

# Public Agenda Pack



Notice of Meeting of

## **PLANNING COMMITTEE - SOUTH**

**Tuesday, 22 August 2023 at 5.30 pm**

**Council Chamber, Council Offices,  
Brympton Way, Yeovil BA20 2HT**

To: The members of the Planning Committee - South

Chair: Councillor Peter Seib  
Vice-chair: Councillor Jason Baker

Councillor Steve Ashton	Councillor Mike Best
Councillor Henry Hobhouse	Councillor Andy Kendall
Councillor Jenny Kenton	Councillor Tim Kerley
Councillor Sue Osborne	Councillor Oliver Patrick
Councillor Evie Potts-Jones	Councillor Jeny Snell
Councillor Martin Wale	

---

For further information about the meeting, including how to join the meeting virtually, please contact Democratic Services – see contact details below.

Requests to speak at the meeting about a planning application must be made to the Democratic Services Team no later than **12noon on Monday, 21 August 2023** by email to [democraticservicessouth@somerset.gov.uk](mailto:democraticservicessouth@somerset.gov.uk). Further information on the public speaking arrangements at Planning Committee is provided in the Public Guidance Notes near the front of this agenda pack.

The meeting will be streamed to YouTube and viewable at:  
<https://www.youtube.com/watch?v=-NI7IcYbGGY>

Members of the public are welcome to attend the meeting.

This meeting will be open to the public and press, subject to the passing of any resolution under the Local Government Act 1972, Schedule 12A: Access to Information.

Issued by David Clark, Monitoring Officer (the Proper Officer) on Friday 11 August 2023.

# **AGENDA**

**Planning Committee - South - 5.30 pm Tuesday, 22 August 2023**

## **Public Guidance Notes for Planning Committees (Agenda Annexe) (Pages 5 - 8)**

### **1 Apologies for Absence**

To receive any apologies for absence and notification of substitutions.

### **2 Minutes from the Previous Meeting (Pages 9 - 14)**

To approve the minutes from the previous meeting.

### **3 Declarations of Interest**

To receive and note any declarations of interests in respect of any matters included on the agenda for consideration at this meeting.

(The other registrable interests of Councillors of Somerset Council, arising from membership of City, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes: [City, Town & Parish Twin Hatters - Somerset Councillors 2023](#) )

### **4 Public Question Time**

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 limit applies to each speaker.

Requests to speak at the meeting at Public Question Time must be made to the Monitoring Officer in writing or by email to [democraticserviceteam@somerset.gov.uk](mailto:democraticserviceteam@somerset.gov.uk) by 5pm on Wednesday 16 August 2023.

**5 Planning Application 23/00850/DPO - Land OS 4575, Cartway Lane, Somerton. (Pages 15 - 24)**

To consider an application to vary part 2 of the second schedule of the S106 Agreement dated 2<sup>nd</sup> November 2020 relating to planning application 15/03585/OUT.

---

**Other Information:**

**Exclusion of the Press and Public for any discussion regarding exempt information**

The Press and Public will be excluded from the meeting when a report or appendix on this agenda has been classed as confidential, or if the Committee wish to receive confidential legal advice at the meeting. If the Planning Committee wish to discuss information in Closed Session then the Committee will be asked to agree the following resolution to exclude the press and public:

**Exclusion of the Press and Public**

To consider passing a resolution having been duly proposed and seconded under Schedule 12A of the Local Government Act 1972 to exclude the press and public from the meeting, on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, within the meaning of Schedule 12A to the Local Government Act 1972:

**Reason:** Para 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

(Or for any other reason as stated in the agenda)

Ordnance Survey mapping/map data included within this publication is provided by Somerset Council under licence from the Ordnance Survey in order to fulfil its public function to undertake its statutory functions on behalf of the district. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey mapping/map data for their own use. Somerset Council - AC0000861332 - 2023

## Public Guidance Notes for Planning Committees

### Can I speak at the Planning Committee?

The Applicant or Agent, Parish, Town or City Council, Division Members and objectors or supporters are able to address the Planning Committee. **All speakers need to register – please see details on the next page.**

The order of speaking will be:-

- Those speaking to object to the proposal - maximum of 5 speakers of 3 minutes each
- Those speaking in support of the proposal - maximum of 5 speakers of 3 minutes each
- Parish, Town or City Council(s) - 3 minutes each
- Councillors of Somerset Council (non-Committee members) - 3 minutes each
- The applicant or their agent - 3 minutes

Public speaking will be timed and the Chair will be responsible for bringing the speech to a close. The speaker/s will be allowed to address the Committee during their registered slot only and will not be allowed to provide further clarification. If an item on the Agenda is contentious, with a large number of people attending the meeting, a representative speaking to object or support the proposal should be nominated to present the views of a group.

The Chair can exercise their discretion in consultation with the Legal Adviser and this maybe, for example, it maybe that comments are derogatory in which case the Chair will exercise discretion to prevent the speaker from continuing, or if balance was required in terms of speakers for and against or to make a specific point, to allow a further speaker.

Comments should be limited to relevant planning issues. There are limits to the range of issues that can be taken into account when considering planning applications.

Although not an exhaustive list, these might include:

- Government planning policy and guidance
- Planning legislation
- The suitability of the site for development
- Conflict with any planning policies such as the relevant Development Plan – which are available for inspection on the Council's website
- Adopted Neighbourhood Plans
- Supplementary Planning Documents (SPD)

- Previous planning applications and decisions
- Design, appearance, layout issues and relationship with the surrounding area.
- Living conditions such as privacy, noise and odour.
- Highway safety and traffic issues
- Biodiversity and ecology
- Impact on trees and the landscape
- Flood risk in identified areas at risk.
- Heritage assets such as listed buildings, conservation areas and archaeology
- The economy, including job creation/retention.
- Drainage and surface water run-off.

Issues that are not usually relevant will vary with each application, but the courts have established that the following matters cannot be taken into account when considering planning applications:

- The history or character of an applicant
- Perceived or actual impact of development on property values.
- Land ownership, restrictive covenants or other private property rights including boundary and access disputes or maintenance.
- An applicant's motivations or future intentions.
- Retrospective nature of applications;
- Impact on private views;
- The extent of public support or opposition for a proposal alone;
- Competition between businesses;
- Matters controlled by other (non-planning) legislation such as licensing and building regulations or other laws.

### **How do I register to speak at Planning Committee?**

A request to speak must be made to the Council's Democratic Services team no later than 12 noon on the working day before the Committee meeting by email to [democraticservicessouth@somerset.gov.uk](mailto:democraticservicessouth@somerset.gov.uk) . For those speaking to object or support the proposal, the speaking slots will be allocated on a first come first served basis. If there are numerous members of the public wishing to speak in one slot it is advisable to make arrangements for one person to make a statement on behalf of all. The meetings are hybrid and you can speak either in person at the meeting or virtually. If you wish to speak at the meeting virtually please inform Democratic Services so that they can advise you of the details. If you have registered to speak, the Chairman will invite you to speak at the appropriate time during the meeting.

### **Can I present information to the Committee?**

Please be advised that you cannot present documents in any form to the Committee Members at the meeting – this includes photographs and presentations (including Powerpoint presentations).

### **How do I know what time an application will be heard?**

If you have registered to speak in person, we recommend arriving at the meeting venue about 15 minutes before the start time. If joining virtually, please consider joining the meeting a few minutes early to ensure your technology is working correctly - you may have to wait in a lobby until being admitted to the meeting. It is not possible to estimate the exact time an application will be heard.

### **What if my Division Member does not sit on the Planning Committee?**

If your local Councillor is not a member of the Planning Committee, he or she can still address the meeting to outline any concerns or points of support. However, they will not be permitted to take part in the main debate, to make or second a proposal or to vote on any item.

### **Presentation of planning applications**

The Planning Officer will present the case to the Committee explaining the factual matters and any salient points which need to be drawn out with the use of a visual presentation. It is important to note that the Planning Officer is not an advocate for either the applicant or any third parties but will make an impartial recommendation based on the merits of the proposal and any relevant material considerations.

### **The role of Officers during the debate of an application**

When an application is considered at Planning Committee, it is the Officers' role to explain why they have concluded that permission should be approved or refused and answer any questions that Members may have. Whilst the Committee has to reach its own decision bearing in mind the Officer advice, report and recommendation, the Lead Planning Officer and Council Solicitor in particular have a professional obligation to ensure that a lawful and unambiguous decision is made in accordance with the Council's Development Plan, planning legislation, regulations and case law. This means, in the event that a contrary decision is sought, they will need to explain the implications of doing so. This can sometimes mean that Officers need to advise and guide Members as to planning policy, what are or are not material considerations, what

legally can or cannot be considered or given weight and the likely outcome of any subsequent appeal or judicial review.

Officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the Members and there should always be scope for Members to express a different view from Officers. However, any decision by the Committee must be based on proper planning reasons as part of the overall aim to ensure that a lawful and unambiguous decision is made. Where this is contrary to that recommended within the Officer report, the Lead Planning Officer and Council Lawyer will advise Members in making that decision.

### **Recording of the Meeting**

Please note that this meeting will be recorded, and the recording will be made available on the Council's website and/or on YouTube. You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the recording will be retained in accordance with the Council's policy. Therefore, unless you are advised otherwise, by taking part in the Council meeting during public participation you are consenting to being recorded and to the use of the sound recording for access via the website or for training purposes.

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





Minutes of a Meeting of the Planning Committee - South held in the Council Chamber, Council Offices, Brympton Way, Yeovil BA20 2HT, on Tuesday, 25 July 2023 at 5.00 pm

**Present:**

Cllr Peter Seib (Chair)  
Cllr Jason Baker (Vice-Chair)

Cllr Steve Ashton  
Cllr Jenny Kenton  
Cllr Sue Osborne

Cllr Mike Best  
Cllr Tim Kerley  
Cllr Martin Wale

**In attendance:**

Cllr Tony Lock

Cllr Jo Roundell Greene

**18 Apologies for Absence - Agenda Item 1**

Apologies were received from Councillors Andy Kendall, Oliver Patrick, Evie Potts-Jones and Jeny Snell.

**19 Minutes from the Previous Meeting - Agenda Item 2**

Resolved that the minutes of the Planning Committee - South held on 27<sup>th</sup> June 2023 be confirmed as a correct record.

**20 Declarations of Interest - Agenda Item 3**

There were no declarations of interest.

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

There were no questions from members of the public.

## **22 Planning Application 22/03397/FUL - Land at Owl Street, Stocklinch, Ilminster - Agenda Item 5**

The Planning officer introduced the application to the committee with the assistance of a powerpoint presentation. He referred to the previously approved Class Q approval of the site and the key considerations. The recommendation was for approval subject to the conditions as set out within the agenda report.

Five members of the public addressed the committee in objection to the application. Some of their comments included:

- Narrow single track to the site that is not maintained.
- Dangerous junction and no speed limit in Stocklinch therefore a safety concern regarding pedestrians and local school children.
- Situated in open countryside and in an unsustainable location.
- Questioned the long-term use and possible intent of holiday lets.
- Referred to the class Q approval and considered the conversion of the existing barns was a far better option than the demolition and rebuild of new dwellings.
- Raised concern regarding the surface water run off on the site.
- Significant visible impact on the local countryside and wholly out of character with the village and surrounding landscape.
- Adverse impact on the nearby listed buildings.
- Impact on the local amenities and village hall.
- Encroachment on agricultural land.
- Outside settlement limit.
- Development areas will significantly increase well beyond the Class Q approval limit.
- Would increase the population of the village by over 10%.

A representative from Whitelackington Parish Council and a representative from Stocklinch Parish Council addressed the committee in objection to the application. Some of their comments included:

- Lack of local facilities.
- Believe use will move to holiday let accommodation.
- Referred to recent nearby development schemes with intention to link both.
- Proposal would diminish rather than enhancement the settlement.
- Local community does not support the application and that this has not been taken into account.
- Proposal has no benefit or value to the village.
- Concern raised regarding the high-pressure water main running across the

site.

- Referred to recent government advice and that development should not take place in open countryside and in unsustainable communities.

Division member Councillor Jo Roundell-Greene addressed the committee. Some of her comments included:

- Felt this application should be looked at in its own right and not with the premise of the Class Q development rights of the barns.
- There was over provision of parking spaces.
- Development was in an unsustainable location with no local facilities such as school, shop or pub nearby.
- Proposed materials were not in keeping with the local area.
- Proposal did not fulfil the local housing need.
- Would set a precedent for future development in open countryside.

The Applicant then addressed the committee. Some of his comments included:

- Class Q permission had already been granted.
- Believe the proposal to be more environmentally sustainable.
- Proposed design preserves the agricultural nature of the buildings and rural surroundings.
- Noted that the highways authority had raised no objection.
- Confirmed the intention for the scheme was to let on a long term basis.
- Estate has no access to the land around the development and that the additional track was sought so to alleviate the large farm machinery traffic from travelling through the streets of the village.

The Planning Officers responded on the points raised by the public speakers and on points of detail and technical questions raised by members including:

- That an application for holiday let use can be submitted at any time.
- Considered the listed buildings to be a significant distance away from the development (over 100m) and therefore the historic setting is not affected.
- Relevance of neighbouring applications.
- Showed the location of the high-pressure water main.
- Explained the Class Q approval in comparison with this application.
- Obligation to secure phosphate mitigation not required regarding Class Q development fall back position.
- Condition would be included to control materials used.
- Given the location and Class Q development it was unlikely any further development would be allowed.

During debate comments were made including:

- The approved class Q application was appropriate and more suitable to the

character and curtilage of the surrounding countryside and the site.

- Felt there was too much of a suburban element to the design that would be harmful to the setting of Stocklinch.
- Contrary to the local plan and not in a sustainable location.

It was proposed by Councillor Jenny Kenton and seconded by Councillor Martin Wale to refuse the application on the grounds that the demolition of the barns and the urban style of design would have a detrimental impact on the landscape character.

In response to comments raised, the Lead Specialist provided advice and suggested the reason could refer to the arrangement, layout, design and scale, distribution of dwellings and the parking arrangements would create a residential character which wasn't achieved by the Class Q approval. This was agreed by the proposer and seconder.

Following a short discussion prior to the vote, members were happy to agree the exact wording of the reasons for refusal be delegated to officers. On being put to the vote, the proposal to refuse the application, contrary to the officer's recommendation was carried 7 in favour, 1 against, 0 abstention.

**RESOLVED:**

That planning application 22/03397/FUL be REFUSED permission, contrary to the officer recommendation, for the following reason:

01. The proposed development by reason of its extended residential curtilage compared to the scheme approved under (22/00743/PAMB) together with the number and distribution of dwellings and associated residential buildings and paraphernalia in a form that reflects a designed residential layout detracts from the wider landscape character of the site, and negatively contrasts with the simpler form of development approved under (22/00743/PAMB) wherein the development was underpinned by the reuse of simple agricultural buildings reflective of a countryside location. As such, the application proposal is contrary to the provisions of Policy EQ2 of the South Somerset Local Plan 2008 - 2028 and Paragraph 174 of the NPPF.

(Voting: 7 in favour, 1 against, 0 abstentions)

**23 Planning Application 18/01311/OUT - Agenda Item 6**

The Lead Specialist introduced the application to the committee with the assistance

of a powerpoint presentation. He explained the background of the application and the reason why it had been brought back to committee as detailed in in the agenda report and confirmed that the applicant now had an agreed phosphate solution.

He referred to the key considerations from the original application and confirmed that the recommendation was the same as per the previous conditionally approved scheme. He explained there was the need to update the affordable housing resolution to include 'first homes' and that in essence this was a tidying up of the resolution to be able to issue a consent in a timely manner.

A representative from Broadway Parish Council addressed the committee. He requested that the application be deferred as felt further consideration was required regarding the phosphate's mitigation report. He suggested that further discussions be held with Wessex Water, Natural England and the Parish Council on the issues involved and concerns regarding the foul water flow and further pollution and contamination.

The Applicant then addressed the committee. Some of his comments included:

- This was a high-quality scheme that they had been working on since 2017 and were committed to delivering.
- Scheme was already approved and that this was solely for the addition to secure phosphates mitigation and update to the affordable housing.
- Scheme delivers many benefits including footpaths and traffic calming.
- Application was policy compliant.
- Proposed phosphates mitigation has been agreed and delivers nutrient neutrality.

The Lead Specialist responded on the points raised by the public speakers and on points of detail and technical questions raised by members around Wessex Water's legal obligations regarding foul water surface drainage and the development at this site.

He suggested that if the committee were minded to approve the application, that members agree the recommendation as detailed in the agenda report, subject to a meeting being arranged with Wessex Water prior to the planning decision notice being issued. The meeting with Wessex Water being to discuss and understand their action plan regarding Wessex Water's legal obligations regarding the development at this site.

There being no further debate it was then proposed by Councillor Sue Osborne and seconded by Councillor Tim Kerley to approve the application, as per the officer recommendation detailed in the agenda report, and subject to a meeting with

Wessex Water prior to the planning decision notice being issued. On being put to the vote, this was carried unanimously.

**RESOLVED:**

That planning application 18/01311/OUT be APPROVED, as per the officer recommendation detailed in the agenda report, and subject to a meeting with Wessex Water prior to the planning decision notice being issued. The meeting with Wessex Water being to discuss and understand their action plan regarding Wessex Water's legal obligations regarding the development at this site.

(Voting: Unanimous in favour)

**(The meeting ended at 7.05 pm)**

.....  
**CHAIR**

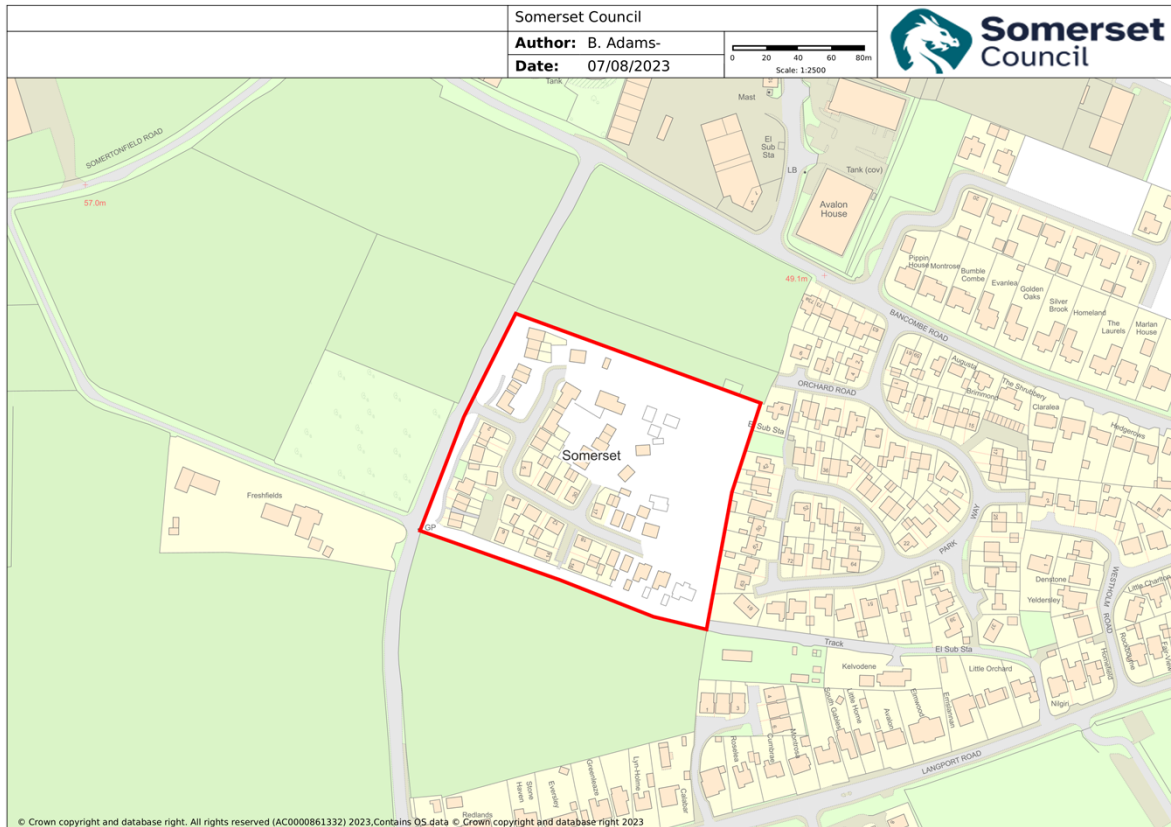
## Officer Report On Planning Application: 23/00850/DPO

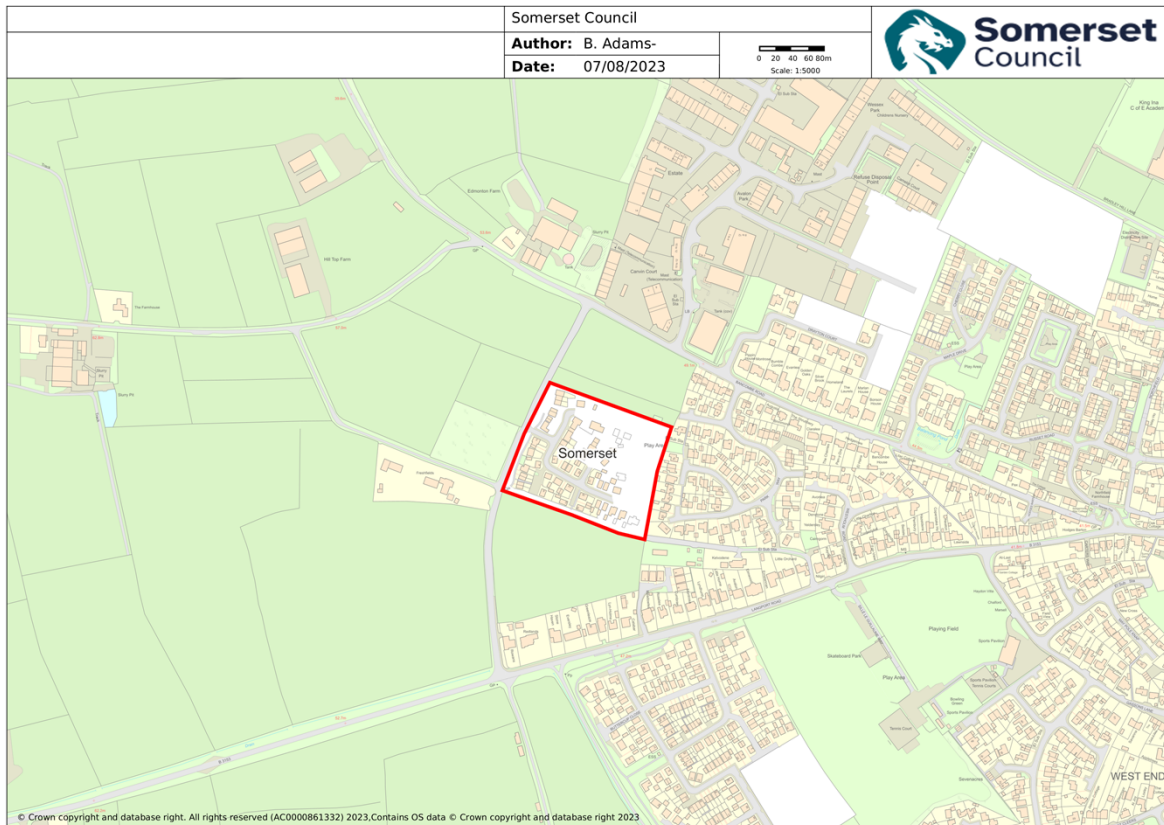
<b>Proposal :</b>	Application to Vary Part 2 of the Second Schedule of the S106 Agreement Dated 2nd November 2020 relating to planning application 15/03585/OUT
<b>Site Address:</b>	Land OS 4575, Cartway Lane, Somerton, Somerset,
<b>Parish:</b>	Somerton
<b>SOMERTON Division</b>	Cllr T Kerley Cllr D Ruddle
<b>Recommending Case Officer:</b>	Sarfaraz Khan (Specialist)
<b>Target date :</b>	19th May 2023
<b>Applicant :</b>	Andy Cattermole
<b>Agent: (no agent if blank)</b>	
<b>Application Type :</b>	Non PS1 and PS2 return applications

### REASONS FOR REFERRAL TO COMMITTEE:

The Chair and Vice Chair have requested that the current application be referred to and heard at planning committee.

### SITE AND ITS SURROUNDINGS:





The application site is approximately 2.35 hectares of grade 3a agricultural farmland located at the western periphery of Somerton immediately adjacent to the development area and within the direction of growth as set out within policy LMT3 of the local plan. There is an existing field access into the application field within the west boundary leading on to Cartway Lane which also serves as access for a public right of way (bridleway) which passes along through the field from west to east along the south boundary.

Given that the original application (app ref: 15/03585/OUT) was permitted subject to conditions on 23.03.2017, the application site as of the date of the submission of the current discharge of condition application is currently fenced off by HERAS fencing, and extensive construction works are currently being undertaken, with several dwellings on-site already completed and occupied, roads already built and other dwellings still under construction and partially constructed. The application field is enclosed on three sides by mature native hedges and a mix of fencing and planting along the east boundary where it adjoins the adjacent housing. The application site has a very slight gradient but is at a similar level to the adjacent housing and surrounding agricultural land.

There are no listed buildings or archaeological designations within or immediately adjacent to the site and the application site is within flood zone 1.



## **PROPOSAL:**

Outline planning consent was granted subject to conditions on 23.03.2017 (app ref: 15/03585/OUT) for the construction of up to 59 dwellings with a new vehicular access from Cartway Lane, associated car parking and open space including the provision of a play area and laying out of an access road. (The maximum height of buildings to be two storeys above existing ground level) with some matters reserved (GR:347498/128822).

This is a discharge of planning obligation application (DPO) to modify the S106 agreement (dated 22 March 2017) for which a Deed of Variation was previously agreed (dated 2 November 2020) and which previously sought a variation to the affordable housing provisions. The applicant has secured a s278 agreement and subsequent Technical Approval for undertaking these works (and others) from Somerset County Council (06 December 2022) and could therefore implement the details as required. The applicants have also agreed to the resurfacing and draining of the Public Right of Way. However, this DPO has been made to vary part 2 of the Second Schedule which relates to covenants given to the former Somerset County Council (now part of Somerset Council). This is because the applicant considers that the introduction of street lighting along the bridleway would be inappropriate as light pollution generated by street lighting would harm bats and other ecological interests, the introduction of streetlights would necessitate digging for cables and power supply which would harm trees and hedgerows along the bridleway and street lighting along the bridleway would also have a detrimental impact upon and lead to increased usage of the existing PROW.

The applicant wishes to vary paragraph 1 of part 2 of the S.106 agreement (dated 22 March 2017) to read as follows:

'The owner shall not Commence the Development until it has submitted to and received approval from the County Council in respect of works to improve the Bridleway including surface and drainage improvements between the Site and the existing metaling on the Bridleway'.

## **PLANNING HISTORY:**

22/03242/NMA - Non-Material Amendment to approved application 20/00451/REM to Change to external materials on Plots 20,43, 44 & 48. - Application Permitted - 06.01.2023.

22/00809/NMA - Non-Material Amendment to approval 20/00451/REM. Amendment to site layout to provide for an increase in attenuation basin size following

consultation with the LLFA and Wessex Water, and a minor change to the internal road alignment following the technical audit by SCC Highways - Application Permitted with Conditions - 30.08.2022.

21/00861/DOC - Application to Discharge Conditions No. 5 (Fencing), No. 7 (Access), No. 8 (Layout), No. 10 (Surface Water), No. 11 (CMP), No. 13 (Archaeological Work), No. 14 (Travel Plan), No. 15 (Surface Water), No. 16 (Drainage), No. 17 (Lighting) and No. 18 (Phasing Programme) of Planning Application 15/03585/OUT. - Conditions Discharged - 14.01.2022.

21/00862/DOC - Application to Discharge Condition No. 2 (Lighting Design) of Planning Application 20/00451/REM - Conditions Discharged - 15.07.2021.

19/03391/DPO - Application to modify S106 agreement dated 22nd March 2017 between South Somerset District Council, Somerset County Council, Deborah Joy Hilborne and Intelligent Land Limited to vary planning obligations. - Application Permitted - 24.08.2020.

20/00451/REM - Application for approval of reserved matters following outline approval of 15/03585/OUT seeking approval of appearance, landscaping and scale and compliance with conditions as described in the submitted application form. - Application Permitted with Conditions - 08.07.2020.

17/03237/DPO - Application to vary S106 agreement dated 22nd March 2017 between South Somerset District Council, Somerset County Council, Deborah Joy Hilborne and Intelligent Land Limited to vary planning obligations. - Application Permitted with Conditions - 06.12.2017.

15/03585/OUT - Outline application for the construction of up to 59 dwellings with a new vehicular access from Cartway Lane, associated car parking and open space including the provision of a play area and laying out of an access road. (The maximum height of buildings to be two storeys above existing ground level) with some matters reserved (GR:347498/128822) - Application Permitted with Conditions - 23.03.2017.

### **CONSULTATION:**

Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

## **PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS:**

**Somerton Town Council** - Raises points of concern regarding the pedestrian access and the ecological need for hedges to be reinstated as originally agreed.

## **OTHER CONSULTEES:**

**Conservation Unit** - No comments or objections received at time of writing.

**Somerset Ecology Services** - No objections.

**Open Spaces** - No comments or objections received at time of writing.

**Legal Services** - No comments or objections received at time of writing.

**Somerset Council Education Department** - No objections.

**Public Rights of Way** - No comments or objections received at time of writing.

## **PUBLICITY CARRIED OUT:**

This application has been publicised by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was 17th May 2023.

## **MATERIAL 3RD PARTY COMMENTS RECEIVED:**

Eight comments received in support of the proposals from neighbours/third parties.

Five comments received from neighbours/third parties which object to the proposals on the following grounds:

- Cannot find plans of the exact land.
- Object to having lighting on the bridleway which should be left as a wildlife corridor (which is also horse friendly) and unlit and as a safe place for wildlife to rear their young.
- There is no requirement to have lights installed on the bridleway which is not an access road to the estate.
- The new surface being laid on the bridleway should be horse friendly as it is a designated bridle path.
- Any permission granted on this DPO should require a safe, well-drained and hard-surfaced pathway from the site to Langport Road.

- Lighting on the bridleway would shine onto properties (including back gardens and windows) backing onto the bridleway.
- The local wildlife (Bats, badgers, foxes and deer) have been adversely affected by this development and illuminating what's left of their habitat would be a travesty.
- The implementation of street lighting could have a detrimental impact on bats and their foraging and commuting habitat along the bridleway and Cartway Lane and neighbouring land parcels.
- Surveys have not been undertaken to determine if bats are commuting along the bridleway, Cartway Lane, or commuting and foraging within land adjacent to Cartway Lane.
- The adjacent land includes an orchard, hedgerows, and cut and graze agricultural fields, all habitats which can provide considerable insect biomass suited to species of bats including greater horseshoe bats which forage on beetles that can be found on cattle dung.
- Bat species within the local area includes those less tolerant to light (lesser horseshoe, greater horseshoe, barbastelle and long-eared species) and a maternity roost of soprano pipistrelle bats backing onto the development immediately to the east in a house on Parklands Way.
- The wider considerations and also the specifics of the immediate area should necessitate bat activity surveys along both the bridleway and Cartway Lane to determine bat behaviour throughout the active season (April-October (inclusive)) prior to the deployment of any outdoor lighting strategy in accordance with all accepted guidance including lighting standards.
- Surveys would include automated static detector surveys and transect surveys.
- Once all data from the bat surveys are collated at the end of the season, a decision can only then be made on the type of lighting and its output.
- Lighting design and output should only be detailed following the completion of the surveys and installed with agreed and sufficient mitigation.
- Therefore, prior to granting permission to this amendment the correct lighting strategy can only be detailed following a full suite of surveys to determine both bat presence and the species found and as per the norm where street lighting is proposed on a new development.
- Lighting should be developed in accordance with Guidance Note 8, Bats & Artificial Lighting, BCT / ILP (2018 - update in press).
- Low lighting bollards might be required for PROW or lights that are timed to turn off between the time of midnight and 5am to create suitable habitat conditions for bats.
- To determine the correct lighting strategy, a full suite of surveys is required to determine bats presence and the species.
- Murmuration's of starling make their way to reed beds during evenings to the north & northwest of Somerton. The starlings fly along the length of Somerton

- Door Drove onto the north, likely used as a navigation aid at dusk
- Lighting new unlit areas that creep out from Somerton to its west should undergo bird surveys (especially for migratory birds) to determine flight routes used at dusk and dawn which covers all months, especially winter months for species such as starlings.
  - All bat species have preferences for the amount of light that they will tolerate at foraging habitat such as fields, orchards, woodlands, wetlands, watercourses, & hedges/field boundaries.
  - Lighting foraging habitats can have a detrimental effect on bats especially those with higher protection (under Annexe II of the Habitats Directive) such as horseshoes by severing their flight lines.

**DEVELOPMENT PLAN POLICIES AND OTHER MATERIAL CONSIDERATIONS RELEVANT TO THIS REPORT:**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

South Somerset Local Plan 2006-2028 (SSLP):

- EQ1 - Addressing Climate Change in South Somerset
- EQ2 - General Development
- EQ4 - Biodiversity
- EQ5 - Green Infrastructure

National Planning Policy Framework (NPPF):

- Chapter 15 - Conservation and Enhancement of the Natural Environment
- Paragraphs 203-206 - Planning Conditions and Obligations

Other Material Considerations:

- Planning Practice Guidance (PPG):
  - 1) Planning Obligations - Para. 012
- Use of Planning Obligations and Process for Changing Obligations (Planning Obligations) (2019):
  - 1) Paragraph: 001 Reference ID: 23b-001-20190315
  - 2) Paragraph: 002 Reference ID: 23b-002-20190901
  - 3) Paragraph: 003 Reference ID: 23b-003-20190901

- 4) Paragraph: 004 Reference ID: 23b-004-20190901
  - 5) Paragraph: 006 Reference ID: 23b-006-20190901
  - 6) Paragraph: 010 Reference ID: 23b-010-20190315
  - 7) Paragraph: 013 Reference ID: 23b-013-20190315
  - 8) Paragraph: 014 Reference ID: 23b-014-20190315
  - 9) Paragraph: 015 Reference ID: 23b-015-20190315
  - 10) Paragraph: 016 Reference ID: 23b-016-20190901
  - 11) Paragraph: 017 Reference ID: 23b-017-20190315
  - 12) Paragraph: 018 Reference ID: 23b-018-2019031
  - 13) Paragraph: 019 Reference ID: 23b-019-20190315
  - 14) Paragraph: 020 Reference ID: 23b-020-20190315
  - 15) Paragraph: 030 Reference ID: 23b-030-20190901
  - 16) Paragraph: 036 Reference ID: 23b-036-20190901
- Planning Appeal Reference: APP/M4320/A/10/2121418
  - Planning Appeal Reference: APP/N1215/W/17/3177714
  - Planning Appeal Reference: APP/N1215/W/17/3183099
  - Wildlife and Countryside Act 1981 (as amended)
  - Natural Environment and Rural Communities Act 2006
  - The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017) - More specifically Regulation 43
  - Planning Circular 11/95 - The Use of Conditions in Planning Permissions
  - Planning Circular 05/2005 - Planning Obligations

#### **CONSIDERATION OF THE PLANNING ISSUES:**

Determination of an application to discharge/modify a planning obligation needs to take account of the 'useful purpose' test - i.e. whether the agreement continues to serve any planning purpose. Should the entire agreement no longer serve any useful or necessary purpose in planning terms, it should be discharged. Alternatively, the agreement should continue without modification if all its provisions relate to current planning objectives; or, should only certain provisions remain relevant, a modified agreement should replace the existing planning obligation.

When considering a planning application, it may be appropriate to impose a condition or enter into a planning obligation. Guidance contained within Planning Circular 11/95 advises that Local Planning Authorities should impose conditions rather than enter into a legal agreement, where appropriate. Furthermore, under paragraph 13, it is specified that where conditions are imposed, these should not be duplicated by a planning obligation.

## **ASSESSMENT:**

In this case, the application is made to modify the S106 agreement to modify the S106 agreement dated 22 March 2017 (part 2 of the Second Schedule) to prevent the need for the introduction of street lighting along the bridleway. The applicant remains committed to carrying out the surface and drainage improvements between the Site and the existing metaling on the Bridleway as the applicant has secured a s278 agreement and subsequent Technical Approval for undertaking these works (and others) from Somerset County Council (06 December 2022).

The third-party comments, Somerset Ecology Service comments and supporting information submitted in support of the application satisfactorily demonstrate the negative ecological impact of installing street lighting along the bridleway and therefore form material considerations which must be considered as part of the assessment of the current application. Having considered the third-party comments, Somerset Ecology Service comments and supporting information, it would be unreasonable not to give agreement to the proposed variation. It is considered that allowing the variation to (part 2 of the Second Schedule) will not be contrary to current policies as the surface and drainage improvements between the Site and the existing metaling on the Bridleway would still be honoured and carried out by the applicant even after the S106 agreement dated 22 March 2017 has been varied. Therefore, it is concluded that it is fair and reasonable to allow a modification of this agreement.

## **RECOMMENDATION:**

Agree to variation of Section 106 Agreement and to instruct the Council's Solicitor to modify the section 106 agreement dated 22nd March 2017 in relation to the changes as requested.

01. The modification of part 2 of the Second Schedule of the Section 106 agreement dated 22nd March 2017 to prevent the need for the introduction of street lighting along the bridleway is considered to be acceptable and not contrary to the aims and objectives of current relevant policies and the NPPF.

## **Informatives:**

01. A copy of this decision and site plan will be sent to the Councils Land Charges Department and Legal Department so that they can remove the restriction from their records. A copy of this certificate should be retained and kept with the deeds of the property.

This page is intentionally left blank