number of dwellings that would be provided on site would be five and this falls below the threshold for on-site affordable housing provision or off-site affordable housing as set out under Policy SC4. As such, there is no requirement for any of the proposed dwellings to be affordable housing or for any affordable housing contribution to be provided. The creation of five open market dwellings on this site is considered to be compliant in principle with the adopted development plan, subject to other material planning considerations being satisfied.

## **10.2 Design of the proposal and the impact on the character and appearance of the locality and heritage assets**

10.2.1 The proposal includes the demolition of parts of the existing building. A Historic Building Report has been submitted and this contains information detailing when the different parts of the building were constructed. It is clear from the report that the majority of the building was constructed in the 1970s or later. The Conservation Officer has advised that the built form within the site demonstrates the story of the development of a local newspaper and printing press and the historic and architectural interest of the buildings are mostly found in the industrial proportions and detail associated with their industrial use, with the two storey printing works being identified as a non-designated heritage asset. The Conservation Officer has considered the proposal, including the demolition of parts of the building, and advised that the removal of parts of the building would enhance the central historic part of the building "as this approach will open up the existing site and provide clearer views of the sites industrial past as interpreted through the architectural interest of the built form". Taking the advice of the Conservation Officer, Officers are satisfied that the demolition of parts of the existing building would be acceptable and not cause material harm to the historical interest of the site and its setting.

10.2.2 In terms of the conversion of the remaining parts of the building and the construction of new built form, the Conservation Officer has commented that the design detail would retain the orientation, location and built proportions associated with its industrial past. The Conservation Officer did raise concerns with the glazed balconies and the number and size of new openings as they would not be reflective of the industrial character of the site. The impact of these features on the street scene would be harmful.

10.2.3 The scheme was subsequently amended by the applicant and one of the dwellings was omitted, reducing the scheme from six dwellings to five. This is considered to have opened up the site and reduced the built form that would be constructed, thus avoiding overdevelopment. It has also had the benefit of creating

space for a communal garden and more open circulation space on the northern side of the site. The removal of the sixth dwelling will improve the living conditions for future occupiers. The amendment is considered to address the concern raised by the Parish Council in relation to the matters of overdevelopment and living conditions.

10.2.4 The Conservation Officer advises that the other amendments that have been made have addressed previous concerns and they go towards retaining the industrial architectural and historic interest of the old printworks. The Conservation Officer did also comment on the glazed handrails on site and how these would be more reflective of the industrial character as black metal railings. The applicant has also made this alteration to the scheme and therefore addressed this remaining concern raised by the Conservation Officer.

10.2.5 Overall, the proposed new buildings are considered to be acceptable in terms of their design and form, and material harm to the street scene would not occur as a result of the proposed development. The proposal complies with Policy NH13 of the adopted Local Plan.

10.2.6 The Landscape Officer has commented that a high quality surface should be sought for the courtyard and natural planting should be provided within the site. In light of these comments, Officers consider that a landscaping condition should be attached to allow discussions to be had regarding these matters and to ensure that an appropriate surface material is used and planting can be secured to help soften the development.

10.2.7 There are buildings to the south of the site (1 and 3 Long Street) and a building to the east (the White House) that are Grade II listed. The latter is situated far enough away from the application site to ensure that the proposed development would not be seen within the context or setting of this listed building. In terms of 1 and 3 Long Street, the development would be located to the rear of these buildings. The Conservation Officer has confirmed that the development would continue to preserve the historic significance of these listed buildings. A member of the public has suggested that the eastern boundary wall of the site is curtilage listed as it is a boundary wall of the Grade II listed White House. The plans show that the wall would be retained in its present form and that a part of the new built form would work off the wall. If it transpires that works are required to rebuild the wall or carry out substantial repairs, then it would be the responsibility of the development to apply for listed building consent and the works can be considered in detail under that application. Overall, the proposed development is considered to comply with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policies NH1 and NH2 of the adopted Local Plan.

### 10.3 **Access, highway safety and parking provision**

10.3.1 The application form states that there are currently six parking spaces within the site. The submitted plans show that there would be nine parking spaces provided within the site - one parking space per residential unit, two parking spaces for the commercial unit, one parking space for the commercial unit or visitors to the residential properties and a disabled parking space. The Highway Authority have

commented that both of the existing accesses into the site (the northern most access would be blocked up by one of the proposed dwellings) are limited in terms of visibility onto the public highway and turning space within the internal layout to allow entering the public highway in a forward gear. They then confirm that the proposed access would not meet modern day design standards, consideration is given for the existing arrangement and classification of use on the site, which in terms of vehicular access to/from the public highway would appear to be of a betterment.

10.3.2 In terms of the parking provision, which is detailed above, the Highway Authority have advised that this provision falls below the Somerset Parking Strategy optimum standard, they have in this particular case factored in the existing classification on the site and the current parking levels associated with that use. They have also noted that the proposal would remove one of the existing accesses, which currently sees vehicles reversing onto the public highway. As such, they have concluded that the access proposed would appear to now accommodate egressing onto the public highway in a forward gear for the nine vehicle spaces proposed. It is noted that the development may result in some vehicles parking on the public highway, but it is noted that there are on-street parking spaces to the north of the site and it would be the responsibility of the car owner to ensure that they do not park on the road in a manner that causes obstruction or potential danger to other road users and pedestrians.

10.3.3 The proposal includes an informal pedestrian crossing across North Street from the southern most area of the road frontage. This is shown as a drop in the pavement on the western side of North Street. Lights or other features associated with a formal crossing are not shown on the plans. The Highway Authority initially suggested that this crossing was moved further north along the road frontage in order to increase visibility up and down the road. However, the applicant has provided clarification on why the crossing in its original position is the optimum place for it. The Highway Authority have reconsidered the matter and agreed with the applicant's case. They have commented that if the crossing was repositioned to the north side, the pillars of the adjacent building would obstruct visibility in a northerly direction, the direction from which the nearside traffic is approaching, and as such would be of no betterment.

10.3.4 The Highway Authority are satisfied that the proposal would not lead to a severe impact on the local road network and their comments confirm that there would not be an increase in material harm to highway safety compared to the existing use and parking and access arrangements of the site. The application therefore does not conflict with Paragraph 111 of the National Planning Policy Framework. The Highway Authority have suggested conditions that Officers consider are appropriate and necessary to make the development acceptable from a highway perspective.

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

10.4.1 There have been a few comments from members of the public regarding the noise and disturbance during the construction process. Given the proximity of residential properties to the application site, Officers consider that a condition should

be attached that requires a Construction Management Plan to be approved by the Local Planning Authority and adhered to during the demolition and construction process of the development. The plan would restrict hours of working and delivery. Such a condition would overcome the concerns raised about the construction process and its potential impact on neighbouring residential amenity.

10.4.2 The new residential building would not be constructed near to another residential property outside the applicant's control and therefore would not impact on neighbouring properties as a result of overbearing or loss of light. The new commercial building would be constructed between the boundaries of residential properties, but it would be set down within the site and when taking into account the existing massing and bulk of the current built form, it is considered that it would not lead to a material increase in overbearing or loss of light.

10.4.3 An occupier of one of the residential properties on the opposite side of North Street has raised a concern regarding overlooking of their property. The concern revolves around a window and the balcony of Flat 3. The balcony would be situated approximately 15 metres from the principal elevation of the neighbouring property. It would also be situated on the opposite side of a public road. However, it is also noted that the balcony would be in a raised position and therefore level with the first floor of the neighbouring property. The plans have been subsequently amended to raise the balustrade of the balcony from 1.5 metres to 1.8 metres. This has not compromised the overall design of the scheme and it would prevent views into the neighbouring property from the window and the balcony. The balcony shall be retained at 1.8 metres on the western elevation through a planning condition.

10.4.4 There are also windows in the western elevations of the development that would face towards neighbouring properties, but the views out are restricted by the size of the openings when compared to an open area such as a balcony. In addition, mutual overlooking would result and it is likely that the occupiers of the development would draw curtains or pull down blinds to protect their own privacy. It is also important to note that the elevations of the neighbouring properties that are being discussed are principal elevations where it can be expected that they would be looked into by people using the pavement in front of the properties. No windows would overlook the neighbouring hotel.

10.4.5 Taking all these factors into account, including the attachment of the condition relating to the balcony, it is considered that the proposed development would not result in overlooking where a refusal of the application could be sustained.

## **10.5 The impact on ecology and biodiversity**

10.5.1 Ecological surveys of the application site were carried out in May, July and August 2021 by Jomas Engineering Environmental. The submitted report identifies the building as having moderate bat roost potential and follow up surveys identified summer day roosts for brown long-eared bats, common pipistrelle and soprano pipistrelle bats. Furthermore, the buildings are expected to host nesting birds. The Council's ecologist has taken these survey results into account and recommended the attachment of conditions relating to bats to ensure the conservation of their

protected status. A condition relating to biodiversity net gain has also been recommended by the ecologist. Officers also consider that due to the likely presence of nesting birds, a condition should also be attached that prevents demolition work taking place during the bird nesting season unless an ecologist has checked for nesting birds and confirmed that there are none or measures can be carried out to ensure their protection. With the attachment of these conditions, it is concluded that material harm to wildlife interests on site would not occur.

## 10.6 **Other matters**

10.6.1 The Environment Agency have confirmed that they have no objections to the proposed development, subject to two conditions being attached to any permission granted. One of the conditions relates to potential existing contamination of the site and the other conditions relates to preventing pollution during the construction process. Officers consider it appropriate to include the two recommended conditions.

10.6.2 The Parish Council have stated that a legal agreement should be secured to provide a contribution towards public recreational spaces. However, since the Parish Council made these comments, the sixth dwelling was omitted from the scheme and a communal garden/open space is now proposed in its place. The scheme therefore complies with Policy R/6 and the contribution is no longer required to ensure compliance with this policy.

10.6.3 The Parish Council have also requested that the historic printing presses are found a new home. This has been raised with the applicant and they have confirmed that they have been in contact with several organisations with historic interests in this type of machinery but none have expressed an interest in removing and restoration. If an individual or group came forward at a later date and showed an interest in giving the presses a new home, then that is a matter that can be discussed between them and the applicant outside the planning process. Ultimately, the presses are not listed and the Local Planning Authority cannot therefore withhold permission until a new home is found for the presses. A condition requiring a new home to be found for them would not meet the tests for a planning condition as set out under Paragraph 56 of the National Planning Policy Framework.

10.6.4 The person who is neutral on the application has suggested that the construction of the new commercial building will require the rebuilding of the boundary wall between 5 and 7 Long Street and they would like a condition attached that requires the developer to discuss and agree with the owner of 7 Long Street how these works would be carried out. A condition cannot require a developer to enter into discussions and form an agreement with a third party member of the public. The plans do not suggest that the wall would need to be rebuilt and ultimately this would appear to be a civil matter between the two property owners. If works are required that deviate from the approved plans or require permission in their own right, then it would be the responsibility of the developer to seek approval from the Local Planning Authority.

10.6.5 In respect of the comments made by the member of the public in relation to rodents, it is not a planning matter to ensure that the developer takes responsibility

for any issues caused by rodents. The residential unit that would have been erected next to the neighbouring property boundary has been omitted from the application. The matters around the impact on neighbouring structures are a civil matter between the developer and the third party land owner. If works are required that deviate from the approved plans or require permission or listed building consent in their own right, then it would be the responsibility of the developer to seek approval from the Local Planning Authority.

## **11 Local Finance Considerations**

### **11.1 Community Infrastructure Levy - N/A**

## **12 Planning balance and conclusion**

12.1 The proposed development is considered to comply with the relevant policies of the adopted development plan in respect of the material planning considerations discussed in the report. Any concerns relating to the proposal are not considered to outweigh the benefits of the proposal and they can be mitigated or addressed with planning conditions.

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**

### **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:

(A4) DrNo 5578-WP-P/01 Rev A Site Location Plan  
(A4) DrNo 5578-WP-P/02 Rev A Block Plan  
(A1) DrNo 5578-WP-P/13 Rev A Demolition & Retention Plan  
(A1) DrNo 5578-WP-P/14 Rev B Proposed Site Plan  
(A1) DrNo 5578-WP-P/15 Rev B Proposed Undercroft Plan  
(A1) DrNo 5578-WP-P/16 Rev C Proposed Ground Floor Plan  
(A1) DrNo 5578-WP-P/17 Rev C Proposed First Floor Plan  
(A1) DrNo 5578-WP-P/18 Rev B Proposed Roof Plan  
(A1) DrNo 5578-WP-P/19 Rev C Proposed Elevations 1

(A1) DrNo 5578-WP-P/20 Rev E Proposed Elevations 2  
(A1) DrNo 5578-WP-P/21 Rev E Proposed Sectional Elevations 1  
(A1) DrNo 5578-WP-P/22 Rev C Proposed Sectional Elevations 2  
(A1) DrNo 5578-WP-P/23 Rev C Proposed Axonometrics & Perspectives

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

- 3 The development hereby permitted (including any demolition works) shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

a. a copy of a 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 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; or  
c. a statement in writing from a 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 in the interest of the strict protection of European protected species and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 4 No demolition works associated with the development hereby permitted shall take place between 1st March and 31st August inclusive, unless a licensed ecologist has undertaken a careful, detailed check for active birds' nests immediately before the demolition commences and provided written confirmation to the Local Planning Authority that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. In no circumstances shall netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with Policy NH6 of the West Somerset Local Plan to 2032.

- 5 The development hereby permitted (including demolition) shall 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 shall be submitted to the Local Planning Authority by the licensed bat ecologist within one week of the toolbox talk.

b. Two 1FF Schwegler bat boxes or similar to provide suitable alternative roosting location, and to accommodate any discovered bat(s), shall 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 shall be maintained in-situ thereafter. Photographs showing their installation shall be submitted to the Local Planning Authority.

c. Works potentially affecting bats shall 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 West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 6 Provision shall be made for roosting bats as part of the development hereby permitted, a scheme for which shall be submitted to, and approved in writing by, the Local Planning Authority prior to works commencing on site. The location of and type of roost entrances will be set out in the scheme. Any areas that are accessible to bats shall 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. The roosts shall be implemented in strict accordance with the agreed scheme prior to first occupation of the development 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 West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 7 The development hereby permitted shall only be carried out in accordance with a Demolition and Construction Management Plan that has been approved in writing by the Local Planning Authority prior to the development commencing. The Demolition and Construction Management Plan, or any amended demolition and construction management plan agreed prior in writing with the Local Planning Authority, shall be complied with in full and monitored by the developer to ensure continuing compliance during the demolition and construction phases of the development.

Reason: To minimise the impact of the works during the demolition and construction phases of the development in the interests of highway safety and to safeguard the amenities of the area.

- 8 No development permitted by this permission shall be commenced until a scheme for prevention of pollution during the construction phase has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include details of the following:

1. Site security.
2. Fuel oil storage, bunding, delivery and use.
3. How both minor and major spillage will be dealt with.
4. Containment of silt/soil contaminated run-off.
5. Disposal of contaminated drainage, including water pumped from excavations.
6. Site induction for workforce highlighting pollution prevention and awareness.



Invitation for tenders for sub-contracted works must include a requirement for details of how the above will be implemented.

Reason: To prevent pollution of the water environment.

- 9 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To prevent the increased risk to the water environment.

- 10 Prior to the construction of the development above damp-proof-course level or the conversion of the retained building, whichever occurs sooner, samples or digital details of the materials to be used in the construction of the external surfaces of the development (including windows and doors) shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: In the interests of conserving the character and appearance of the building and the locality.

- 11 The solar panels (including their frames) on the roofs of the development hereby permitted shall only be coloured matt black and they be installed so that their outer face is flush with the face of the surrounding roof tiles. The solar panels shall be retained in accordance with the requirements of this condition any subsequent replacement solar panels shall also comply with this condition, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of conserving the character and appearance of the building and the locality.

- 12 The rooflights shown on the approved plans shall be installed so that their outer face is flush with the face of the surrounding roof tiles. The rooflights shall be retained in accordance with the requirements of this condition and any subsequent replacement rooflights shall also comply with this condition, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of conserving the character and appearance of the building and the locality.

- 13 Prior to first occupation of Flat 3 of the development hereby permitted, the height of the balustrade on the western elevation of Flat 3's balcony shall be constructed up to a minimum of 1.8 metres from the floor level of the balcony in accordance with drawing number 5578-WP-P/21 Rev E. The western elevation of the balcony shall be retained thereafter at a minimum of 1.8 metres, unless

otherwise agreed in writing with the Local Planning Authority.

Reason: To maintain the privacy of neighbouring residential properties.

- 14 Prior to first occupation of the development hereby permitted, a detailed landscaping scheme, showing both hard and soft landscaping proposals, shall be submitted to, and approved in writing by, the Local Planning Authority. This shall include the planting of trees and shrubs (including a planting schedule setting out species, numbers, densities and locations), the provision of screen walls, fences or balustrades, the creation of areas of hardstanding, pathways, etc, areas to be seeded with grass, and other works or proposals for improving the appearance of the development.

The soft landscaping scheme (planting) shall be carried out in accordance with the approved details and drawings not later than the expiry of the next planting season following the Local Planning Authority's approval of the landscaping scheme, or within such other time as may be approved with the Local Planning Authority. The landscaped areas (planting) shall be subsequently maintained to ensure establishment of the approved scheme, including watering, weeding and the replacement of any plants, or areas of seeding or turfing comprised in the approved landscaping plans, which fail within a period up to 5 years from the completion of the development.

The hand landscaping scheme (walls, fencing, balustrading and hardstanding) shall only be carried out in accordance with the approved details and drawings and they shall be retained in accordance with the approved scheme, including the retention of the materials used in their construction, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity and the satisfactory appearance of the development upon completion and to protect the character and appearance of the locality.

- 15 Prior to first occupation of the development hereby permitted, works for the disposal of sewage and surface water drainage shall be provided on the site to serve the development, hereby permitted, in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. The works shall thereafter be retained and maintained in that form. For the avoidance of doubt, surface water shall be prevented from discharging onto the highway.

Reason: To ensure the adequate provision of drainage infrastructure and in the interests of highway safety.

- 16 No individual dwelling hereby permitted 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 West Somerset: Local Plan to 2032 Policy CC5 and NH6, the Supplemental Planning Document - Districtwide Design Guide and Paragraphs 134, 154 and 180 of the National Planning Policy Framework (July 2021).

- 17 The development hereby permitted shall not be first occupied until the access, parking and turning area detailed on drawing number 5578-WP-P/15 Rev B has been properly consolidated and surfaced in accordance with details to be submitted to, and agreed in writing by, the Local Planning Authority. The agreed access, parking and turning areas shall be clearly marked out before first occupation and shall thereafter be kept clear of obstruction at all times and not used other than for the parking and turning of vehicles in connection with the development hereby permitted or for the purpose of access.

Reason: In the interests of highway safety.

- 18 The northern most existing vehicular access to the site shall be closed to all traffic, its use permanently abandoned, and any verge / kerb / boundary features reinstated in accordance with details which shall have been submitted to, and approved in writing, by the Local Planning Authority. Such works shall be completed prior to first occupation of the development hereby permitted.

Reason: In the interests of highway safety.

- 19 The development hereby permitted must not be occupied or utilised until the precise technical details of electric vehicle charging points to serve the development have been submitted to, and agreed in writing by, the Local Planning Authority. The approved scheme must be installed and be available for use before the development is occupied or utilised and, thereafter be maintained, kept free from obstruction and available for this purpose in perpetuity.

Reason: In the interests of promoting and securing sustainable means of transport.

- 20 Prior to first occupation of the development hereby permitted, details of storage and access for collection of waste from the development shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be implemented before first occupation and shall be so retained thereafter.

Reason: In the interests of highway safety.

- 21 Before the development hereby permitted is occupied or utilised, the cycle parking facilities shown on the submitted plans must have been constructed and

be available for use and thereafter be maintained, kept free from obstruction and available for this purpose in perpetuity.

Reason: In the interests of promoting and securing sustainable means of transport.

- 22 Prior to first occupation of the development hereby permitted, 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 shall 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 West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 23 Prior to first occupation of the development hereby permitted, the following ecological enhancement measures shall be integrated into the development, unless otherwise agreed in writing with the Local Planning Authority:
- a. Two Vivara Pro Woodstone Nest Boxes (32mm hole version) or similar shall be mounted between 1.5 metres and 3 metres high on the north facing aspect of the building or onto trees and maintained thereafter.
  - b. Two bee bricks shall be built into the wall about 1 metre above ground level on the south or southeast elevation of the building and maintained thereafter.
  - c. Two Schwegler 1a swift bricks or similar shall be built into the wall at least 60cm apart and at least 5 metres above ground level on the north facing elevation and maintained thereafter.

Plans and photographs of the installed features will be submitted to, and agreed in writing by, the Local Planning Authority prior to first occupation.

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.

- 24 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, (or any order revoking and re-enacting the 2015 Order with or without modification), no extensions, enlargements or alterations (including new window and door openings) to the buildings hereby permitted, the erection of outbuildings or the installation of gates, walls, fences or other means of enclosure shall be carried out without the further grant of planning permission.

Reason: To prevent overdevelopment of the site, in the interests of highway safety and to conserve the character and appearance of the site and the locality.

24 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, as amended, and the Town & Country Planning Use Classes Order 1987, as amended, (or any order revoking and re-enacting those Orders with or without modification), the commercial buildings the subject of this permission shall not be used other than for purposes falling within Class E of the Use Classes Order without the prior grant of planning permission from the Local Planning Authority.

Reason: To ensure that the use remains compatible with surrounding land uses in the area.

**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 with the applicant and has negotiated amendments to the application to enable the grant of planning permission.



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## APPEAL DECISIONS – 15 September 2022

**Site: 24 BURLINCH, BURLINCH LANE, WEST MONKTON, TAUNTON, TA2 8LS**

**Proposal: Change of use and conversion of first floor of garage to holiday let accommodation at 24 Burlinch, Burlinch Lane, West Monkton**

**Application number: 48/21/0040**

**Reason for refusal: Dismissed**

**Original Decision: Chair - Refusal**

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### Appeal Decision

Site visit made on 28 June 2022

**by O Marigold BSc DipTP MRTPI**

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

**Decision date: 26<sup>th</sup> July 2022**

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Appeal Ref: [APP/W3330/W/22/3291578](#)

**24 Burlinch, Burlinch Lane, West Monkton, Taunton, TA2 8LS**

- 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 and Mrs Richmond against the decision of Somerset West and Taunton Council.
  - The application Ref 48/21/0040, dated 24 June 2021, was refused by notice dated 6 September 2021.
  - The development proposed is change of use of garage first floor to holiday let accommodation with minor amendments to building.
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#### Decision

1. The appeal is dismissed.

#### Preliminary Matter

2. Although reference has been made in the first reason for refusal to Policy SD1 of the Taunton Deane Site Allocations and Development Management Plan, adopted December 2016 (SADMP), the Council has confirmed that this policy is actually part of the Taunton Deane Borough Council Core Strategy 2011-2028, adopted September 2012 (CS) and I have determined the appeal on this basis.

#### Main Issue

3. The main issue is the site's suitability for holiday use bearing in mind the Council's strategy for the conversion of existing buildings, to support sustainable patterns of development, and economic growth and diversification.

## Reasons

4. The existing dwelling and its adjacent garage are in the countryside, some distance from the nearest village. The appeal site is remote from services and facilities and is accessed by a single-track, undulating lane. Whilst there are public footpaths and bridleways nearby, the site's isolated location means that occupiers of the proposal are likely to be reliant on private vehicles for at least some of their activities.
5. CS Policy DM2, which relates specifically to development in the countryside, supports the conversion of existing buildings, including for holiday accommodation, in certain circumstances. Furthermore, as part of its economic objectives for sustainable development, the National Planning Policy Framework (the Framework) supports rural tourism development, recognising that such sites may be beyond existing settlements and not well served by public transport.
6. Although evidence of the need for holiday accommodation locally has been provided, Part 3a of CS Policy DM2 only supports such accommodation where it involves diversification for farming and service enterprises, which does not apply here. Part 3c supports tourist facilities, rather than accommodation, and so is not directly relevant to the proposal.
7. Part 7 of CS Policy DM2 also supports the conversion of existing buildings, but subject to a sequential approach which places community, business and employment-generating uses (including those under former Class B of the Use Classes Order) above holiday and tourism uses. The justification to the policy identifies the lack of access to employment opportunities and low pay in the countryside and seeks to encourage economic growth. As such, it makes clear that community, business and employment-generating uses are appropriate and preferred in these circumstances. This is consistent with the Framework, which encourages different business uses in rural areas, not just tourism.
8. The appellant argues that the building is not suitable for community or business uses. The site has a poor access and so I accept that uses which would generate significant levels of traffic would not be suitable here. The site is in residential use, but the appeal building is separate from the dwelling and partially divided from it by landscaping and the site levels. No substantive evidence is before me to suggest that community or employment-generating uses have been actively considered by the appellant or that they would be harmful in respect of the living conditions of the occupiers of the host dwelling, or for any other reason.
9. I have been referred to previous decisions by the Council at Cheddon Fitzpaine<sup>1</sup> and at Coombe Lane, West Monkton<sup>2</sup>. I do not have full details of these cases, but they appear comparable to the proposal. In these instances, the Council adopted a different approach and did not require a sequential assessment of alternative uses to be undertaken. The Council has not indicated why it adopted an apparently different approach in these cases, though I note reference at Coombe Lane to the potential effects of alternative uses on the living conditions of occupiers of the dwelling.
10. These decisions are an important material consideration, as is the need for consistency in decision-making. However, this must be set against the need to properly apply the policies of the Development Plan. CS Policy DM2 sets out a clear hierarchy and justification for its sequential approach, against which I



have found conflict.

11. I therefore conclude that the proposal does not comply with the Council's strategy for the conversion of existing buildings, to support sustainable patterns of development, and economic growth and diversification. Policy SD1 has been referenced in the evidence before me, but given its particular focus, is not relevant to my reasoning. Nevertheless, for the reasons given above, the proposal would conflict with CS Policy DM2. It would also be at odds with CS Policy SP1, which seeks to focus new development to the most accessible locations, as well as conflicting with the Framework and its encouragement for business uses in rural areas.

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<sup>1</sup> LPA reference 48/15/0034

<sup>2</sup> LPA reference 48/19/0007

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## Other Matters

12. The proposal has the support of West Monkton Parish Council. It would also result in benefits including bringing additional tourists to the area, addressing any need for tourist accommodation and providing income from the Community Infrastructure Levy. It may well be more energy efficient than a new-build scheme. However, I have no detailed information to show how the proposal would compare with development that complies with CS Policy DM2 in these respects, and so can give them only modest weight. As such these benefits do not overcome the conflict with the Development Plan.
13. The proposal would have no undue impact on the living conditions of any other dwelling, nor in respect of its visual impact or highway safety. The Council has not cited any conflict with the West Monkton Neighbourhood Plan. These matters are however essentially neutral in the planning balance. I have also considered whether conditions could be attached to ensure that the property remains connected to the host dwelling, but this would not overcome the conflict I have identified above.
14. The Council's second reason for refusal refers to the site's location within the catchment area of the Somerset Levels and Moors Special Protection Area and listed Ramsar site (the SPA). As a European Designated Site and Ramsar site, this is protected pursuant to the Conservation of Habitats Regulations 2017 as amended.
15. In the event that I had found no harm in respect of the first issue, the competent authority (in this case myself) would need to carry out an Appropriate Assessment in respect of the potential effects of the proposal on the SPA. However, as I have found against the appellant on other substantive grounds, this matter need not be considered any further in this case.

## Conclusion

16. For the reasons given, there would be conflict with 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

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**Site: Land to the rear of 13 Ponsford Road, Minehead, TA24 5DX**

**Proposal: Erection of 1 No. detached two bedroom dwelling with garden and parking**

**Application number: 3/21/20/097**

**Reason for refusal: Dismissed**

**Original Decision: Chair - Refusal**

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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: 22<sup>nd</sup> July 2022.**

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Appeal Ref: [APP/W3330/W/22/3292193](#)

**Land to the rear of 13 Ponsford Road, Minehead TA24 5DX**

- 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 Hurley against the decision of Somerset West and Taunton Council.
  - The application Ref 3/21/20/097, dated 2 December 2020, was refused by notice dated 17 September 2021.
  - The development proposed is erection of a detached two bedroom dwelling with garden and parking.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider that the main issues are the effect of the proposal on:
  - the character and appearance of the area, and
  - the living conditions of the occupiers of 13 and 15 Ponsford Road, and of the proposed dwelling.

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## Reasons

### *Character and Appearance*

3. Ponsford Road consists primarily of detached and semi-detached dwellings. The appeal site currently forms part of the rear garden of No 13, which is adjacent to similar gardens of other properties in this road. The large semi-detached villas, and the space and vegetation provided by the existing long rear gardens, contribute to Ponsford Road's pleasant, suburban character.
4. The proposal would face onto Vennland Way, which is perpendicular to Ponsford Road. These roads, with nearby Cat Lane, have commercial and industrial buildings, and there is a large retirement home opposite the site of the proposal. Whilst these give the area a somewhat varied character, the garden to No 13 provides a sense of openness and greenery that owes more to the strongly suburban character of the dwellings of Ponsford Road.
5. The dwelling would be sited next to the existing garage serving No 13, close to a recently erected dwelling that also faces Vennland Way. The height, design and materials of the proposal would be similar to that property, as would its position set back from the edge of the road.
6. However, the proposal would have a two-storey height across its width, resulting in a large mass and scale. Whilst a gap would be maintained between the proposal and No 13, the scale of the new dwelling would reduce the sense of space and openness provided by the appeal site at present. As such, it would interrupt and detract from the positive contribution that the long garden at No 13 makes to this part of Vennland Way and its low-density and suburban character.
7. Furthermore, a large part of the proposed plot would be taken up with the dwelling and its parking. Although I accept that the adjacent new dwelling also has a limited plot size, this is an exception to the general character which, I understand, was partially justified by the previous building on that site. In the context of its surroundings, the limited plot size and the extent of development would result in the proposal appearing cramped and out of place, when seen from both Ponsford Road and Vennland Way.
8. For these reasons, I conclude that the proposal would harm the character and appearance of the area. As such, it would be contrary to Policy NH13 of the West Somerset Local Plan (WSLP), adopted 2016, which in summary, seeks to ensure that proposals integrate appropriately with their surroundings. For similar reasons it would also conflict with the advice in the National Planning Policy Framework (the Framework) that development must be sympathetic to local character.

### *Living Conditions*

9. The prevailing plot sizes of properties in Ponsford Road are narrow in width. As a result, the rear elevation of the proposal would be positioned close to the boundary of the rear garden of No 15. This, together with the length and resultant mass of the proposal, means it would have an

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enclosing and overbearing impact on users of the rear garden to No 15, made greater by the largely unrelieved form of its rear elevation. As such the proposal would have a greater, more harmful impact on the garden to No 15 than existing buildings.

10. There would be no windows facing No 13 and the ground floor door could be screened by adequate boundary treatments. The proposed dwelling would have no windows facing to the rear, other than high level rooflights, which would not allow for views into the garden of No 15. I find that there would be no undue loss of privacy to the occupiers of existing properties. The occupiers of No 13 would have a smaller garden, but its size would still be sufficient to provide it with adequate living conditions.
11. The rear gardens of other properties in Ponsford Road are far enough away from the proposed building for the living conditions of their occupiers to be broadly maintained. The proposal would have its own external recreational space and would be a sufficient distance from existing dwellings to ensure its occupiers would have adequate living conditions in respect of outlook and privacy.
12. Nevertheless, for the reasons given above, the proposal would harm the living conditions of the occupiers of 15 Ponsford Road. As such, it would be contrary to Policy NH13 of the WSLP, which requires that a proposal must respond positively to its neighbours. For similar reasons it would also conflict with the advice in the Framework regarding ensuring a high standard of amenity.

### Other Matters

13. The proposal would result in an incremental addition to housing supply, and there would also be benefits associated with supporting employment during construction, and from future occupiers who would bring trade to the area. Nevertheless, the benefits of one new dwelling in that context would be very modest.

### Conclusion

14. For the reasons given above, I have found conflict with 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

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**Site: Cloverfield Barn, Lower Weacombe, Taunton, TA4 4ED**

**Proposal:** Demolition of agricultural building and erection of 1 No. dwelling with associated works utilising the Class Q fallback position

**Application number: 3/28/21/006**

**Reason for refusal: Dismissed**

**Original Decision: Delegated - Refusal**

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## Appeal Decision

Site visit made on 28 June 2022

**by O Marigold BSc DipTP MRTPI**

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

**Decision date: 28<sup>th</sup> July 2022**

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Appeal Ref: [APP/W3330/W/22/3292573](#)

**Cloverfield Barn, Lower Weacombe, Taunton TA4 4ED**

- 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 and Miss Keen and Sear against the decision of Somerset West and Taunton Council.
- The application Ref 3/28/21/006, dated 7 June 2021, was refused by notice

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- dated 19 November 2021.
  - The development proposed is Erection of a dwelling utilising the Class Q fallback position.
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## Decision

2. The appeal is dismissed.

## Preliminary Matters

3. As part of their submission, the appellants have provided amended plans, including showing changed materials. Given the relatively small extent of the changes, no parties' interests would be prejudiced if I take these amended plans into account. I shall therefore determine the appeal on these plans.
4. In its decision, the Council's first reason for refusal refers to paragraph 172 of the National Planning Policy Framework (The Framework). The Council has subsequently acknowledged that it should instead have referred to paragraph 176 of the Framework, in respect of the Quantock Hills Area of Outstanding Natural Beauty (AONB). However, the correct wording was used in the Officer's Report and so the appellant has not been prejudiced by this.
5. The Council's second reason for refusal relates to potential ecological impacts from the development and that insufficient information had been provided in this respect. Subsequently, the appellants have undertaken a Preliminary Visual Assessment for bats and breeding birds, which has found no evidence of these species within the building.
6. The Council has confirmed that it no longer wishes to pursue the second reason for refusal. I see no reason to disagree and Policy NH6 of the West Somerset Local Plan to 2032, adopted November 2016 (WSLP), which relates to nature conservation, has been satisfied.

## Main Issue

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

## Reasons

8. The site is a large, agricultural building, located in an area that consists primarily of open countryside, fields and farm buildings. Dwellings are often simple cottages or farmhouses, many being set close to and either parallel or perpendicular to the road. These features, together with the steep slopes of the landscape within the nearby AONB, give the site a deeply rural, agricultural character.
9. The design of the proposal has been the subject of several iterations and would use local sandstone and slate, in accordance with the Council's Draft Design Guide Supplementary Planning Document 2021, which has been drawn to my attention. It would also use detailing in the form of brick quoins and varied roof types. The proposal is intended to have a

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barn-like feel in places, with the Design and Access Statement referring to a traditional threshing-barn appearance, whilst references have also been taken from dwellings nearby.

10. However, as a whole the design is somewhat confused, with different elevations giving differing impressions of either a farmhouse or a converted barn. The siting and U-shape footprint of the proposal means that its main element would be positioned well away from the road frontage, whilst the entrance driveway and hardstanding would be sited more or less centrally.
11. These elements give the proposal a domestic, planned layout that does not reflect the local vernacular. In particular, it would be different from nearby Lower Weacombe, where the farmhouse identified by the appellant is close and perpendicular to the road, with courtyard buildings having been developed organically around it, and with a different entrance arrangement. Proposed features such as domestically proportioned wings and details, including doors, windows and openings, would also conflict with the barn-like elements of the design. This would be re-enforced by the lawn proposed around the dwelling.
12. Taken together, the design, footprint and siting of the proposal mean that it would not appear either as a converted barn or as a farmhouse. Instead, it would appear contrived in its design. As a result, other than in terms of its materials, it would have little clear relationship to its surroundings, and would harmfully contrast with the rural and agricultural character of the area.
13. A planning condition could be used to secure details of the surface materials. A new landscaped enclosure, with stone walling and hedge planting, would also help to ameliorate and screen the proposal, as would the current roadside hedging. Even so, such screening cannot be relied upon, particularly in winter months when foliage is reduced, and nor can its survival in the long term be guaranteed. In any case, the proposal's appearance would still be visible from the adjacent roads, particularly when viewed through the site entrance.
14. Furthermore, whilst filtered by existing trees, and notwithstanding the regressive effect of the slate roof, I saw that the roof and position of the proposal would be visible from higher public viewpoints within the AONB. Given the harm I refer to above, and its visibility both from the AONB, and within its foreground, the proposal would have a negative impact on the setting of the AONB and its natural beauty.
15. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. As such it would be contrary to Policy NH5 of the WSLP, which requires development to be located and designed to minimise adverse impact on local landscape character.
16. The guidance in Policy DIPIP3 of the Quantock Hills Management Plan 2019 – 2024 has been referred to, but this relates to settlements within the AONB, and so does not directly apply to the proposal. However, for the reasons referred to above, the proposal would conflict with the



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Framework, which in paragraph 176 states, amongst other things, that development within the setting of AONBs should be sensitively located and designed to avoid or minimise adverse impacts on the AONB.

## Other Matters

17. Planning permission for conversion of the existing barn on the site to residential use has already been granted, under a Prior Approval<sup>1</sup>. The appellants intend to complete this development, if planning permission is not forthcoming for the proposal. It is common ground that this represents a fallback position and as such carries significant weight in the planning balance.
18. The proposal would have a smaller floorspace and footprint than the fallback and would be constructed with external materials that reflect those used locally, especially when compared to those of the fallback which would be functional and mis-matched. Furthermore, both schemes would have windows on external elevations, giving a domestic appearance to either building.
19. However, the siting of the fallback building, being closer to existing site boundaries, together with its long, low and simple shape and profile, would retain the form of an agricultural building. This is in contrast to the higher and differing ridge and eaves heights of the proposal. As such, the fallback sits more naturally in the landscape, and would better reflect the agricultural character of the site and the surrounding area, to which I give significant weight.
20. The fallback would result in use of the area around the building for domestic purposes, some of which would be closer to and more visible from the highway. However, both proposals would be likely to result in domestic paraphernalia of a nature that could not be controlled, such as children's play equipment and garden furniture, being visible from the road. In addition, the position of the proposal, being set back into the site and with a greater extent of garden, means it would encroach further into the countryside, adding to its harmful domestic effect compared with the tight boundaries of the fallback.
21. The proposal would provide much greater screening, including new native hedgerow, but as I have already stated this cannot be relied upon to fully screen the effects of the proposal and so attracts only modest weight in its favour. Furthermore, notwithstanding lower site levels, the taller height of the proposal (by around a meter) and its position, would make it more visible than the fallback when viewed from adjacent roads and the AONB, resulting in greater harm in comparison.
22. The proposal would result in a more energy efficient dwelling, with some ecological benefits including bat and bird boxes and additional native hedge planting, resulting in a biodiversity net gain. The fallback does not include these benefits and so these measures carry modest weight in favour of the proposal. I have also taken into account the representations made in support of the proposal. However, these matters do not overcome the harm that it would cause.

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23. Both parties have referred to WSLP Policy TR2 and whether occupiers would be reliant on the private car for services and facilities. However, given that both the proposal and the fallback would result in a single dwelling, and therefore a similar degree of reliance on the private car, this is not central to my reasoning.

#### Planning Balance and Conclusion

24. For the above reasons, I consider that the proposal would be more harmful than the fallback in respect of the character and appearance of the area. It does not therefore justify the conflict with the Development Plan, read as a whole that I have identified above. No material considerations have been shown to have sufficient weight to warrant a decision otherwise than in accordance with the Development Plan. I therefore conclude that the appeal should be dismissed.

***O Marigold***

INSPECTOR