

Public Agenda Pack



Notice of Meeting of

PLANNING COMMITTEE - WEST

Tuesday, 18 July 2023 at 1.00 pm

**John Meikle Room, The Deane House, Belvedere
Road, Taunton TA1 1HE**

To: The members of the Planning Committee - West

Chair: Councillor Simon Coles

Vice-chair: Councillor Derek Perry

Councillor Norman Cavill

Councillor Caroline Ellis

Councillor Andy Hadley

Councillor Steven Pugsley

Councillor Sarah Wakefield

Councillor Gwil Wren

Councillor Dixie Darch

Councillor Habib Farbahi

Councillor Ross Henley

Councillor Andy Sully

Councillor Rosemary Woods

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, 17 July 2023** by email to democraticserviceswest@somerset.gov.uk or by telephone on 01935 462148.

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 webcast and an audio recording made.

This meeting will be recorded and then uploaded to YouTube following the meeting.

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 Monday, 10 July 2023

AGENDA

Planning Committee - West - 1.00 pm Tuesday, 18 July 2023

Public Guidance Notes for Planning Committees (Agenda Annexe) (Pages 7 - 10)

Webcast link to view the meeting (Pages 11 - 12)

1 Apologies for Absence

To receive any apologies for absence and notification of substitutions.

2 Minutes from the Previous Meeting (Pages 13 - 22)

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 by 5.00pm on 12 July 2023.

5 Planning Application 3/39/21/028 - Land to the North of the Transmitting Station, Washford, Williton (Pages 23 - 94)

To consider an application for installation of a ground mounted solar farm with battery storage and associated development

6 Planning Application 42/23/0016 - Orchard Grove, Land at Comeytrove/Trull, Taunton (Pages 95 - 160)

To consider an application for the variation of a Condition No. 02 (approved Plans) of application 42/14/0069 for the removal of 0.58ha of land from the approved employment area on land at Comeytrove, Taunton.

7 Planning Application 3/26/23/005 - The Blue Anchor, Cleeve Hill, Watchet, TA24 6JP (Pages 161 - 172)

To consider an application for the installation of solar panels on static caravans (Resubmission of 3/26/22/013)

8 Planning Application 18/22/0014 - Brufords Farm, Northway Lane, Halse, Taunton, TA4 3JL (Pages 173 - 188)

To consider an application for the change of use of land with construction of a horse riding arena on land to the west of Brufords Farm, Northway Lane, Halse

9 Planning Application 45/22/0010 - Blue Ball Inn, Cockercombe Road, Bagborough, Taunton, TA4 3HE (Pages 189 - 210)

To consider an application for a proposed Change of Use of Blue Ball Public House (Sui-generis) to Holiday Accommodation with Ancillary Bar (C3) and Community Use (F1 & F2) at Blue Ball Inn, Cockercombe Road, Bagborough (amended description)

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 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 or at the meeting)

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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 democraticserviceswest@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.

Please note that application 3/39/21/028 - Land to the North of the Transmitting Station, Washford, Williton which was deferred from the last

meeting on 20 June will carry forward the same speakers who had already pre-registered.

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.



This is the on-line invite to join the Planning Committee West meeting on Tuesday 18 July at 1.00pm. Please note this is an in-person meeting at The Deane House, Belvedere Road, Taunton TA1 1HE

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 312 065 317 854

Passcode: DtCYBU

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+44 1823 772277,,892007159#](#) United Kingdom, Taunton

Phone Conference ID: 892 007 159#

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Minutes of a Meeting of the Planning Committee - West held in the John Meikle Room, The Deane House, Belvedere Road, Taunton TA1 1HE, on Tuesday, 20 June 2023 at 2.00 pm

Present:

Cllr Simon Coles (Chair)
Cllr Derek Perry (Vice-Chair)

Cllr Norman Cavill (from 3.50pm)	Cllr Dixie Darch
Cllr Caroline Ellis	Cllr Habib Farbahi
Cllr Andy Hadley	Cllr Steven Pugsley
Cllr Andy Sully	Cllr Sarah Wakefield
Cllr Rosemary Woods	Cllr Gwil Wren (to 4.30pm)

Other Members present remotely:

Cllr Christine Lawrence	Cllr Tony Lock
Cllr Andy Soughton	

10 Apologies for Absence - Agenda Item 1

Apologies for absence were received from Councillor Ross Henley.

11 Minutes from the Previous Meeting - Agenda Item 2

Resolved that the minutes of the Planning Committee - West held on 16th May 2023 be confirmed as a correct record.

12 Declarations of Interest - Agenda Item 3

Councillor Gwil Wren declared he had received recent communication and responded appropriately to one of the objectors regarding Item 5 – Planning Application 3/39/21/028.

Councillor Habib Farbahi declared a personal and prejudicial interest in Item 10 – Planning Application 38/23/0098 as he was the applicant. He would leave the meeting when considering this item.

The Solicitor asked that it be noted all members of the committee held a personal interest in Item 10 – Planning Application 38/23/0098 as they were all elected members and acknowledged they were colleagues of the applicant.

Councillor Steven Pugsley and Councillor Andrew Hadley declared they had also received recent communication regarding Item 5 – Planning Application 3/39/21/028.

Councillor Rosemary Wood said she was predetermined in relation to Item 5 – Planning Application 3/39/21/028. She would make comment and then move to the public seating area.

Councillor Sarah Wakefield declared she had also received communication regarding Item 5 – Planning Application 3/39/21/028. She also reiterated her personal interest in Item 10: Planning Application 38/23/0098 and although she was a friend of the applicant, she had not discussed this application with him at any time and did not consider she had a prejudicial interest.

Councillor Andy Sully declared a personal and prejudicial interest in Item 7 – Planning Application 38/19/0426 as he was a representative for Taunton Heritage Trust. He confirmed that he would leave the meeting when considering this item.

Councillor Dixie Darch also wished to declare a personal interest in Item 5 – Planning Application 3/39/21/028 as she had also received recent communication. She was also a member of the Quantocks AONB Joint Advisory Committee and had a friend employed by the Architects.

Councillor Derek Perry declared a personal interest in Item 5 – Planning Application 3/39/21/028 as he also had a friend employed by the Architects.

Councillor Simon Coles also confirmed he had received recent communication regarding Item 5 – Planning Application 3/39/21/028 and declared a personal and prejudicial interest in Item 10 – Planning Application 38/23/0098 as he was a close colleague of the applicant. He confirmed that he would leave the meeting when considering this item.

13 Public Question Time - Agenda Item 4

There were no questions from members of the public.

14 Planning Application 3/39/21/028 - Land to the North of the Transmitting Station, Washford, Williton - Agenda Item 5

Following a short discussion, it was proposed by the Chair and seconded by Councillor Gwil Wren to defer the application due to the large amount of recent additional information received and the lack of time to read and consider this information. On being put to the vote this was carried by 8 in favour, 1 against and 1 abstention.

RESOLVED:

To defer application 3/39/21/028 and to be considered at a date and venue to be confirmed by officers.

(voting: 8 in favour, 1 against and 1 abstention)

15 Planning Application 06/22/0027 - Quantock View, Bishops Lydeard, Taunton - Agenda Item 6

The Planning Officer presented the application and highlighted the key considerations. He advised the application for a village green was considered under separate legislation and, whilst a material planning consideration, did not prevent Members of the Planning Committee from reaching an alternative decision to that of the recommendation. In summary, it was considered that the proposed parking bays would encourage the use of the private car as a non-sustainable mode of travel and would harm the character and appearance of the green space. The application did not demonstrate that the proposed parking area would have no impact on the protected trees. The limited benefit of providing the parking spaces did not outweigh the identified harm. The recommendation was for refusal.

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

- Quantock view was an unadopted road and not a public highway.
- Village green application made and should be a substantive material consideration.
- Flooding concerns in road and run off of surface water.
- Concerns regarding the ecological impact in the area.

- Proposal would have huge impact on the character of the area.
- Believe the Parish Council failed to justify the reason for this proposal.
- Concerns regarding safety and school pedestrian access.
- Nearby trees will be affected.
- This is one of only a few green spaces in the area and much needed for the health and well being of the local community.
- Believe proposal would encourage more traffic and cars, therefore going against the neighbourhood plan to encourage the use of more sustainable modes of transport.
- Difficulty for larger vehicles such as emergency services to manoeuvre.
- Believe there is already sufficient parking at Quantock View.

A representative of Bishops Lydeard Parish Council addressed the committee and explained the consultation process taken place with both the Council and local residents which resulted in the proposal of the five spaces and believed to be of benefit to the local residents.

The Legal Advisor confirmed to members that the existing application for a village green would not prevent the committee from granting permission of the application should they be minded to do so.

During debate members acknowledged the parish council's dilemma, raised concerns regarding the surface drainage and overall considered the small net gain of only two parking spaces with the removal of current on street parking did not outweigh the benefit of the open green space to the local area.

The officer responded on the points raised by the public speakers and also on points of detail and technical questions raised by members regarding the actual net gain of spaces, proposed drainage of the site, adoption of the neighbourhood plan and reasoning behind the application.

It was then proposed by Councillor Derek Perry and seconded by Councillor Sarah Wakefield to refuse the application as per the officer's recommendation. On being put to the vote this was carried unanimously.

RESOLVED:

That application 20/03277/FUL be refused for the following reasons:

1. The proposed parking area would be attractive to parents using the bays for school drop off and pick up and would likely lead to an increased demand for parking by private cars and promote unsustainable modes of travel. The

development would conflict with the provisions of policies DM1, DM4, CP6, CP8 of the adopted Core Strategy, and Policy A1 of the Taunton Deane Adopted Site Allocations and Development Management Plan, and guidance contained within The Bishops Lydeard and Cothelstone Neighbourhood Plan.

2. The proposed parking area would erode the existing openness of the green space and would harm the character and appearance of the area. It has not been demonstrated that the proposed parking area can be constructed without adversely affecting the root protection area of an existing tree on site, which is the subject of a TPO. The development would conflict with the provisions of policies DM1, DM4, CP6, CP8 of the adopted Core Strategy, and Policy ENV1 and A1 of the Taunton Deane Adopted Site Allocations and Development Management Plan, and guidance contained within The Bishops Lydeard and Cothelstone Neighbourhood Plan.

(voting: unanimous)

16 Planning Application 38/19/0426 - Corfield Hall, Magdalene Street, Taunton - Agenda Item 7

Councillor Andy Sully, having earlier declared an interest, left the meeting during consideration of this item.

The Planning Officer presented the application and explained the history of the site application and that a phosphates mitigation solution was needed before a decision could be made and the Section 106 agreement signed.

She concluded that the recommendation had therefore been updated for approval subject to conditions and the applicant entering into a Section 106 agreement to secure:

- Affordable housing
- Phosphate mitigation solution, including completion of an HRA in accordance with the Conservation of Habitats and Species Regulation 2017.

Following a short debate and confirmation that the scheme qualified for the River Tone phosphate credits (second round), it was proposed by Councillor Steven Pugsley and seconded by Councillor Dixie Darch to approve the application as per the officer's updated recommendation. On being put to the vote this was carried unanimously.

RESOLVED:

That application 38/19/0426 be approved, subject to conditions detailed in the agenda report and the applicant entering into a Section 106 agreement to secure:

- Affordable housing
- Phosphate mitigation solution, including completion of an HRA in accordance with the Conservation of Habitats and Species Regulation 2017.

That delegated authority be granted to officers to agree the full wording of the conditions and Section 106 legal agreement.

(voting: unanimous)

17 Planning Application 42/22/0055 - Orchard Grove, Land at Comeytrowe/Trull, Taunton - Agenda Item 8

The Planning Officer presented the report and gave a detailed and comprehensive presentation of the site, proposed plans, and site access. In summary he highlighted the:

- Local square
- Gateway area
- Employment road
- Location of the approved care home
- Attenuation pond
- Landscaping and cycle link
- Approved western neighbourhood masterplan

The recommendation was for approval subject to some minor changes to the proposed conditions of approval which the Planning Officer drew Members attention to.

The officer responded to points of detail and technical questions raised by members regarding the attenuation basin, the enhanced cycling infrastructure, hedgerow removal and replacement, the installation of play equipment at the LEAP and the type of businesses within the employment area. It was further noted that the trigger point in the Section 106 agreement to complete the spine road was the completion of 1,450 dwellings.

At the conclusion of the debate, it was proposed by Councillor Gwil Wren and seconded by Councillor Andy Sully that the application be approved as per the officer's recommendation. On being put to the vote this was carried unanimously.

RESOLVED:

That reserved matters application 42/22/0055 be approved for the laying out of the employment area access road, with associated land regrading and drainage plus the laying out of an area of Public Realm called the Local Square at Orchard Grove, Land at Comeytrove/Trull, Taunton, subject to the conditions listed at Appendix 1 to the agenda report and the minor changes to the proposed conditions of approval which the Planning Officer highlighted in his presentation.

(voting: unanimous)

18 Planning Application 3/32/22/010 - The Babbling Brook, Shurton Road, Stogursey, TA5 1QE - Agenda Item 9

The Planning Officer presented the application and highlighted the key considerations. He advised the recommendation was to approve the application for 3 glamping pods to be sited on grassland in the car park of the public house and subject to the noise management plan submitted, temporary permission was recommended to allow officers to assess any noise issues over the 3 year period. He concluded that the application was compliant with the adopted Local Plan.

Two local residents addressed the committee in objection to the application. Some of their comments included:

- They were not aware of any site visit conducted.
- The opening hours would be longer which could impact on crime statistics and the value of neighbouring properties.
- The access road was narrow and regularly used by tractors and school buses.
- There was only one entrance in and out of the car park and there could be an increased fire risk with wooden building containing cooking facilities.
- The presentation photographs did not show the differing heights on the site.
- The Environment Agency had recommended elevating the pods by 0.6m to avoid any flooding issues but this created overlooking issues for neighbours regardless of the use of opaque glass.
- Hedgehogs were present in the area.
- Not convinced that the proposal for a phone number to be provided to local residents and manned 24 hours a day to receive complaints would be effective at controlling noise.

In response to a question, the Legal Advisor confirmed that a 28 day occupancy clause was usual for holiday accommodation. The site owners should keep a record

of who stayed in the pods and when they stayed which could be requested by enforcement officers. The potential traffic and noise from different occupiers of the holiday accommodation was discussed together with whether it would be likely to be used by workers from Hinkley Point. It was noted that fire safety would be considered through the Building Regulations.

It was then proposed by the Chair and seconded by Councillor Caroline Ellis to approve the application as per the officer's recommendation. On being put to the vote this was carried unanimously.

RESOLVED:

That application 3/32/22/010 be approved subject to the conditions listed at Appendix 1 to the agenda report for the following reason:

The proposed development is considered to be compliant in principle with the adopted development plan when taken as a whole. The design, scale and materials of the glamping pods are considered to be acceptable and the impact on the landscape from the whole scheme is not considered to be materially harmful. The impact on neighbouring residential amenity is considered to be mitigated through measures secured through planning conditions and as discussed in the main body of the report. The impact on highway safety and flood risk are not considered to be reasons for refusing the application nor would the impact on ecology be materially harmful, subject to the attachment of conditions as detailed in the agenda report.

(voting: unanimous)

19 Planning Application 38/23/0098 - 22 Wilton Street, Taunton, TA1 3JR - Agenda Item 10

Councillors Simon Coles and Habib Farbahi, having earlier declared an interest, left the room during consideration of this item.

Councillor Sarah Wakefield advised that one of the public speakers was known to her and she declared a personal interest in the item.

The Planning Officer presented the application and highlighted the key considerations. She advised the recommendation was to approve the application for the widening of the access road and the provision of a car parking space. She noted

that one further representation had been received raising structural concerns and clarified that this would be addressed by the Building Control service. She concluded that any future development to the rear of the site was not part of the current application.

Two local residents addressed the committee in objection to the application. Some of their comments included:

- No site notice had been displayed at the address.
- Structural surveys should be supplied and a water sewage pipe to the rear of the properties should be taken into account.
- The proposed parking space should follow highway regulations as it would currently mean manoeuvring and reversing onto the highway.
- Five properties have access rights to the rear of their properties and permission should not be given until those 5 have agreed to it.

In response to questions, officers confirmed that:

- Ownership of land and rights of way were not material planning considerations.
- Structural concerns raised by objectors would be considered by Party Wall legislation and by Building Regulations.
- The disabled parking space could be located elsewhere on the street.
- It was not illegal to reverse onto a public highway. A condition to prevent reversing onto the highway would not be enforceable.
- Neighbour notification requirements had been met and they specified either a site notice or neighbour notification together with publicity in the local press.

During discussion it was noted that there were no planning reasons to refuse the application and the Highway advice had not raised any safety concerns.

It was then proposed by the Councillor Andy Sully and seconded by Councillor Andy Hadley to approve the application as per the officer's recommendation. On being put to the vote this was carried by 8 votes in favour, 0 against and 1 abstention.

RESOLVED:

That application 38/23/0098 be approved subject to the conditions listed at Appendix 1 to the agenda report for the following reason:

The proposal is not considered to have a detrimental impact upon the visual amenity

of the area or living conditions of nearby residents. It is therefore considered to comply with the policies in the development plan and permission is granted subject to the conditions contained in the agenda report.

(voting: 8 in favour, 0 against, 1 abstention)

20 Planning Appeal Decisions (for information) - Agenda Item 11

The list of planning appeal decisions listed in the Agenda were noted by Members.

(The meeting ended at 5.34 pm)

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CHAIR

Agenda Item 5

Application Details	
Application Reference Number:	3/39/21/028
Application Type:	Full Planning Permission
Earliest decision date:	02 nd May 2023
Expiry Date	24 th March 2022
Extension of Time Date	24 th March 2023
Decision Level	Planning Committee
Description:	Installation of a ground mounted solar farm with battery storage and associated development
Site Address:	Land to the north of the Transmitting Station, Washford, Williton.
Parish:	39
Conservation Area:	Not applicable
Somerset Levels and Moors RAMSAR Catchment Area:	Not applicable
AONB:	Quantock Hills
Case Officer:	Mr J Holbrook
Agent:	Mr S Chapman, RPS Consulting UK & Ireland Ltd
Applicant:	Mr D Meehan, Elgin Energy EsCo Ltd
Committee Date:	18 th July 2023
Reason for reporting application to Committee	Deferred from Planning Committee – West meeting on 20 th June due to the large amount of recent additional information received from interested parties and the lack of time for members of the planning committee to read and consider this information.

Cover Report for original officers report for 3/39/21/028 (attached as an appendix)

This planning application (Application Reference Number: 3/39/21/028) was originally included as agenda item no.5 for the Planning Committee – West held in Deane House on Tuesday 20 June 2023 at 2.00pm.

In advance of the presentation from officers, it was proposed by the Chair to defer the application due to the large amount of additional information that was received

from interested parties and the lack of time for members of the Planning Committee to read and consider this information. On being seconded and being put to a vote, this was carried by eight in favour, one against and one abstention.

Late representations had been received between the publication of the original committee agenda and report for the 20 June Planning Committee – West and the meeting itself.

These representations were sent through by a variety of communication methods including the use of the electronic forms on the Council website, emails to officers in Development Management (Planning) and Democratic Services, and emails to the Chair and members of Planning Committee - West. In total eleven additional representation were received.

Exmoor National Park Authority submitted an additional letter, dated 15 June 2023 providing final comments. They made reference to Paragraph 176 of the National Planning Policy Framework (NPPF) which states that “...development within their setting (*‘national parks’ Exmoor National Park’s emphasis*) should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.’

Exmoor National Park Authority have expressed ‘strong reservations’ in relation to this application since August 2022 due to the ‘anticipated’ harm that the development may cause to the setting of the National Park and views from it.

Following additional information submitted by the agent for this scheme in August 2022 and January 2023, the additional Landscape Visual Assessment (LVA) work has not changed the position held by the National Park, in relation to how the scale of the development and its massing would adversely affect views from within the National Park. Exmoor National Park consider that the proposed development would be harmful to the setting of the National Park and the special qualities of the landscape in this area would be harmed by inappropriate development in this location. Exmoor National Park Authority have asked members ‘to give due consideration to the anticipated harm that this development may cause to the National Park and its setting’.

Nine additional late representations have been received from individuals (some of whom have commented on this planning application before) objecting to the proposed scheme. Points raised include:

- Supportive of Solar PV but not at the detriment to farmland

- The cumulative impact due to its close proximity to Higher Bye Farm Solar PV.
- Adverse impact on visitors' perception of the area.
- Concerns that Watchet Conservation Society's letter of objection from February 2022 had not been published and uploaded on to the Public Access website.
- Objecting to all of the reasons summarised on pages 12-16 of the 52 page committee report (originally an agenda item (No.5) for the Planning Committee West meeting, dated 20 June).
- Object to the siting of PV's on the ground that they will be visible from the only/main tourist route into Watchet and the loss of good quality agricultural land.
- Disagree with the weights that have been attributed to the benefits and harm of the proposed scheme.
- Food security
- Statutory consultees and lack of responses.
- Local Plan Policy not given correct consideration.
- Fire Risk.
- The need for an Environmental Impact Assessment (EIA).
- Tenant farmers personal circumstances are a material consideration.
- Loss of Best and Most Versatile (BMV) Agricultural Land.

It should be noted that some of these late representations included video evidence (notably video filmed by drone across the site) which, as per the guidance on the Council website, the Local Planning Authority is unable to accept.

Submissions have also included hyperlinks to external documents or evidence hosted on third party websites. The Local Planning Authority cannot rely on documents or evidence that it cannot directly control in respect of availability and content.

The Local Planning Authority has sought to ensure that any comments that could be construed as offensive, inflammatory or libellous have not been considered.

Whilst the majority of the points raised have been considered in great detail and depth by Officers over the last eighteen months and summarised in the appended committee report from the 20th June Planning Committee West, the following points have been expanded upon to provide members of the Planning Committee with confidence that these issues have been considered. They are as follows:

1. Tenant Farmers Personal Circumstances
2. Food Security
3. Fire Risk

4. The Environmental Impact Assessment (EIA) process.
5. Statutory consultee and lack of responses

1. Tenant Farmers Personal Circumstances

CPRE Somerset provided a letter on the 20 June making reference to a High Court Judicial Review case (R v Vale of Glamorgan D.C, High Court, case no. CO/2775/99), which they considered established that tenant farmer's personal circumstances are a material planning consideration, contrary to the officer's report from the 20 June 2023.

Paragraphs 10.13.1 and 10.13.2 within the appended 20 June 2023 report have sought to succinctly summarise that planning permission runs with the land as opposed to named applicants, landowners or operators. The report highlighted that individual personal circumstances should be afforded 'little or no weight in the planning balance'

The case referred to above has been reviewed by the Local Planning Authority and Legal and it is considered that the advice in the appended report remains correct. Officers have expanded upon this advice below.

In the above case from Wales, the Court held that committee members were not fully informed prior to making a decision and that paragraphs within the Planning Guidance (Wales): Planning Policy (PGWPP) and the draft Unitary Development Plan were incorrectly interpreted. The case related to the loss of agricultural buildings to residential use.

This case law states that the personal circumstances of an occupier of land can be taken into account as material considerations, but only exceptionally. The case further refers back to the established case law in England for this issue (Westminster City Council v. Great Portland Street Estates Plc (1985) which states (with emphasis added):

*"Personal circumstances of an occupier, personal hardship, the difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control. It would be inhuman pedantry to exclude from the control of our environment the human factor. The human factor is always present, of course, indirectly as the background to the consideration of the character of land use. It can, however, and sometimes should, be given direct effect as an exceptional or special circumstance. **But such circumstances, when they arise, fall to be***

considered not as a general rule but as exceptions to a general rule to be met in special cases. If a planning authority is to give effect to them, a specific case has to be made and the planning authority must give reasons for accepting it. It follows that, though the existence of such cases may be mentioned in a plan, this will only be necessary where it is prudent to emphasise that, notwithstanding the general policy, exceptions cannot be wholly excluded from consideration in the administration of planning control."

Whilst the personal circumstances of the tenant farmers are capable of being material considerations, , in the view of officers, these should be afforded little or no weight in the planning balance in this application, as per Paragraph 10.13.2 of the committee report from 20 June 2023. However, it is ultimately for the committee members to decide whether these personal circumstances are sufficiently exceptional or special to justify taking them into account and, if so, the weight to be afforded to them in the planning balance.

2. Food Security

A number of individuals have raised the issue of food security and the potential loss of agricultural land. This has been referred to within Paragraph 10.13.12 of the appended report from 20 June 2023.

However, an additional point has been raised as to why the appended report has not focussed on the food security issue, in as much detail as the Energy crisis. Quite simply, national and local planning policy provides a detailed steer on energy and the need for renewables. Whilst there are groups lobbying central government seeking to ensure that the issue of food security is enshrined in the new National Planning Policy Framework (NPPF), this issue is not captured in planning policy, at this moment in time. Therefore, it cannot be afforded similar weight.

3. Fire Risk

A number of individuals have sent the Local Planning Authority, a copy of the National Fire Chiefs Council (NFCC) guidance for the Fire and Rescue Service. The ten-page document is titled 'Grid Scale Battery Energy Storage System Planning'.

The note correctly identifies that the Fire and Rescue Service may be engaged throughout the planning process but that this is not a statutory requirement. The NFCC's expectation is that a comprehensive risk management process must be undertaken by operators to identify hazards and risks specific to the facility and develop, implement, maintain and review

risk controls. From this process a robust Emergency Response Plan should be developed.

The Local Planning Authority (LPA) are therefore proposing a condition (No. 16) within the appended report which would ensure that a detailed Battery Safety Management Plan (BSMP) is submitted to and approved in writing by the LPA. It will be at this point with the comprehensive details that the FRS can be consulted.

4. The Environmental Impact Assessment (EIA) process

A late representation was received by members of the Planning Committee on the 19 June 2023, by email, raising the potential non-compliance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The individual considered that members will be unable to weigh all the benefits and harm of the project in the planning balance without reflecting on the material considerations contained in an Environmental Impact Assessment (EIA), and that the application is incomplete and misleading without an EIA.

This issue has been captured and summarised in Section 6 of the appended committee report. Officers dealing with this application have considerable expertise in relation to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and have sought to succinctly summarise that whilst this proposed scheme is classed as 'Schedule 2', the proposed works would not have 'significant environmental effects' and so would not require an Environmental Impact Assessment (EIA). That is not to say that the proposed scheme would not have any environmental effects and these have been considered, as part of the normal processes of dealing with a planning application of this nature.

Paragraph 6.4 of the appended committee report was specifically included to reassure members that Central Government have published indicative criteria and thresholds for this type of development, as to when an EIA may be required, and it would usually be where energy generation outputs are more than 50MW (i.e. double the generation of this proposed scheme).

5. Statutory consultee and lack of responses

Individuals have raised concerns that some bodies that have been consulted have not responded. For the benefit of members, this is not out of the ordinary and there will be instances where consultees do not respond as they have no comments (either positive or negative to make).

Statutory consultees have twenty-one days to respond on the first round of consultation (and fourteen days for any subsequent consultations).

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.

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Application Details	
Application Reference Number:	3/39/21/028
Application Type:	Full Planning Permission
Earliest decision date:	02 nd May 2023
Expiry Date	24 th March 2022
Extension of Time Date	24 th March 2023
Decision Level	Planning Committee
Description:	Installation of a ground mounted solar farm with battery storage and associated development
Site Address:	Land to the north of the Transmitting Station, Washford, Williton.
Parish:	39
Conservation Area:	Not applicable
Somerset Levels and Moors RAMSAR Catchment Area:	Not applicable
AONB:	Quantock Hills
Case Officer:	Mr J Holbrook
Agent:	Mr S Chapman, RPS Consulting UK & Ireland Ltd
Applicant:	Mr D Meehan, Elgin Energy EsCo Ltd
Committee Date:	20 th June 2023
Reason for reporting application to Committee	Inline with the Council's Scheme of Delegation due to the number of objections received and the Officer's recommendation for approval.

1. Recommendation

1.1 That permission be GRANTED subject to conditions.

2. Executive Summary of key reasons for recommendation

2.1 The principle of development is considered to be compliant with Policy SD1, the overarching policy in the Local Plan, and it complies with the Local Plan when taken as whole given that the development plan supports a move towards renewable energy.

2.2 The scheme is also supported by national planning and energy policies. It is noted that the proposal would lead to a loss of an area of best and most versatile agricultural land, but the report sets out the reasons why it is considered that, on balance, this particular proposal cannot be refused exclusively under Policy NH8 of the Local Plan. The proposed development would be sited on high quality agricultural land; however it should be noted that Solar PV proposals are classified as ‘temporary installations’ ensuring that there would be no permanent or irreversible loss of high quality agricultural land with the ability to potentially provide a less intensive agricultural activity on the site being retained. The proposal therefore accords with the National Planning Policy Framework (2021) and Policy NH8 of the West Somerset Local Plan.

2.3 The proposed development will have impacts on the both the local landscape character and visual amenity of the area, but this proposed site has been selected as it is not within a designated area (i.e., National Park or Area of Outstanding Natural Beauty (AONB)). New landscaping secured through planning conditions would mitigate the impact on the Public Right of Ways to an acceptable level whilst delivering a form of energy from a renewable resource in accordance with Policy CC1. The development would therefore contribute towards addressing the reliance on fossil fuels and offsetting associated environmental impacts.

2.4 The proposal would conserve and enhance the biodiversity value and nature conservation interests of the site providing measurable net biodiversity gains. The proposal would therefore comply with the National Planning Policy Framework and Policy NH6 of the West Somerset Local Plan.

2.5 The proposal would result in less than substantial harm to the significance of Kentsford Farmhouse as a listed building. The harm is balanced by the public benefits of the proposed development in accordance with the NPPF. Having regard to the duties of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the less than substantial harm is considered acceptable when balanced against the public benefits in accordance with the NPPF and is acceptable in this regard, in accordance with Policy NH1 of the West Somerset Local Plan.

2.6 Subject to conditions, the development would also not give rise to adverse impacts upon archaeological potential within the site. The proposal would therefore comply with the NPPF and Policy NH1 of the West Somerset Local Plan.

2.7 The proposed development would not generate an unacceptable impact on highway safety subject to conditions and would provide adequate access and egress

to and from the site in accordance with highway requirements. The proposal would therefore accord with the NPPF and Policy SD1 of the West Somerset Local Plan.

2.8 Appropriate consideration has been given to matters of flood risk and drainage to ensure that the development would not give rise to new risk to property or the environment. The proposal accords with the NPPF and Policy CC2 of the West Somerset Local Plan.

2.9 The proposal would not result in any adverse harm to the amenities of neighbouring or nearby properties in terms of undue loss of privacy or cause undue overlooking, overshadowing, overbearing or noise and disturbance impacts. The proposal would therefore accord with NPPF and Policy NH13 of the West Somerset Local Plan.

3. Planning Obligations and conditions and informatives

3.1 Conditions (full text in appendix 1)

- Time Limit (3 years) for commencement
- Temporary permission of 40 years
- In accordance with Approved Plans
- Restoration of site following the cessation of works
- External materials
- Hardsurfacing for site access junctions
- Adequate facilities for construction traffic to site
- Offsite Highways Conditions Surveys
- Programme of Archaeological works in accordance with a Written Scheme of Investigation (WSI)
- Biodiversity Management Plan in accordance with the Biodiversity Net Gain Assessment
- Landscaping details and planting within five-year period.
- No external lighting
- External colour of plant, equipment and buildings
- Submission of Construction Environmental Management Plan (CEMP) prior to commencement
- Works carried out in accordance with Construction Traffic Management Plan (CTMP)
- Submission of Battery Storage Management Plan (BSMP) prior to commencement.

3.2 Informatives (full text in appendix 1)

- Proactive Statement
- Wildlife and the law
- Additional covenants and easements relating to other infrastructure providers

3.3 Obligations

Not applicable

4. Proposed development, site and surroundings

4.1 The site is located to the northeast of Washford and the A39 with the B3190 to the east. To the north of the site lies the access road to Kentsford Farm and agricultural fields. To the east lie agricultural fields, Crossyard Business Park and Washford Transmitting Station with the B3190 beyond. To the south lie agricultural fields and the village of Washford. To the west of the site are agricultural fields and the course of the Washford River which flows from south to north entering the Bristol Channel at Watchet. On the opposite, western side, of the Washford river is a footpath which follows the course of the old Mineral Line railway and is now also acting as a temporary diversion for the England Coast Path, due to unstable sections of cliff near Watchet.

4.2 The West Somerset Railway line which runs between Bishops Lydeard and Minehead, also runs parallel to the river and footpath. Vehicular access to the site is proposed from two points: off the A39, approximately 230m west of the Washford Cross roundabout and Tropiquaria Wildlife Park and Zoo complex and off the B3190, approximately 690m north of the Washford Cross roundabout. Both access points would utilise existing field accesses, which it is proposed would be upgraded to serve initially construction and subsequently maintenance and eventually decommissioning traffic. A number of internal access tracks are proposed within the site to enable servicing of the equipment.

4.3 The proposal is for the construction of a free standing, static solar photovoltaic (PV) farm and battery storage, together with associated development over approximately 39.7 hectares (98.1 acres). It is anticipated that it will generate approximately 25 million kilowatt hours per annum (average consumption of 7,500 homes). The proposal also consists of an energy storage (battery storage) facility with a capacity of approximately 20MW and will consist of twelve units. A typical storage unit measures approximately 12.2m x 2.4m and approximately 2.6m in height.

Security fencing would be erected around the site and would be approximately 2.5 metres in height.

4.4 The proposed scheme also comprises of additional separate elements as follows:

- A number of CCTV security cameras (approximately 3m high);
- Associated access works and internal access tracks;
- Primary substation.

Solar Panel Modules

4.5 The proposed scheme will be made up of solar panels of approximately 2.2m x 1.3m. These will be mounted on two levels (portrait orientation) or four levels (landscape orientation) in frame tables at an inclination of 10-25 degrees depending upon the localised topography. Each frame table will incorporate either 24 or 48 panels and would be supported on steel/aluminium post/frames that will be pushed or screwed into the ground. The front bottom edge of the panels will be typically 0.8m above existing ground level. Dependent on localised topography there would be a range of 0.5m to 1.2m. Overall panel heights from ground level will be approximately 3 metres. The spacing between the arrays will vary between 2-6 metres. All the panels placed on the site would be orientated to face south and would be fixed in place. The proposal does not consist of panels that follow the path of the sun. Panels are opaque and are designed specifically to absorb rather than reflect the sun's rays.

4.6 In relation to the frame tables and depending on ground conditions frames will be fixed to the ground by either:

- Single post ground fixture, which as suggested will be a single aluminium/steel frame driven into the ground;
- Table post ground fixtures – where frames will be fixed on dual posts driven into the ground; or
- In cases where it is required to safeguard potential archaeological assets, frames would be mounted using a shallow concrete 'shoe' which would sit at a maximum of approximately 400mm above ground level.

Inverters

4.7 Inverter stations will be located throughout the development area. These are small cabin-like buildings constructed on a concrete base with footprint dimensions of approximately 7m x 2.5m, rising to a height of approximately 3m. These stations are connected to the panels by cabling which would be buried underground.

Substation

4.8 The substation and control building will accommodate all necessary equipment to enable the solar farm electrical system to be controlled, monitored and metered and connected to the network.

4.9 The control building consists of a multi-compartment prefabricated structure on top of a concrete foundation. Equipment to be accommodated within the substation will include metering equipment, switchgear, transformers, central computer system and electrical control panels. The substation building dimensions are approximately 6 metres (l), 3.2 metres (w), 3.4 metres (h).

4.10 A permeable hardstanding area of 20m x 20m would be provided, located within a larger security compound measuring approximately 15 metres x 20 metres in area.

Battery Storage

4.11 The battery storage facility will have a capacity of approximately 20MW and will comprise of 12 storage units typically measuring approximately 12 metres by 2.4 metres by 2.6 metres set side by side and generally 3 metres apart. It would be set adjacent to the substation compound southwest of the Furzy Ground plantation.

Operation

4.12 The proposed development would be in place for a temporary 40-year period. It would then be fully demounted, and land returned to its former condition, at the end of its use. As such, whilst 40 years is a lengthy period of time, it is not permanent.

4.13 The solar farm will not be permanently staffed and the installation will be monitored remotely. However, there will be regular maintenance visits at least twice a year, in addition to regular landscape and cleaning maintenance.

4.14 The development would take approximately 16 weeks to install and decommissioning at the end of its life (where the site is restored, leaving no permanent visible trace) would take 4-6 months.

5. Planning (and enforcement) history

5.1 Not applicable

6. Environmental Impact Assessment

6.1 The European Union Directive 85/337/EEC (the Environmental Impact Assessment (EIA) Directive) requires that an EIA is undertaken by the promoters of certain types of development to identify and assess the significant environmental effects of certain projects before development consent is given.

6.2 The Proposed Scheme is considered to constitute a Schedule 2 development under the Town and Country Planning (EIA) Regulations 2017 under the following criteria:

3. Energy Industry (a) Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1);

6.3 The applicant did not submit a request to the Local Planning Authority for a screening opinion. However, the LPA has undertaken a screening exercise utilising the Town and Country Planning (EIA) Regulations 2017 screening matrix. The screening exercise undertaken by the LPA concluded that despite exceeding the criteria of Schedule 2, as the area of the development exceeds 0.5 hectares, the proposed works would not have significant environmental effects and so would not require an Environmental Impact Assessment (EIA).

6.4 Central Government has published indicative criteria and thresholds for this type of development, as to when an EIA may be required, and it would usually be where energy generation outputs are more than 50MW.

7. Habitats Regulations Assessment

7.1 The site lies outside the catchment area for the Somerset Moors and Levels Ramsar site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that the development is not likely to have a significant effect on the Ramsar site or any other European site (either alone or in combination with other projects) pursuant to Regulations 63(1) of the Habitats Regulations 2017.

8. Consultation and Representations

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

8.1 Date of consultation: 24th December 2021

8.2 Date of revised consultation (if applicable): 18th April 2023

8.3 Press Date: 07th January 2022

8.4 Site Notice Date: 05th January 2022

8.5 Statutory Consultees the following were consulted:

Consultee	Comment	Officer Comment
<u>Avon and Somerset Police</u>	The Crime Prevention Design Advisor from Avon and Somerset Police raised no objection.	They have commented on some of the design of the proposal including perimeter fencing, vehicular access, landscaping/planting and electronic security measures (i.e. motion-activated passive infra-red (PIR) security cameras which avoids the need to additional lighting on the site). Can be adequately controlled by way of conditions.
<u>Environment Agency</u>	No comments received.	N/A
<u>Exmoor National Park</u>	Strong reservations that the potential impact of the solar farm on the National Park and its settings has not been thoroughly addressed (as of September 2023).	The applicant has provided further information in support of their Landscape and Visual Assessment, addendum and additional note. Addressed in the Officer's report under Section 10.4
<u>Health and Safety Executive</u>	No comments received.	N/A
<u>Highways England</u>	Response in March 2022 and January 2023 - No objection.	Addressed in the Officer's report under Section 10.6
<u>Historic England</u>	Response in March 2022 and January 2023. HE	HE have emphasised that concerns cannot be

	considers the development would be harmful and given the great weight that needs to be given to the conservation of heritage assets of the very highest significance, Historic England has concerns regarding the application on heritage grounds.	overcome by providing further information, reducing the scale of the proposed solar array or by any additional mitigation in terms of planting, as this would still result in harm to the significance of the setting of the heritage assets identified. The scheme has therefore been assessed taking into account policy and Para. 202 of the NPPF. This is addressed within Section 10.4 and 10.5 of the Officer's report.
<u>National Grid</u>	No comments received.	N/A
<u>Natural England</u>	Objection – Consider that the submitted Agricultural Land Classification (ALC) survey could not be considered to be a sufficiently robust tool for planning. Also raised issues of designated sites, biodiversity net gain, protected landscapes (Exmoor National Park and Quantock Hills AONB).	Addressed in the Officer's report under Sections 10.1-10.5, 10.8 and 10.10.
<u>OFCOM</u>	No comments received.	N/A
<u>Office of Nuclear Regulation (ONR) – Land Use Planning</u>	Responded confirming no comments to make.	ONR confirmed that the proposed development does not lie within a consultation zone for Hinkley Point.
<u>Somerset Historic Environment (Somerset Heritage Centre)</u>	Recommend that the applicant be asked to provide further information on any archaeological	Addressed in Officer's report under section 10.5 but can be controlled by way of a condition.

	remains on the site prior to the determination of this application. This would require a field evaluation consisting of geophysical survey followed by trial trenching as indicated in the National Planning Policy Framework (Paragraph 194).	
<u>Somerset Council - Ecologist</u>	No comments received.	N/A
<u>Somerset Council - Tree Officer</u>	No comments received.	N/A
<u>Somerset Council - Public Rights of Way</u>	No comments received.	N/A
<u>Somerset Council - Highways</u>	Responded confirming no comments to make.	N/A
<u>Somerset Council - Landscape and Green Infrastructure</u>	No objection on landscape grounds noting the development is temporary for a period of 40 years. Solar PV is set away from the public highway, existing and additional hedge and tree planting that will screen the development is proposed. Development would not conflict with local or national policy on landscape protection.	Addressed in Officer's report under Sections 10.3-10.5 but can be controlled by way of a condition.
<u>Somerset Council - Conservation</u>	Holding response in March 2022. There will be 'less than substantial harm' caused to the setting of St Decumans Church. The proposal should be considered in accordance with para 202 of the NPPF	Addressed in Officer's report under Section 10.5.

	<p>and public benefit should be considered.</p> <p>Recommendation that Historic England is notified of development that affects the setting of St Decumans Church.</p> <p>There will be less than substantial harm caused to the setting of the Transmitter station and in accordance with NPPF para 202 public benefit should be considered.</p> <p>Further viewpoints should be provided to consider the impacts on the West Somerset Railway and the Mineral Line</p> <p>No further comments to make in January 2023.</p>	
<p><u>Somerset Council – Environmental Health</u></p>	<p>No objection in February 2022. Recommended compliance with construction restrictions outlined in the supporting documentation with the planning application.</p>	<p>Addressed in Officer’s report within Section 10.13</p>
<p><u>Somerset Council – Planning Policy</u></p>	<p>Proposal is supported, subject to appropriate mitigations of landscape, visual amenity and heritage impacts as necessary; appropriate justification for the loss of agricultural land and demonstration that (through ongoing maintenance and future remediation) the agricultural land value can be returned over the</p>	<p>Addressed in the Officer’s report under Sections 10.1-10.13.</p>

	lifetime of the development; and implementation of a social value strategy to drive local social and economic benefits. The delivery of a net gain in biodiversity should be striven for and influence the mitigations for any residual landscape, visual amenity or heritage impacts.	
<u>Quantock Hills AONB Service</u>	Maintain objection on grounds of the impact the proposal will have on the landscape within the AONB, notably in relation to the findings of the Landscape Visual Appraisal (LVA), Glint and Glare and the setting of the AONB (i.e. long distance views from the designated landscape). Does not consider that the Agricultural Land Classification (ALC) report can be used as a sufficiently robust tool for planning. Response in February 2022, September 2022 and January 2023.	Addressed in the Officer's report under Sections 10.1-10.5, 10.8 and 10.10.
<u>Wales and West Utilities</u>	No objection – However apparatus may be at risk during construction works and we require the promoter of these works to contact us directly to discuss our requirements in detail, should diversion	No objection with a standard paragraph used in their response to ensure that the developer contacts the utility company if it is found that there the proposal will have a direct impact on their assets.

	works be required.	
<u>Wessex Water</u>	Holding objection – WW must have unimpeded access to maintain and repair the existing Trunk main and to access Washford CSO. The layout now shows an easement around the existing trunk main, however it also shows proposed planting around the boundary of the site that will impede our access to the trunk main and which appears to cut off the existing right of way to Washford CSO.	Reconsulted Wessex Water on the 17 th April 2023 with a revised landscape proposal including the easement running across the site. No final response at the time of writing this report and officers will provide a verbal update at the Planning Committee, if necessary. Further detail can be found within Section 10.13 of this report.
<u>Nettlecombe Parish Council</u>	Objection in February 2022 aligned with Old Cleeve and Williton Parish Council. Objection on the grounds of the loss of high yielding agricultural land and traffic on the A39.	Addressed in the Officer’s report under Sections 10.1-13.
<u>Old Cleeve Parish Council</u>	Objection – commented in January, August 2022 and February 2023.	Addressed in the Officer’s report under Sections 10.1-13 but focused on visual impact, flood risk, access and grading of agricultural land.
<u>Watchet Town Council</u>	Objection – Based on ten points from CPRE, ten points from a PA Gannon (replicating comments from Old Cleeve Parish Council).	Addressed in the Officer’s report under Sections 10.1-10.13 but focused on visual impact, flood risk, access and grading of agricultural land.
<u>Williton Parish Council</u>	Objection – commented in January 2022 and August 2022 on the grounds of	Addressed in the Officer’s report under Sections 10.1-13.

	<p>adverse effect on the character and appearance of the landscape, cumulative effect with Higher Bye Farm Solar PV, Public Rights of Way, effect on tourism, loss of agricultural land and effect on the viability of farms, setting of heritage assets and ecology.</p>	
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8.6 Local representations

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

126 letters of representation (LOR's) have been received raising objections to the proposal. Full text and details can be found on the Public Access website. Whilst the majority of these letters are from individuals, many of these responses follow a similar template. The grounds of objection can be summarised into the following key issues:-

Loss of Best and Most Versatile (BMV) Agricultural Land

- There appears to be a contradiction between the land survey done by Elgin, who rate the site as low-grade agricultural land, and the farmers who rate it more highly.
- The area is good grade 2 agricultural farmland
- Grade 2 and 3 agricultural land is required to feed the nation
- The land is required for food production
- There are sites of much lower agricultural potential unused within 0.5 miles of the site.
- Would destroy valuable agricultural land
- Inappropriate use of agricultural land
- The area should be safeguarded for crop production, wildlife and pleasant landscape
- Loss of agricultural land needed for food production
- It is wrong to be wasting land on inefficient technologies - it should be kept for food production
- Maps show it as class 2/3a agricultural land.

- The land is good quality agricultural land, questions whether a more appropriate site can be found.
- We should protect agricultural land and natural beauty

Impact on viability of tenanted farms

- Loss of prime agricultural land used by tenanted farmers
- Will ruin two farmers' livelihoods
- Proposal affects the livelihoods of long term family farms
- Impact on third generation of tenanted farms
- Curtail the viability of the tenanted farm
- We should be supporting local food production
- Small scale farming needs to be supported and growing food should be a priority
- Loss of precious farmland
- The land is not used for grazing animals, but for growing crops
- We should be encouraging landowners to produce more food for our country.
- Curtail the viability of the tenanted farm
- Loss of agricultural land. We need to become more self-sufficient in food, not less post-Brexit
- The proposal is unfair on the tenant farmers, as it will make the farms unviable
- The land is good quality
- This country imports 34% of its food - agricultural land should be kept and brownfield land used instead for solar panels
- This is not a farm, farms provide food
- The land is not used for grazing animals, but for growing crops
- The land should be used for food production.
- No consideration given to the farmers who are having their productive land taken away
- The destruction of two families livelihood for corporate greed
- Will cause hardship to local farmers
- Would be sited on good productive land where foodstuffs could be grown locally
- Curtail the viability of the tenanted farm
- Agricultural jobs will be lost

Appearance and impact on area

- The site will be visible from surrounding land
- Views from the Quantock and Brendon Hills will be spoilt
- Adverse landscape and visual impact
- We do not want a massive eyesore built in our landscape
- Blot on the beautiful landscape for ever

- Out of keeping with the rural landscape
- Eyesore
- The proposal will have a negative impact upon the community and town, once built
- This is a jewel in the crown of landscapes between Exmoor National Park and the Quantocks AONB
- No thought to the beautiful landscape
- Blight on the landscape
- Adverse impact upon the landscape
- Plenty of unusable land on Brendon Hills
- Security fences, warning signs and CCTV cameras will be more like a prison than a farm -completely out of place
- Habitat loss to deer and birds, unsightly blight / reflection visible from the road.
- The solar farm will be visible from Exmoor National Park and the Quantocks AONB
- Will impact upon the steam railway if people were subject to a view of solar panels
- Will be visible from National Parks and Quantocks AONB
- Would impact on the Furzy ground plantation
- Cumulative effect of Higher Bye Farm solar
- Impact on the Mineral line
- Cannot see how the shielding will be effective
- Would be an abject eyesore

Tourism impact

- Tourists will be put off coming to the area if their first sight is an ugly solar farm and the local economy will suffer.
- Impact on tourist industry
- Would discourage tourists from visiting the area
- The proposal will adversely affect the tourist industry.
- Will discourage tourists who support the local economy
- It will be a blot on the landscape that will spoil the natural beauty for tourists and locals alike
- Will detract from the natural beauty of the area discouraging tourists
- Negative impact on tourism
- Tourism draws people to the area - there is land away from the tourist route that should be used
- The site is very visible from the A39 and B3190 that are used by tourists
- Unsightly views for locals and tourists
- Will impact upon tourists using the Mineral Line walking route

- Tourists will be put off from visiting the area
- Adverse impact upon the hospitality trade
- The size and scale of the proposal will have a detrimental impact on tourism and a knock-on impact on local incomes
- Tourists will be put off coming to the area if their first sight is an ugly solar farm and the local economy will suffer
- It will be a blot on the landscape that will spoil the natural beauty for tourists and locals alike
- Dominate the landscape appreciated by tourists and dog walkers

Proximity to transmitter station and other infrastructure

- Cross interference issues with locating a solar farm so close to a multi-frequency transmitter station
- The existing Bye Farm installation is visible from the Quantock Hills AONB
- It is poor ground for electricity generation as the higher ground casts a shadow, especially in Winter.
- The proposal is from people not resident in the area who are motivated by profit large solar array (39.7ha) with 25MW generation capacity and 20MW battery storage in proximity to the transmitting towers would raise any OFCOM considerations.
- Proximity to Hinkley Power Station means that this facility is not required.
- Trunk Main running across the south western area of the site.

Impact on trees and Wildlife

- Will cause felling of trees and disruption to wildlife
- Will encroach upon the environment
- The security fence will prevent deer and otters from crossing the site
- Adverse impact on nature vegetation and eco systems
- Consider drainage issues, environmental damage, natural habitat loss to deer and birds, unsightly blight / reflection visible from the road.
- No benefit to wildlife
- The proposed wildflower undergrowth is difficult to achieve in shadowed area and incompatible with sheep grazing as they crop low
- Animal habitats will be fragmented and their survival threatened
- The installation and the decommissioning of the project will be noisy and harmful to wildlife
- Loss of habitat and biodiversity

Impact upon heritage assets

- Adverse impact upon listed buildings St Decuman's grade 1, BBC Transmitter site buildings grade 2 and grade 2* Kentford Farmhouse

- There are two heritage assets in the site - sets of crop marks possible prehistoric hillfort and another enclosure possibly prehistoric or Roman
- In the area Daws castle, Scheduled Ancient Monument,
- Listed buildings in Washford, Kentford Farm and the Transmitter Station undesignated West Somerset Mineral Railway (now a walking route) and the West Somerset tourist railway.
- The site has been used for agriculture in the modern period, probably enclosed in the 17th and 18th centuries. There is a high archaeological potential for the prehistoric and Roman periods especially in the northern part around the crop circles.
- Will impact upon the main transmitter building (1933) which is listed
- Industrial installation
- The proposal will adversely affect the setting of listed buildings such as St Decumans Church and a grade 2 listed building at Tropiquaria
- Adverse impact upon listed buildings St Decuman's grade 1, BBC Transmitter site buildings grade 2 and grade 2* Kentford Farmhouse

No justification for this location and no benefit to the local community

- This proposal is not intended to improve the power supply to the local community, but to feed the national grid
- We are building a nuclear power station within sight of this outrage
- The solar park will not contribute to the local economy
- Dismayed that new developments in Washford were not made to add solar panels. - why if it was not considered necessary?
- Substantial numbers of new houses are to be built in the Williton and Watchet areas – solar panels should be affixed to their roofs
- Will not deliver much needed local jobs
- With Hinckley Point close by we suffer enough without a solar farm
- The facility is not required we have nuclear energy on our doorstep
- A hydroelectric position around Watchet would generate more energy
- Unnecessary as West Somerset already contributes to 'green' energy by hosting a nuclear power station
- There is no benefit to the local community

Site Selection

- Stick it next to a motorway or contaminated land
- Supermarkets would be a better location for solar panels
- We should be using brownfield and developing wave power
- Better option to place over roads, car parks or brownfield sites
- This piece of land is not ideally positioned for its intended purpose

- There is something seriously wrong with the planning process if this goes ahead
- Solar panels and insulation technology should be mandatory on all new housing, not covering areas of the country in glass
- The area is not designated in the local plan for any use other than farmland
- Unnecessary as West Somerset already contributes to 'green' energy by hosting a nuclear power station
- This is the worst position for a solar farm
- Industrialisation of a rural landscape. Put solar panels /tiles on all new buildings instead, alongside the M5 or other industrialised landscapes. Do not urbanise the countryside
- The scheme is too big for the area

Miscellaneous

- The placing of solar panels, storage banks for batteries and underground cables will wreck our soil
- Drainage will suffer as land hardens increasing the risk of flooding
- This would not happen in Devon and Cornwall
- Danger to motorists due to the reflections from panels on sunny days
- Extensive infrastructure will be required to install the panels
- This is a factory, not a farm, and the battery storage is a potential bomb
- This is all about money
- Two consultation meetings with the community almost 4 years ago is not enough
- Sheep grazing around the solar panels is not viable, as the panels prevent the growth of grass and sheep dogs cannot do their job
- The substantial gas pipe that runs through the land does not appear to have been considered
- The glare from solar farms forces people to use blinds during the daytime
- The presence of large batteries will damage the soil
- The application has been submitted in a time of pandemic
- The public consultation was undertaken in 2018, three years ago, and does not comply with best practice
- The application was submitted just before Christmas leaving little time for locals to organise a response
- Drainage will suffer as land hardens increasing the risk of flooding
- Areas of rusting metal will in future years be classified as brownfield sites leading to more houses
- Lithium batteries made in China are a grave risk of catching fire potentially causing a thermal accident leading to the spillage of toxic gases into the atmosphere

- This industrial scale installation is hideous
- Our green and pleasant land is disappearing under manmade structures
- The Planning Committee just support businesses getting wealthier at the expense of others
- It would make life intolerable for people in the area
- The farmland won't recover after the lifespan of the panels is over
- The glare will affect transport navigation and military training
- Covid has demonstrated the importance of the countryside to our lives
- Protect this area for future generations
- Lithium batteries are a grave risk of catching fire potentially causing a thermal accident leading to the spillage of toxic gases into the atmosphere

One letter has been received in support of the application. It makes the following points:-

- Strongly support the proposal as it is important that we have energy security
- Schemes like this help drive down energy costs, which is good news for consumers
- The visual impact is commensurate with other nearby solar installations found in many agricultural settings
- It is correct to describe the installation as a solar farm as sheep can graze underneath
- Watchet Town Council's apparent intervention on behalf of the farmers gives the impression of cronyism.

Representations have been received from the following:

- An agent representing the interests of the two tenant farmers (Kentsford and Parsonage Farm). Objecting on the grounds of:
 - Land Classification – Consider that the land subject to this planning application is classified as Grade 2 and 3a and is therefore the best and most versatile agricultural land as defined within the NPPF.
 - Terms of the tenancy
 - Viability of the businesses
 - Heritage Assets
 - Gas and Water Mains Protection Zones – an understanding that there is a mains gas pipeline and water main running through the land.
- The Tenant Farmers Association representing the two tenant farmers;

- Object to the planning proposal on this prime agricultural site and considers that the planning permission for this development should be refused.
- Concerned about the loss of prime agricultural land, the impact on the viability of the affected tenant farmers' farm businesses, the visual impact on the landscape and negative impact on tourism, which is very important to the local economy.
- The National Farmers Union (NFU) representing one of the tenant farmers;
 - Raising concerns about the impact of this development on their business. Land is considered to be Grade 2 and 3a and is therefore considered to be 'Best and Most Versatile Agricultural land'.
 - The siting of the panels is sensitive to several Heritage Assets, with Kentsford Farm being Grade 2* listed, as well as further listed buildings on each corner of the proposed site. Should the application be granted, it will wholly change the nature of the setting of these heritage assets. Furthermore, the site has many sensitive receptors being visible from both the National Park and Quantock Hills AONB.
 - Request that this application is determined taking into account the National Planning Policy Framework as a whole, to assess the impact of this planning application on agricultural land, local nature conservation, the landscape setting and the ability of the farm to remain viable
- Minehead Conversation Society;
 - Objecting to this application on the grounds of size and scale, landscape character and quality, significant impact on listed buildings, archaeology and damage to tourism.
- The Exmoor Society;
 - Objection on the grounds that due to its proximity to from the boundary of Exmoor National Park (ENP) (less than one mile) it would be seen widely from many viewpoints in the Brendon Hills area of Exmoor and be in conflict with National Park purposes and damaging to the setting of this internally important landscape.
 - The proposed development, when considered alongside the existing solar farm nearby, fundamentally changes the very nature of this rural area. Placed as it is, centrally between Exmoor National and the Quantock Hills AONB, this proposal will change the character of the

countryside to largely non-rural. Thus, it will have a direct and hugely negative impact on the purposes and settings of the protected landscapes around it, the links between them, and also the economy of West Somerset.

- The Council for the Preservation of Rural England (CPRE Somerset);
 - Use of Best and Most Versatile (BMV) agricultural land
 - Harm to the Character and Appearance of the Landscape
 - The Landscape Visual Appraisal (LVA) claim that the site is not prominent in the landscape.
 - Impact of proposal on St Decumans Church (Grade 1 Listed) and Kentsford Farmhouse (Grade II* Listed)
 - Consider that the Landscape Visual Appraisal gives an incomplete account of the public footpaths within or adjacent to the application site.
 - Visual impacts
 - Cumulative impacts of the proposed development.
 - Consider that this highly sensitive landscape is an entirely inappropriate site for a large solar farm and that this application should be refused.

- Somerset Wildlife Trust (SWT) have supported the findings of the supporting documentation and they also fully support the proposals for mitigation and enhancement which they request must be included in the planning conditions if it is decided to grant planning permission.

It should be noted that the Local Planning Authority has also received representations that cannot be taken into account as material considerations, as these have included “personal morals or views about the applicant”. Any inappropriate or defamatory comments have been removed.

9. Relevant planning policies and guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended), 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) 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 for

the site comprises the Adopted West Somerset Local Plan to 2032, Somerset Mineral Local Plan (2015), and Somerset Waste Core Strategy (2013).

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

Relevant policies of the Development Plan in the assessment of this application are listed below:

West Somerset Local Plan to 2032:

- SD1 - Presumption in favour of sustainable development
- OC1 - Open countryside development
- EC11 - Agriculture
- CC1 - Carbon reduction: non-wind energy generating schemes
- CC2 - Flood Risk Management
- NH1 - Historic environment
- NH2 - Management of heritage assets
- NH5 - Landscape character protection
- NH6 - Nature conservation and the protection and enhancement of biodiversity
- NH8 - Protection of best and most versatile agricultural land
- NH13 - Securing high standards of design
- NH14 - Nationally Designated Landscape Areas
- ID1 - Infrastructure Delivery

Neighbourhood Plans:

No neighbourhood plans in place in this area.

In addition, the following policy documents (whilst not part of the Development Plan) are material to the determination of the application.

Supplementary Planning Documents:

District Wide Design Guide, December 2021

Other relevant policy documents:

National Planning Policy Framework (NPPF) – July 2021

National Planning Policy Guidance (NPPG)

Overarching National Policy Statement for Energy (EN-1) (July 2011)

National Policy Statement for Renewable Energy Infrastructure (EN-3) (July 2011)

Draft Overarching National Policy Statement for Energy (EN-1) (March 2023)

Draft National Policy Statement for Renewable Energy Infrastructure (EN-3) (March 2023)

Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance on Planning for the Climate and Ecological Emergency (March 2022)

Towards a Climate Resilient Somerset – Somerset's Climate Emergency Strategy (November 2020)

The Carbon Neutrality and Climate Resilience Action Plan (September 2020), Somerset West and Taunton Council.

10. Main Issues

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

- The principle of development
- Agricultural Land Classification
- Site Selection
- Design of the proposal and the impact on the character and appearance of the landscape
- Designated Heritage Assets
- Transport and Access
- Ecology/Environment
- Biodiversity Net Gain
- Flood Risk and Drainage
- Glint and Glare
- Security and Lighting
- Operational Life and Decommissioning
- Other Matters

10.1 The principle of development

10.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the statutory Development Plan unless material considerations indicate otherwise.

Local Plan Policies re: principle of development

10.1.2 The site is outside any defined settlement and is therefore classed as being in open countryside. Policy OC1 of the adopted West Somerset Local Plan relates to open countryside but it is important to note that it does not make specific reference to renewable energy generation or temporary development.

10.1.3 Policy CC1 (Carbon Reduction – Non-wind energy generating schemes), which relates to renewable energy generation states that such schemes:

“will be supported where:

- (i) They respect the local natural environment in which they are located;*
- (ii) They respect the local historic environment and the significance of any designated and identified potential heritage assets within and neighbouring it;*
- (iii) They respect the positive economic and social characteristics of communities affected especially those neighbouring them; and*
- (iv) Adequate measures are taken to mitigate the cultural, economic, environmental and social impact of any related development on the communities affected, both in the short and the longer term”.*

10.1.4 The aim of Policy CC1 is to encourage the development of low and/or zero carbon economy and to ensure that energy generating proposals provide appropriate mitigation to address adverse impacts and optimise beneficial impacts.

10.1.5 Policy CC1 highlights in its assumptions that energy generating proposals can give rise to a range of both positive and negative impacts, depending on the scale, location and design of the scheme. It notes that *“where the impact is more than substantial and cannot be adequately mitigated then it will need to be demonstrated that the public benefit arising from the development clearly outweighs the consequential diminution of the asset”.*

10.1.6 It also states that *“solar energy schemes are frequently located in remote rural areas of high landscape and or ecological value, great care is necessary in order to balance the benefits of low or zero carbon energy generation with the appropriate level of protection for highly valued environments”.* Therefore, the principle of large-scale ground-mounted solar arrays is acceptable, and the Climate Emergency

perhaps provides some justification for public benefits outweighing the diminution of certain assets. But this must only be when such developments are sited in the right locations and respond to their context in the right way.

10.1.7 The principle of the scheme is considered to be in accordance with the policies in the Local Plan when taken as a whole, particularly as the Local Plan supports a drive towards renewable energy.

Material Considerations re: principle of development

10.1.8 Somerset's Climate Emergency Strategy was adopted in November 2020 and has the aim of reducing carbon emissions in the County and making Somerset a county resilient to the inevitable effects of Climate Change.

10.1.9 The strategy sets ambitious goals to become a carbon-neutral county by 2030 and also outlines what the previous five Councils and now Somerset Council intend to do to address the most important issues around the Climate and Ecological emergency.

10.1.10 The strategy highlights the importance of renewable energy generation as a major part of the solution and a way that we can take action locally and through planning policies and decisions.

10.1.11 The Somerset Climate Emergency Strategy and Somerset West and Taunton's Carbon Neutrality and Climate Resilience (CNCR) Action Plan both clearly identify the key role of the planning system in tackling the Climate Emergency through both mitigation of and adaptation to projected climate change.

10.1.12 The Carbon Neutrality and Climate Resilience (CNCR) Action Plan recognises that *"whilst a more proactive approach is required, the significance and sensitivity of our landscapes (particularly protected ones) and settings of our heritage assets do remain important"*.

10.1.13 As stated above, development proposals must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, as promoted by Climate Positive Planning, the Climate Emergency is an important material consideration which needs to be weighed with adopted planning policies and other material considerations. The Climate Emergency cannot and should not be used to justify otherwise unsuitable or unreasonably detrimental proposals – sustainability is three dimensional (economic, social and environmental). However, considering the direct role the proposal can play in meeting our climate

targets, it is an important material consideration which should be afforded significant weight.

10.1.14 The National Planning Policy Framework – July 2021 (NPPF) is a material consideration in planning decisions (Paragraph 2). Paragraphs 152-173 of the NPPF refers to meeting the challenge of climate change, flooding and coastal change.

10.1.15 Paragraph 152 states that the planning system should support the transition to a low carbon future in a changing climate and it should help to:

- *shape places in ways that contribute to radical reductions in greenhouse gas emissions;*
- *minimise vulnerability and improve resilience; and*
- *support renewable and low carbon energy and associated infrastructure.*

10.1.16 Paragraph 155 states that *“To help increase the use and supply of renewable and low carbon energy and heat, plans should:*

- a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, whilst ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);*
- b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and*
- c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.”*

10.1.17 Paragraph 158 states that, when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable.

10.1.18 Paragraph 174 highlights that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and seeking net gains for biodiversity.

10.1.19 National Planning Practice Guidance (NPPG) on renewable and low carbon energy, states at Paragraph 005 that *‘there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering*

locations, local planning authorities will need to ensure they take into account the requirements of the technology and critically, the potential impacts on the local environment, including from cumulative impacts’. Also, Local Planning Authorities (LPAs) need to consider how planning conditions or planning obligations can mitigate any potential impacts.

10.1.20 NPPG Paragraph 013 states that the visual impact of a well-planned and screened solar park can be properly addressed within the landscape, if planned sensitively.

10.1.21 Factors to consider when a proposal involves greenfield land include whether

- the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
- the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

10.1.22 It should be noted that solar parks are temporary structures and planning conditions would need to be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use.

10.1.23 The NPPG also notes the importance of ensuring great care is taken to enable heritage assets to be conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. It notes that the significance of a heritage asset derives not only from its physical presence but also from its setting and careful consideration should be to the impact of large-scale solar parks on such assets. It is noted within the NPPG that, depending on their scale, design and prominence, a large-scale solar park within the setting of a heritage asset may cause substantial harm to the significance of the asset.

10.1.24 The NPPG notes that there is a potential to mitigate landscape and visual impacts through, for example screening with native hedges.

10.1.25 The Overarching National Policy Statement for Energy (EN-1) was published in 2011 and highlights the UK's commitment to cut greenhouse gas emissions by at least 80% by 2050 (compared to 1990 levels) and outlines the challenge which the transition to a low carbon system holds. There is a national drive towards renewable energy. Paragraph 2.2.4 of EN-1 states that the role of the planning system is to provide a framework which allows for the development of the types of essential infrastructure in areas of need where it is acceptable in planning terms, including the principles of sustainable development.

10.1.26 Paragraph 1.2.1 of this NPS outlines its role in the planning system and confirms that within England, EN1 (in accordance with EN3) is a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). Whether the policies in this NPS are material and to what extent, will be judged on a case-by-case basis and will depend upon the extent to which the matters are already covered by applicable planning policy (Para 1.2.2).

10.1.27 To produce enough energy required for the UK and ensure it can be transported to where it is needed, a significant amount of infrastructure is needed at both local and national scale (Para. 2.1.2).

10.1.28 In terms of sustainable development, EN-1 set out that the Government's wider objectives for energy infrastructure include contributing to sustainable development and ensuring that the country's energy infrastructure is safe. Sustainable development is relevant not just in terms of addressing climate change, but because the way energy infrastructure is deployed affects the well-being of society and the economy, for both current and future generations. EN-1 further states that the planning framework set out in this NPS and the suite of energy NPSs takes full account of the objective of contributing to the achievement of sustainable development and this has been tested by Government through an Appraisal of Sustainability (AoS).

10.1.29 The AoS is a requirement of the Planning Act 2008. It also incorporates the Strategic Environmental Assessment requirements of the Environmental Assessment of Plans and Programmes Regulations 2004

10.1.30 The AoS examined whether the NPS framework for the development of new energy infrastructure projects is consistent with the objectives for sustainable development, including consideration of other government policies such as those for the environment, economic development, health and transport. It was found that the energy NPSs will be transformational in enabling England and Wales to transition to a low carbon economy and thus help to realise the UK Net Zero commitments sooner than continuation under the current planning system. However, there was also some uncertainty about the level of transformation as the AoS found it was difficult to predict the mix of technology that will be delivered by the market against the framework set by the Government and its cumulative contribution.

10.1.31 The move to a low carbon economy also meets the environmental objectives of sustainable development as set out under Paragraph 8 of the NPPF. Having regard to this and EN-1, it can be concluded that this proposal, which supports a shift

towards a renewable energy network, contributes towards sustainable development and, in turn means that the scheme before the Local Planning Authority is compliant in principle with Policy SD1 of the adopted Local Plan. Policy SD1 seeks to ensure that the decision maker takes a positive approach that reflect a presumption in favour of sustainable development. The decision maker is also required to work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible.

10.1.32 In March 2023, the draft Overarching National Policy Statement for Energy (NPS EN-1) and National Policy Statement for renewable energy infrastructure (NPS EN-3) was published by the Department for Energy Security & Net Zero. It does not propose to alter this direction on a national renewable energy network. However, it should be noted that last year the Government confirmed that it wants to reduce the country's carbon emissions by 78% by 2035, and be net zero by 2050, which effectively puts greater pressure on finding an alternative energy network sooner. The consultation period ended on 25th May 2023 and therefore whilst these documents are a material consideration, they carry limited weight (compared to the existing NPS EN-1 and EN-3 documents) at this stage of the consultation process.

10.1.33 The draft NPS EN-1 outlines the role of solar and storage to ensure net zero Greenhouse Gases (GHG) emissions by 2050. This proposal also includes an element of battery storage and national policy consider that this has a key role to play in achieving net zero and providing flexibility to the energy system locally.

10.1.34 The draft NPS EN-3 states that *“solar farms are one of the most established renewable energy technologies in the UK and the cheapest form of electricity generation worldwide. Solar farms can be built quickly and, coupled with consistent reductions in the cost of materials and improvements in the efficiency of panels, large scale solar is now viable in some cases to deploy subsidy free and little to no extra cost to the consumer.”*

10.1.35 Chapter 3.10 of the draft EN-3 refers to Solar Photovoltaic Generation and paragraphs 3.10.1- 3.10.153 provide comprehensive guidance on key considerations and assessing the siting of solar farms. Factors influencing site selection and design include:

- Landscape, visual and residential amenity (due to the potential for a significant zone of influence and impacts on visual amenity and glint and glare);
- Agriculture land classification and land type
- Construction (including accessibility for both construction and operation)

- Public Rights of Way
- Security and Lighting
- Network connection
- Site layout design and appearance
- Project Lifetime (length of temporary consent)
- Decommissioning
- Biodiversity and ecological conservation
- Cultural Heritage (including archaeology)

10.1.36 The Government has committed to a sustained growth in solar capacity to ensure that England is on a pathway to meet net zero emissions. As such, solar is a key part of the government’s strategy for low-cost decarbonisation of the energy sector (Para. 3.10.1 of the draft EN-3).

10.1.37 Both the existing and draft proposed NPSs state that the NPSs can be a material consideration in decision making on application that both exceed or sit under the thresholds for Nationally Significant Infrastructure Projects (NSIPs).

10.1.38 The draft NPS’s recognise that to meet the Government’s objectives and targets for net zero by 2050, significant large and small scale energy infrastructure is required. This includes the need to ‘dramatically increase the volume of energy supplied from low carbon sources’ and to reduce the amount provided by fossil fuels. Solar and wind are recognised specifically in Draft EN-1 (Para 3.3.21) as being the lowest cost way of generating electricity and that by 2050, secure, reliable, affordable, net zero energy systems are ‘likely to be composed predominantly of wind and solar’. This needs to be provided alongside battery storage to ‘reduce the costs of the electricity system and increase reliability by storing surplus electricity in times of low demand to provide electricity when is demand is higher (Para. 3.3.25). The draft EN-1 states that ‘*substantial weight should be given to considerations of need*’.

10.1.39 At a national level, May 2019 saw the UK Government declare a climate emergency. In response, the UK Climate Change Act 2008 (2050 Target Amendment) Order 2019 sets a legally binding target to reduce net greenhouse gas emissions from their 1990 levels by 100% and by 2050 to be ‘Net Zero’ with a decarbonised economy. In addition, there is a commitment to reduce carbon emissions by 78% compared with 1990 levels by 2035, bringing forward a previously set target by 15 years.

10.1.40 The Government has since issued national plans, strategies and policies as well as changes in law to assist with delivering net-zero and a decarbonised economy by 2050 reflecting the need for a national response. These include the Ten Point

Plan for a Green Industrial Revolution (November 2020) and the Energy White Paper 2021 (December 2020).

10.1.41 The Energy White Paper sets out that a net zero target is not enough and requires a change in how energy is produced with a target of providing 40GW of low cost renewable technologies by 2030. The Paper states that *‘a low cost, net zero system is likely to be composed predominately of wind and solar’* and that *in order to deploy low cost renewable generation, ‘onshore wind and solar power will be key building blocks of future generation mix’*. The Government is therefore targeting *‘sustainable growth in the capacity of these sectors in the next decade’*.

10.1.42 In October 2021, the Government published the Net Zero Strategy: Build Back Greener where under its Key Policies, it explains that subject to security of supply, the UK will be powered entirely by clean electricity through, amongst other things, the accelerated deployment of low-cost renewable generation such as solar. This aligns with the Government’s earlier Clean Growth Strategy (2017) which anticipates that the 2050 targets require, amongst other things, a diverse electricity system based on the growth of renewable energy sources.

Conclusion on other material considerations and the Principle of Development

10.1.43 The principle of the scheme is considered to be in accordance with a number of planning policy documents that are material considerations and these include the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG), National Policy Statements (NPS) EN1 and EN3.

10.1.44 Other Government policies that carry less weight but are still considered to be relevant material considerations for the purposes of planning, include the draft National Policy Statements (NPS) that have just been consulted upon (ended last month (25th May 2023)), UK Climate Change Act 2008 (2050 Target Amendment) Order 2019, Ten Point Plan for a Green Industrial Revolution (November 2020) and the Energy White Paper 2021 (December 2020).

10.2 Agricultural Land Classification

10.2.1 Policy NH8 protects land classified as Grade 1, 2 or 3a from significant development proposals except in exceptional circumstances where the presumption in favour of sustainable development outweighs the need to protect it and either sufficient lower grade land is unavailable in an appropriate, sustainable location, or available lower grade land has environmental value which outweighs agricultural considerations. This policy accords with the NPPF and Planning Practice Guidance.

10.2.2 Guidance is also provided within the NPPG (Paragraph 013 Ref ID 5-013-20150327) which states that where a proposal involves the use of greenfield land, Local Planning Authorities need to consider whether:

- (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and
- (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.

10.2.3 Notably this is a preference, as opposed to any absolute prohibition on the use of higher quality land and is subject to justification.

10.2.4 Nationally, the Government's Written Ministerial Statement (WMS) of 25 March 2015 clearly sets out how, in the case of ground-mounted solar arrays, the matter of agricultural land value is a key part of the balance. The WMS was clear that the need to decarbonise energy is not an excuse to harm the local natural and historic environment. In particular it states that any application for use of best and most versatile agricultural land must be "justified by the most compelling evidence". This is picked up in the National Planning Practice Guidance alongside the other factors to consider. The question is whether the land is 'best and most versatile' (Grades 1-3a) or not, and if it is, how to demonstrate compliance with the above tests.

10.2.5 It should also be noted that the granting of permission for a solar array such as this is only ever temporary, and there is the opportunity to require land to be put to back to its former state at the end of this time period. In most cases, permissions are limited to around 25 years, though it is noted that the applicant is suggesting 40 years in this instance. As such, the ground is not permanently taken out of agricultural use, unlike in the context of a new housing development for instance. Furthermore, there are ways to continue agricultural use alongside the generation of energy (e.g. grazing by smaller livestock such as sheep which can manage the grassland in a sustainable way, continue a form of agricultural use and provide additional, diversified income). Certain management regimes coupled with a strategy for the delivery of biodiversity gain, can also ensure the slow regeneration of soils to in fact increase the agricultural value of land over time if they have currently been degraded through years of intensive farming.

10.2.6 Paragraph 174(b), of the NPPF, places value on recognising the intrinsic character and beauty of the countryside including the best and most versatile agricultural land. The Framework defines Best and Most Versatile (BMV) agricultural land as being land in Grades 1, 2 and 3a.

10.2.7 The NPPG (Guide to assessing development proposals on agricultural land, 2021) requires local planning authorities to aim to protect BMV agricultural land from significant, inappropriate or unsustainable development proposals.

10.2.8 The applicant commissioned RPS to carry out an assessment of the soil in accordance with the Agricultural Land Classification (ALC) system for England and Wales. The RPS report (dated September 2018) provided details of the detailed ALC survey that was carried out in November 2017. The report concluded that the site consisted of Grade 3b and Grade 4 *“representing some of the poorest quality agricultural land in West Somerset”*.

10.2.9 The tenant farmers who farm the site instructed Luscombe Maye to carry out a survey (June 2018) of the land in terms of land classification. The Luscombe Maye report concluded that the land was defined as Grade 2 and 3a and is therefore the best and most versatile agricultural land, as defined within the NPPF.

10.2.10 Due to the potential dispute and discrepancies between the two reports, Somerset West and Taunton Council (SWT) commissioned Mott MacDonald in 2022 to undertake a review of the RPS report, as SWT did not have this expertise inhouse. It should be noted that the technical brief before appointment was to carry out a technical review of the RPS report and a spot check survey onsite. It was not expressly the aim to carry out a comprehensive survey of the whole site. However, Mott MacDonald selected borehole locations across the whole site to submit for laboratory analysis to gain a representative sample. The aim of this technical review was not to provide a specific grading of the site, but they concluded that areas of the site could have been miscalculated and gradings could therefore be Grade 3a and 3b. The potential errors related to soil textures throughout the report being incorrect and that no gleyed soils (that might impede drainage) anywhere on the site.

10.2.11 The agents have been given the opportunity to revisit the information that was submitted in support of this planning application and have submitted further information in relation to the Agricultural Land Classification reports, the most recent of which has been the 28th February 2023. This additional information has been in the form of commentary notes and/or rebuttals raising additional points of clarification, rather than revisiting the original survey and results undertaken in 2017 and 2018. They stand by their original findings and consider that the site has been correctly identified as Grade 3b and 4.

10.2.12 Natural England have objected to the scheme on the basis that they consider that the submitted ALC survey cannot be considered sufficiently robust for the purposes of planning.

10.2.13 Quantock Hills AONB and the Parish Council have also raised an objection on the grounds that they consider the RPS soil analysis to be flawed, as shown by the Luscombe Maye and Mott MacDonald reports.

10.2.14 Taking into account the submission of the Luscombe Maye report, on behalf of the tenant farmers and the independent review of the RPS report carried out by Mott MacDonald, on behalf of the Local Planning Authority it is the Local Planning Authority's view based on all of the factual information that has been presented by all parties that there may be areas of the site that can be classified as Grade 3a, therefore being classed as Best and Most Versatile Agricultural Land.

10.2.15 Draft NPS EN3 is a relevant material consideration for the purposes of planning, although it should be noted that it currently has limited weight at its consultation stage, compared to adopted planning policy. It states that *“land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land (avoiding the use of “Best and Most Versatile” agricultural land where possible)”* (Para.3.10.14).

10.2.16 It further states that *“Whilst the development of ground mounted solar arrays is not prohibited on agricultural land classified 1, 2 and 3a, or sites designated for their natural beauty, or recognised for ecological or archaeological importance, the impacts of such are expected to be considered”* (Para.3.10.15).

10.2.17 The Draft NPS EN3 recognises that the development of solar PV may use some agricultural land and applicants are therefore required to explain their choice of site. The Agricultural Land Classification (ALC) is the only approved system for grading agricultural quality in England.

10.2.18 Policy NH8 (Protection of Best and Most Versatile Agricultural Land) of the adopted Local Plan states that *“the best and most versatile agricultural land (Grades 1, 2 and 3a) will be protected from significant development proposals. Planning permission for development affecting such land will only be granted exceptionally if the presumption in favour of sustainable development outweighs the need to protect it and either:*

- *Sufficient land of a lower grade (Grades 3b, 4 and 5) is unavailable in an appropriate location to provide sustainable development; or*

- *Available lower grade land has an environmental value recognised by a statutory or non-statutory wildlife, historic or archaeological designation which outweighs the agricultural considerations.*

If best and most versatile land needs to be developed and there is a choice between sites in different grades, land of the lowest grade available should be used”.

10.2.19 Therefore, development on this type of agricultural land shall only be granted on an exceptional basis if the presumption in favour of sustainable development outweighs the need to protect it.

10.2.20 It should be noted that this proposed development is temporary in nature, albeit for forty years and, for the purposes of planning, this has a weighting when assessing the compliance of this scheme with Policy NH8. It would not be a permanent and total loss of land. The majority of the land could continue in agricultural use during the operation of the solar farm, although this would not be in line with its current agricultural use as arable land.

10.2.21 Site selection is also relevant to the question of whether best and most versatile land needs to be developed. As set out in Section 10.3 below a site selection process has been carried out which has ascertained that this site could be suitable for solar PV as it is located outside of the boundaries of the Exmoor National Park and Quantock Hills AONB. This site, whilst having character associated with the Washford River valley is undesignated from a landscape perspective.

10.2.22 Conflict with part of a policy does not necessarily mean conflict with the whole policy and should not automatically be considered a conflict with the development plan as a whole. The proposed development is considered to contribute towards sustainable development and it is a type of development that is nationally supported through EN-1 and the NPPF.

10.3 Site selection

10.3.1 The Local Plan does not allocate sites for renewable energy schemes but Policy CC1 seeks to ensure that appropriate mitigation of adverse impacts and optimisation of beneficial impacts arising from energy generating proposals is provided.

10.3.2 The NPPF also does not provide specific locational requirements and therefore the NPPG is used to provide guidance. The NPPG states that locating such development will need to take account of the technical requirements of the technology to include proximity of grid connection infrastructure and site size (Para.

006 Reference ID: 5-006-20140306) with consideration to also be given to possible physical and environmental impacts (Para: 013 Reference ID: 5-013-20150327).

10.3.3 The applicant and agent has undertaken a site selection exercise to identify suitable locations for solar development to meet demand within the network area.

10.3.4 The site selection process considered several planning policy, environmental and technical criteria including:

- the availability of utilities and viability of a grid connection;
- land availability;
- compatibility with national and local planning policy;
- preference for previously developed land or industrial settings;
- visual impact, and
- proximity to community sensitive locations and areas of designated environmental significance.

10.3.5 Whilst need for the development does not need to be demonstrated, information submitted in support of the planning application has sought to explain the reason for the site location and indicates that in determining the location of this proposal, one of the primary factors is to ensure that there is close availability to an existing national grid point location. Through discussions with the District Network Operator (DNO), demand for additional energy generating capacity was identified and the Bowhays Cross Substation is located approximately 800m from the site.

10.3.6 A stage of the site selection process was to discount any statutorily designated land such as Green Belt, Areas of Outstanding Natural Beauty (AONB), National Parks, Sites of Special Scientific Interest, National and International Habitats sites, designated Heritage Assets etc. and land allocated for development within the extant and emerging Plans. The site is located outside of any sensitive designations.

10.3.7 Representations to the application have raised concerns as to why this proposed site has been selected, over any others that may be suitable (including the use of previously developed brownfield land, poor quality agricultural land or on the rooftops of buildings). The method of site selection is set out above and there is no requirement in Policy CC1 to demonstrate any 'sequential approach' to site selection. The matter of seeking and presenting alternative sites cannot be afforded significant material weight in the planning balance and this scheme need to be determined on its individual merits.

10.3.8 The benefits towards a net-zero carbon future, which is the aim of the Government by 2050, must be given substantial weight, as must its contribution towards sustainable development due to its opportunity to meet the environmental role of sustainable development.

10.3.9 Whilst the loss of best and most versatile land would have an impact on the production of food on the site, the proposed development would provide significant benefits as described above. It is considered that the loss of best and most versatile land cannot be considered a reason, on its own to refuse the application under Policy NH8 of the adopted Local Plan.

10.4 Design of the proposal and the impact on the character and appearance of the landscape

10.4.1 The NPPF emphasises that achieving high quality design is fundamental to achieving good planning and development. In placing an emphasis on quality, there is a requirement to apply the National Design Guide to guide decisions in the absence of locally adopted design guides and codes. The National Design Guide however refers more specifically to the creation of new built environments with no reference to the design of infrastructure schemes and proposals for renewable energy.

10.4.2 The substation and control building compound will accommodate all of the necessary equipment to enable the solar farm electrical system to be controlled, monitored, metered and connected to the network. The building (approximately 6m in length, 3.2m in width and 3.4m in height) is prefabricated and functional in nature and situated on a concrete foundation.

10.4.3 Whilst this proposal would accommodate battery storage, the twelve units are functional in nature with limited opportunities to influence the external design. A condition has been proposed to ensure that the Local Planning Authority have control over the final external materials and colours.

10.4.4 Cumulatively the equipment and associated infrastructure will materially change the appearance of the site for the lifespan of the project but has been designed to make efficient use of the land and respond to site constraints and the relationships to structures, landscape features, residential properties and heritage assets.

10.4.5 It is nationally recognised that energy projects will have an inevitable impact on the landscape therefore the acceptability of a project has to have regard to the quality of that landscape and its capacity to accommodate change. The adopted

Overarching National Policy Statement for Energy (EN-1) in particular states that when *‘having regard to siting, operational and other relevant constraints the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.’* EN-1 advises that a judgement is to be made as to *‘whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project’* having regard also to whether the project is temporary and/or capable of being reversed. Policy NH14 (Nationally Designated Landscape Areas) highlights that *“where development is likely to affect the Quantock Hills AONB or Exmoor National Park, regard will be had to their statutory purposes”*.

10.4.6 The Planning Practice Guidance (Para 013 Reference ID: 5-013-20150327) similarly requires consideration of the visual impact of solar farms (noting that ground mounted solar panels are likely to have a reduced zone of visual influence than other energy generation projects) and to the potential to mitigate landscape and visual impacts. The emphasis at the national level is to mitigate identified impacts to an acceptable level rather than stipulating that all impacts have to be removed in their entirety.

10.4.7 The site does not lie within any nationally designated landscape areas or historic landscape areas. However, it should be noted that Exmoor National Park is located approximately 2km to the south and Quantock Hills Area of Outstanding Natural Beauty (AONB) lies approximately 4.5km to the east. Policy NH14 further states that *“applications for development should have regard to location, siting, orientation and landscaping to achieve high quality design and to ensure that the proposals conserve or enhance the natural beauty, wildlife, cultural heritage and tranquillity of the AONB or the National Park and their settings”*. A key consideration is that Policy NH14 states that development that *“would conflict with the achievement of the statutory purposes of the AONB or the National Park, or their settings or which would adversely affect the understanding or enjoyment of the national park’s special qualities, will not be permitted”*.

10.4.8 This policy provides for the appropriate consideration of functional and design issues in locations outside, but that would impact upon, nationally designated areas and their associated landscape characteristics. Development in the areas outside of, but surrounding/adjoining, nationally designated land landscape area, will be assessed in the context of its impact on the designated area itself, not the setting.

10.4.9 The Quantock Hills AONB have objected to the scheme as they consider it is important that where long views from or to the designated landscape are identified

as important, development within the settings of these areas need sensitive handling that takes these potential impacts into account.

10.4.10 A revised addendum to the Landscape and Visual Appraisal (which included additional photomontages and the assessment of additional viewpoints along with further information that sought to address the concerns, raised in the objections, from Exmoor National Park Authority, Quantock Hills Area of Outstanding Natural Beauty (AONB)) was submitted in August 2022 and January 2023. However significant concerns remain, notably in relation to the Mineral Line footpath and the long-distance views from Exmoor National Park.

10.4.11 Reference has been made to the existing Higher Bye Farm which is a 13-hectare solar park to the west of the proposed site. This existing site can be viewed from a number of the long-distance viewpoint locations referred to in the Landscape and Visual Assessment. Quantock Hills AONB have specifically made reference to its visibility from Beacon Hill on the Quantock Hills, which is a very popular location for visitors and the local community.

10.4.12 Paragraph 176 of the NPPF states that development within their (i.e. *National Parks, the Broads and Areas of Outstanding Natural Beauty*) setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. Exmoor National Park have raised strong reservations about the anticipated harm that this proposal may cause to the setting of the National Park and has asked that the Local Planning Authority takes due consideration of this when making a decision. The Quantock Hills AONB considers that the proposed development would cause significant harm to the Protected Landscape and has asked that the Local Planning Authority takes due consideration of this.

10.4.13 National Planning Practice Guide (Natural Environment) advises that *“land within the setting of these areas often make an important contribution to maintaining their natural beauty, and where poorly located or designed development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complimentary. Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account”*.

10.4.14 With regard to the Old Mineral Line Public Right of Way (PRoW) (Representative Viewpoint 8 in the revised LVA), it should be noted that the path is to become designated as the England Coast Path, a change that will result in the path being used by additional visitors to the area. The England Coast path is a new

national trail that will eventually follow the entire coast of England. The path is being opened in sections but will, when completed, be the longest coastal path in the world at approximately 2,800 miles. The England Coast path is open in Somerset between Brean Down and Minehead (approximately 58 miles) before connecting at Minehead with the South West Coast Path (SWCP). The England Coast Path has been diverted alongside the Washford River and the West Somerset Old Mineral Line, as the Coast Path at Cleeve Hill in Watchet has been closed for safety reasons following an inspection of the cliffs on the route. The new alternative route is now signposted from Mill Street in Watchet, re-joining the trail on the B3191 at Daw's Castle.

10.4.15 There also remains a concern that the development will have an adverse effect on a number of views from the surrounding landscape, notably within the Exmoor National Park (Representative Viewpoints 17-19) at Nettlecombe and the PRoW on the lane to the north of Washford. In this case, it had been recommended by landscape officers that further mitigation should be sought to reduce the scale of change in the landscape that would lessen the adverse effects to a much lower level. Further revised landscape proposals (Drawing No: A13 Rev.E) were provided by the agent on the 11th April 2023 seeking to provide additional screening from public viewpoints along the temporarily diverted section of the England Coast Path.

10.4.16 Consultee responses have raised concerns over the existing impact of the Higher Bye Farm Solar PV site, to the west of the application site and cumulative impacts of this new proposal on long distance viewpoints from designated areas. It should be noted that the solar farm at Higher Bye Farm sits higher in the landscape than this proposal, at approximately 50-70m AOD.

10.4.17 On the 26th September 2022, an independently chaired Somerset West and Taunton Quality Review Panel (QRP) meeting was held to discuss the proposals. This QRP was held as it was felt that the existing landscape is regarded as being attractive and of inherent value. The site also provides a setting for the nationally valued landscapes of Exmoor National Park and the Quantock Hills Area of Outstanding Natural Beauty. There are two heritage assets within the site, and several designated assets nearby. The Local Planning Authority (LPA) requested the panel's views on the landscape and visual impact of the scheme.

10.4.18 The independent QRP supported the principle of investment in renewable energy, which is in line with the Council's climate change commitment. It was also confident that the applicant followed best practice processes in producing a landscape and visual appraisal. It also broadly agreed with its conclusions. However, it considered that further information was required on the proposed mitigation

measures, including how they will impact on key views. The independent QRP also encouraged the applicant to further develop the landscape design proposals to reduce the visibility of the proposal in views from the surrounding landscape.

10.4.19 The independent QRP also recommended that careful consideration should be given by the applicant when explaining how the scheme differs to the nearby scheme at Higher Bye Farm, which does appear prominent due to its topography and to provide assurances that the proposal will not have a comparable or cumulative adverse impact. This was considered particularly important for views from Beacon Hill (Representative Viewpoint 1 in the LVA) within the Quantock Hills AONB, which would be highly sensitive to changes in view.

10.4.20 Following the QRP process, the agent for the scheme provided a revised addendum to the Landscape Visual Appraisal, which statutory consultees and interested parties were consulted on in January 2023. This additional information included alternative viewpoints, additional photomontages, additional mitigation and assessments of the impact of the proposed development on views from the diverted England Coastal Path (Mineral Line).

10.4.21 In conclusion on this issue, the proposed development will have impacts on the both the local landscape character and visual amenity of the area. However, this proposed site has been selected as it is not within a designated area (i.e. National Park of Area of Outstanding Natural Beauty (AONB)). New landscaping secured through planning conditions would mitigate the impact on the Public Right of Ways to an acceptable level.

10.5 Designated Heritage Assets

10.5.1 S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the decision maker, when considering whether to grant planning permission for development which affects a listed building or its setting, shall pay special regard to the desirability of preserving the building or setting or any features of special architectural interest which it possesses. The framework defines the setting of a heritage asset as the surroundings in which the asset is experienced. The site is not situated within or adjoining and Historic Landscape Areas.

10.5.2 There are no Scheduled Monuments within or adjoining the site. However, there are several scheduled monuments surrounding the site. The proposal has been assessed as it has the potential to affect a range of designated and non-designated heritage assets found outside of the site including the following:

- **Daws Castle** - remains of a fortified Saxon site known as Daws Castle (National Heritage List Entry No 1020882) is approximately 800m from the northern boundary of the application site.
- **Battle Gore** - Prehistoric round barrow cemetery known as Battle Gore (National Heritage List Entry No 1019032) located on the north-western outskirts of Williton.
- **Cleeve Abbey** - The Cistercian abbey and precinct at Cleeve (National Heritage List Entry No 1014824) is located approximately 500m to the south-west of the site.
- **St. Decuman's Church** - 15th century Church of St Decuman (National Heritage List Entry No 1057662) is located on the edge of an escarpment overlooking the Washford River Valley and is Grade 1 Listed.
- **Kentsford Farmhouse** - A range of Grade II* listed buildings located approximately 165m northwest, at the nearest point.

10.5.3 Technical specialists appointed on behalf of the applicant consider that there will no impact on the setting of any scheduled monument, with the exception of Daws Castle.

10.5.4 Daws Castle is approximately 1km to the west of the medieval port of Watchet and is prominently located on the cliff edge approximately 80m above Warren Bay in the Severn Estuary and the impact of the proposed development on this setting of this nationally important monument is a visual one. Its construction in this location would have been to provide extensive views out to sea, with less significant inland views and the landscape at the time would have been very different to the modern agricultural landscape. The proposal was assessed to have a 'negligible' effect on its setting. Kentsford Farm House, historically would have been the secondary property to the Grade 1 listed Orchard Wyndham, located near Williton. Kentsford had been utilised by younger family members as their place of residence and this resulted in the high-status interior present within the property, including fine plaster ceilings. Historic England have noted that the farmhouse has declined in grandeur over the subsequent centuries but has retained some of its former status, through its former ancillary farm buildings. The stables and the lincay have been listed in their own right at Grade II. It is concluded that the proposal would result in less than substantial harm to the significance of Kentsford Farmhouse as a listed building. As such the proposal should be assessed in accordance with Paragraph 202 of the NPPF, where public benefit is considered.

10.5.5 The 15th century Church of St Decuman and its tower with prominent stair turret forms a clear landmark within its surrounding, acting as both a possible marker

for navigation of the Bristol Channel as well as a reference point within the wider rural hinterland and Watchet village. Due to its special interest the church is listed at Grade I, its prominent setting contributes positively to that significance.

Conservation Officers within Somerset Council have concluded that there will be ‘less than substantial harm’ caused to the setting of St Decumans Church and the transmitter station and the proposal should be assessed in accordance with Paragraph 202 of the NPPF where public benefit is considered. They recommended that Historic England were notified of the development.

10.5.6 Battle Gore is located on the north western outskirts of Williton and includes five barrows, three of which survive as earthworks and two as ring ditches. The barrows are of late Neolithic to Bronze Age. It is not considered that this proposed scheme would produce significant visual effects to the setting of these barrows. Cleeve Abbey would not experience any significant visual effects to its setting due to the degree of separation and the settlement of Washford being located in between.

10.5.7 Historic England have raised an objection due to the potential for the scheme to harm the significance of several highly designated and nationally important heritage assets due to this development within their setting.

10.5.8 Historic England consider that the proposed development would have a harmful impact on the setting of the highly designated heritage assets through transforming the baseline historic setting from open rural farmland to a large solar farm.

10.5.9 NPPF refers to the conservation and enhancement of the historic environment in Section 16 and Paragraph 195 refers to the conservation of heritage assets and notes that effects can arise from both a physical changes and a change in setting.

10.5.10 Historic England outlines that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that can be enjoyed for their contribution to the quality of life of this and future generations (NPPF para. 189). Historic England stated that their *“concerns cannot be overcome by providing further information, reducing the scale of the proposed solar array of by any additional mitigation in terms of planting”*. Somerset Council has taken this representation into account and sought further information from the agent which the Council has reconsulted upon. Historic England have maintained their objection on the basis of impact of the proposal on the setting of heritage assets.

10.5.11 It is noted that heritage assets are an irreplaceable resource and should be conserved, in accordance with Paragraph 189 of the NPPF. This proposal is for a

temporary installation and will not permanently alter the significance of the heritage assets in the immediate area.

10.5.12 In relation to archaeology, and based on the known archaeological remains that are presently recorded in the vicinity, the potential for remains has been assessed as ‘high’ for the Prehistoric and Roman periods, specifically within the northern part of the site. For the early Medieval and Medieval periods, the potential has been assessed as low. For the post medieval period, the potential has been assessed as low.

10.5.13 South West Heritage Trust reviewed the submitted Heritage Impact Assessment (HIA) and concluded that as the potential for archaeological remains is high, a programme of suitable mitigation to include appropriate excavation could be required. The HIA suggests a geophysical survey and trial trenching which can be controlled by way of a condition.

10.5.14 The NPPF places great weight upon the conservation of designated heritage assets with any harm to, or loss of, the significance of a designated heritage asset or from development within its setting requiring clear and convincing justification. The representations have submitted particular concerns as to the impact of the development upon the setting of Daws Castle, Kentsford Farmhouse and St. Decuman’s Church within the surrounding vicinity of the site and also upon the archaeological potential within the site itself.

10.5.15 In considering the impact of development on heritage assets, the NPPF at Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation regardless of whether the potential harm amounts to substantial or less than substantial harm to the significance. The level of harm to both designated and non-designated heritage assets has been assessed based on the significance of the assets and determined to be of less than substantial harm in relation to the impact on Kentsford Farmhouse and to the setting of St. Decumans Church with mitigation additionally proposed in terms of additional planting. Notwithstanding this, where development comprises even less than substantial harm, the NPPF at Paragraph 200 requires that any harm should require clear and convincing justification. NPPF Paragraphs 202 and 203 then require this harm to be weighed against the public benefits of the proposal.

10.5.16 In this instance, the main public benefits of the proposed development derive from the contribution towards generating energy from a renewable source across a temporary period. This weighs significantly in favour of the proposal when having

regard to the Government directions to nationally achieve net zero carbon by 2050. Further benefits are also derived from biodiversity net gains and additional landscaping.

10.5.17 Cumulatively there is clear and convincing justification in favour of the development. However it is also noted that the development has been identified raising harm to the significance of heritage assets, although the level of harm is assessed as less than substantial. Whilst this is still afforded considerable weight and importance, the impact would be temporary and for only a short period in the overall age and lifespan of the heritage assets. In accordance with Paragraphs 202 and 203 of the NPPF, it is therefore considered that the limited harm identified to significance through changes in their setting, whether balanced on an individual basis or cumulatively, is outweighed by the public benefits of contributing towards net zero carbon.

10.5.18 Therefore, having regard to the duties of Section 66 and 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 the proposal is considered acceptable in this regard. The proposal is also considered to be in accordance with Policies NH1, NH2 and NH5 of the West Somerset Local Plan.

10.6 Transport and access

10.6.1 It is proposed that vehicles would enter the site via an existing gated access junction from the A39, approximately 230m to the west of the junction with the B3190. Vehicles would then exit the site from a second access location, an existing gated access on the eastern access of the site off the B3190, approximately 690m north of the A39.

10.6.2 Internal tracks will be provided within the site to provide access for construction vehicles and the maintenance of the site. The tracks will be akin to agricultural tracks and be constructed of permeable materials, such as crushed stone, loose bound gravel or 'EVE TUFF' track temporary road system. These internal tracks have been positioned to limit the number of field boundary boundary crossings or impacts on existing vegetation and hedgerows.

10.6.3 The majority of the traffic associated with the proposal will be experienced during the construction phase. The site preparation phase will allow the site to receive delivery of equipment and establish areas for equipment storage and temporary prefabricated site offices.

10.6.4 It is estimated that an average of three HGV's will visit the site per day over the 16-week construction period. However, this will fluctuate depending on the construction stage.

10.6.5 The scale and volume of vehicle movements associated with the construction phase of the development is not considered to have any significant impacts on the operation of the local highway network. It is anticipated that the majority of deliveries will be made via low loader vehicles and rigid HGV's.

10.6.6 Somerset County Council Highways Development Control and National Highways (Highways Development Management) have raised no objections to this scheme.

10.6.7 A Construction and Traffic Management Plan (CTMP) has been prepared by RPS and provides information to ensure that the proposed works are organised and delivered in a manner that mitigates and safeguards the highway impact, highway safety and amenity of the area surrounding the site.

10.6.8 It is considered that the measures and control processes outlined in the CTMP are proportionate and appropriate to overcome the identified constraints associated with the proposed site. A condition is proposed to ensure that works are carried out in accordance with the CTMP.

10.7 Ecology/Environment

10.7.1 The closest statutory nature conservation designations (local, national or international) is Cleeve Hill Site of Special Scientific Interest (SSSI) located 375m to the north. The site also adjoins two Local Wildlife Sites (LWS). The Furzy Ground Local and County Wildlife Site is located immediately adjacent to the east of the site and the River Washford LWS adjoining a field corner on the western boundary.

10.7.2 A preliminary Ecological Appraisal (PEA) of the site has been undertaken by the agent, on behalf of the applicant. The Ecological Impact Assessment confirms that the majority of the site is arable farmland of negligible ecological importance with remaining land forming improved or semi-improved grassland. The field hedgerows demarcating the site, whilst being species poor, are however considered to be habitats of 'Principal Importance' for the conservation of biological diversity in England under Section 41 of the Natural Environment and Rural Communities Act 2006.

10.7.3 Somerset Council Ecologists have provided no comments on this planning application and Somerset Wildlife Trust are supportive of the mitigation measures proposed by the applicant.

10.7.4 Natural England considered that on the basis of the plans submitted, the proposed development would not have likely significant effects on the Exmoor and Quantocks Oak Woodlands Special Area of Conservation. The proposed scheme is located outside the Bat Consultation Zones for the Quantock Hills (approximately 1.5km) and Exmoor (approximately 6.9km).

10.7.5 Natural England sought to ensure that the Local Planning Authority tested the proposal against national and local policies and be guided by Paragraphs 176, 177 and 180 of the NPPF.

10.7.6 However, Natural England still have an outstanding objection in relation to this scheme as they thought that the submitted ALC survey could not be considered to be a sufficiently robust tool for planning.

10.7.7 Taking into account Paragraphs 176, 177 and 180 of the NPPF, the Local Planning Authority consider that this proposed scheme is in accordance with Policy NH6 of the West Somerset Local Plan as it will not generate unacceptable adverse impacts on biodiversity and the development will not directly affect European or internationally designated sites.

10.8 Biodiversity Net Gain (BNG)

10.8.1 Policy NH6 requires that development will not generate unacceptable adverse impacts on biodiversity, and seeks to ensure a net gain where possible, enhancing and restoring the ecological network within West Somerset. With the Environment Act 2021 (the 2021 Act) receiving Royal Assent, changes have been made to the Natural and Rural Communities Act 2006 placing a statutory duty on public authorities to have regard to in the exercise of their functions (including planning), to the purpose of conserving *and enhancing* biodiversity. The 2021 Act also sets a clear direction of travel for national policy to secure a 10% biodiversity gain from all new developments. As such, combined with existing policy, we should be expecting the proposal to deliver a biodiversity gain, aiming towards a 10% gain. As stated above, this, combined with an appropriate management plan may help to ameliorate concerns about loss of agricultural land. Further, this approach can help to guide an ecologically and landscape-character appropriate response to any landscape and visual impact mitigation.

10.8.2 The applicant commissioned RPS to undertake a Biodiversity Net Gain (BNG) Assessment. BNG is the result of a process applied to a proposed development so that, overall, there is a positive outcome for biodiversity. The BNG assessment provides a comparison of the values (as defined in the BNG habitat scores) of the existing site and following development with reference to elements of habitat creation/enhancement and the future management of the site. The site consists of arable land which covers approximately 37.19ha.

10.8.3 The existing hedgerows will be retained and protected. A total of approximately 1.70km of new native species hedgerow will be planted within the site and managed to be in 'good' condition. The hedgerows will comprise a mixture of native shrubs and trees and will be maintained at a width of 2-4m and a height of 3-4m.

10.8.4 A Tree Survey and Arboricultural Impact Assessment and Method Statement (December 2021, Ref: JSL4025_770) has been submitted by RPS, in support of the planning application. This comprehensive tree survey was completed in accordance with BS standards (BS5837:2012) and concluded the proposed scheme had minimal arboricultural impacts. The scheme proposes new tree planting in the area which provides some habitat gain and also the opportunity to provide some additional screening to the western boundary where glimpses of the proposed development may be visible from the temporarily diverted England Coast Path.

10.8.5 Following habitat creation and enhancement, the biodiversity net gain for habitat, hedgerows and river units will increase as follows:

- The habitat unit score will increase from 87.54 to 191.77 habitat units, providing an overall total on site net change of 119.06%
- The hedgerow unit score will increase from 24.49 to 39.50 hedgerow units, providing an overall total on site net change of 61.27%
- The river unit score will increase from 11.88 to 12.20 river units, providing an overall total on site net change of 2.71%

10.8.6 Under the 2021 Act, all planning permissions granted in England will have to deliver at least 10% biodiversity net gain but this will be a requirement from November 2023 and is not mandatory yet. However, the Biodiversity Net Gain Assessment concludes that the proposal would considerably exceed the 10% biodiversity net gain objective of upcoming legislation.

10.8.7 Policy NH6 (Nature Conservation and the Protection and enhancement of Biodiversity) of the West Somerset Local Plan seeks to ensure that the proposed

development will not generate unacceptable adverse impacts on biodiversity. The Local Plan seeks a net gain in biodiversity and therefore this proposed development complies and is in accordance with Policy NH6.

10.9 Flood Risk and Drainage

10.9.1 A Flood Risk Assessment was submitted in support of the planning application. In accordance with the NPPF, the proposed scheme is classified as ‘essential infrastructure’ using the flood risk vulnerability classification.

10.9.2 The site is primarily located within Flood Zone 1 with small areas of the site boundary located in Flood Zone 3. However, all of the proposed infrastructure will be wholly located within Flood Zone 1. Surface Water flood mapping indicates that the majority of the site is at ‘very low’ risk of flooding. Other areas within the site are defined as being at low to high risk of surface water flooding.

10.9.3 It should be noted that site topography enables surface water runoff to run in an east to west direction. The north eastern corner of the site is approximately 44m Above Ordnance Datum (m AOD) with the north western corner laying at approximately 28 m AOD. However, the southern boundary ranges between 39m AOD and 44m AOD.

10.9.4 It is therefore considered that there is no conflict with Local Plan policy and this element of the scheme is in accordance with Policy CC2 of the West Somerset Local Plan, which seeks to ensure that proposals are located to mitigate against and, and to avoid increased flood risk elsewhere.

10.10 Glint and Glare

10.10.1 The NPPG advises that an application for large scale solar farms should give consideration to the potential for the effects of glint and glare on the landscape, neighbouring uses and aircraft safety. Glint may be produced as a direct reflection of the sun in the surface of the photovoltaic (PV) solar panel to cause viewer distraction such as flashes of bright light. Glare however is a continuous source of brightness as a reflection of the bright sky around the sun, rather than a direct reflection of the sun and tends to be more continuous. For any given location, these effects are likely to occur only for periods of the year when the sun is at a particular angle.

10.10.2 The solar panels to be installed comprise silicon based photovoltaic cells encased in a glass covering and coated with an anti-reflective surface. This enables the sunlight falling onto the PV panels to be transmitted to the cell beneath the glass therefore giving off minimum reflection. The panels are therefore understood to be

less reflective than surfaces such as water, snow or glass buildings. This ensures maximum efficiency of the PV cell given that the greater the amount of light captured, the greater the amount of electricity that can be produced.

10.10.3 To consider the impacts of glint and glare, the application was accompanied by a Glint and Glare Assessment to assess the possible effects of the development upon surrounding road users, nearby properties, the railway line and aviation. This assessment indicates that whilst reflections are possible, the existing vegetation would mitigate the impacts to block views of reflective areas. No adverse harm is therefore considered to arise in terms of glint and glare.

10.11 Security and Lighting

10.11.1 The site would be enclosed by fencing and sensor activated infra-red cameras on perimeter posts (approximately 3m in height) to provide security for the site and to prevent theft and criminal damage during the construction and operational phases of the site. The use of technology will avoid the need for lighting on the site and a condition has been proposed to control this.

10.11.2 Avon and Somerset Constabulary (Police) have been consulted to advise on crime prevention and have commented on some of the design of the proposal including perimeter fencing, vehicular access, landscaping/planting and electronic security measures (i.e. motion-activated passive infra-red (PIR) security cameras which avoids the need to additional lighting on the site). The Crime Prevention Design Advisor from Avon and Somerset Police raised no objection.

10.12 Operational Life and Decommissioning

10.12.1 Recognition that solar arrays are temporary structures and can be removed and the land restored to its previous use is given within the NPPG. Planning permission is therefore sought for a temporary use of the land with the proposed solar PV installation having an operational period of forty years which is commensurate with other solar PV schemes coming forward in England. The forty-year timescale reflects technical advances in the longevity of solar panels but also the contribution UK Government expects solar generated electricity to the national energy supply. Should the promoter of the scheme wish to continue operating beyond the forty-year period, then a further planning application would need to be submitted at that time and considered on the material considerations, applicable at the time.

10.12.2 At the end of the life of the scheme (whether this is within the forty-year timescale proposed or earlier), the applicant can decommission the site. The proposed scheme has been designed to be fully reversible, therefore enabling the

removal of all structures, ground fixings and concrete foot/supports and the land to be reinstated to its predevelopment condition (i.e. agricultural land).

10.13 Other matters

10.13.1 Particular concerns have been raised through the representations received as to the impact the potential approval of this proposed development would have on the tenanted farms. It should be noted that planning permission runs with the land as opposed to named applicants, landowners or operators.

10.13.2 Whilst Officers are acutely aware that the impact this proposed scheme may have on the livelihoods of the two tenant farms affected is an emotive issue within the local community, these individual personal circumstances can be afforded little or no weight in the planning balance.

10.13.3 This proposed development comprises of a temporary installation of a solar PV scheme to operate over a forty-year lifespan and would be conditioned as such. There would be no permanent or irreversible loss of agricultural land and therefore this is a material planning consideration that is afforded weight.

10.13.4 Impact on tourism - Concern has been raised that the development could have a negative impact on the local tourism offer. This is due the sites proximity to the A39 and B3190 as key access routes to Minehead, Watchet and the surrounding area. Given that the location is within an undesignated area, it is not considered that there has been any substantive evidence to demonstrate that a solar farm in this location would have such a negative impact upon local tourist trade or appeal.

10.13.5 A consultee within the local community has raised concerns regarding the potential safety issues that may arise from siting a Battery Energy Storage System (BESS) and the potential for increased risks from fire.

10.13.6 The Local Planning Authority have spent considerable time researching this matter and the HSE have advised that BESS proposals are typically not a relevant development in relation to land use planning in the vicinity of major hazard sites and major accident hazard pipelines. This is due to them not introducing people into the area.

10.13.7 The HSE's advice also steers the Local Planning Authority towards consulting HSE's Explosives Inspectorate if the site is within a safeguarding zone for a HSE licensed explosives site and consulting the Office for Nuclear Regulation (ONR) if the site is in the vicinity of a nuclear site. The ONR have been consulted and confirmed in their response that they have no comments to make on the application as the site

is not within an explosives safeguarding zone of the vicinity of a nuclear site. Hinkley Point A and B, and the construction of Hinkley Point C, are approximately 14.5km from the application site. The HSE's advice also recommends contacting the operator if the site is over a major accident hazard pipeline, or the site is adjacent to a control of Major Accident Hazards (COMAH) establishment.

10.13.8 Notwithstanding this and common to other sites for solar PV, it appears reasonable to include a condition requiring a detailed Battery Safety Management Plan (BSMP) to be submitted to and approved by the Local Planning Authority, prior to implementation of the BESS.

10.13.9 The site is in close proximity to a gas pipeline. Due to this, the Local Planning Authority have consulted Wales and West Utilities, who have confirmed that the applicant will need to contact Wales and West Utilities, if the proposal is approved. They have not raised an objection to the scheme.

10.13.10 Wessex Water originally raised no objections to the proposal, subject to them having access. It then raised an objection at the beginning of the year once it became apparent that a trunk main is located on the southwestern area of the proposed site. RPS, as agents provided an updated layout plan and landscape proposal plan (the last revision being received in April (11th)). Wessex Water have an outstanding holding objection in relation to this scheme at the time of writing this committee report. Officers will provide a verbal update if this issue has progressed and/or been resolved.

10.13.11 Underlying all these matters is that fact that other regimes operate in this field to regulate the safe operation of such installations. National Policy is clear that the focus of planning decisions should be on whether a proposal is an acceptable use of land, rather than the control of processes where these are subject to separate regimes. Planning decisions should assume that these regimes will operate effectively.

10.13.12 Food security – Multiple representations have raised objections due to the impact that this type of development may have on food security for the country. In addition, notable concern has been raised regarding the loss of the land for the proposed scheme particularly when having regard to current global socio-economic factors affecting national food production.

10.13.13 However, it should be noted that there is also a need for energy security and there is a clear drive, from a policy perspective at the national level, to move towards a renewable energy network. The single biggest threat to food security in the UK is

climate change and therefore there is a very fine balance to be struck between the existing and proposed uses of the site. It needs to be taken into account that the proposed use contributes towards sustainable development and is supported by the NPPF and the adopted Local Plan when taken as a whole.

11. Planning balance and conclusion

11.1 The principle of development is considered to be compliant with Policy SD1, the overarching policy in the Local Plan, and it complies with the Local Plan when taken as whole given that the development plan supports a move towards renewable energy.

11.2 The scheme is also supported national planning and energy policies. It is noted that the proposal would lead to a loss of an area of best and most versatile agricultural land, but the report sets out the reasons why it is considered that, on balance, this particular proposal cannot be refused under Policy NH8 of the Local Plan.

11.3 The proposed development would be sited on high quality agricultural land. However it should be noted that Solar PV proposals are classified as ‘temporary installations’ ensuring that there would be no permanent or irreversible loss of high quality agricultural land with the ability to potentially provide a less intensive agricultural activity on the site being retained. The proposal therefore accords with the National Planning Policy Framework (2021) and Policy NH8 of the West Somerset Local Plan.

11.4 The proposed development will have impacts on the both the local landscape character and visual amenity of the area but this proposed site has been selected as it is not within a designated area (i.e. National Park or Area of Outstanding Natural Beauty (AONB)). New landscaping secured through planning conditions would mitigate the impact on the Public Right of Ways to an acceptable level whilst delivering a form of energy from a renewable resource in accordance with Policy CC1. The development would therefore contribute towards addressing the reliance on fossil fuels and offsetting associated environmental impacts.

11.5 The proposal would conserve and enhance the biodiversity value and nature conservation interests of the site providing measurable net biodiversity gains. The proposal would therefore comply with the National Planning Policy Framework and Policy NH6 of the West Somerset Local Plan.

11.6 The proposal would result in less than substantial harm to the significance of Kentsford Farmhouse as a listed building and the setting of St Decumans Church.

The harm is balanced by the benefits of the proposed development in accordance with the NPPF. Having regard to the duties of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the less than substantial harms is considered acceptable when balanced by the public benefits in accordance with the NPPF and is acceptable in this regard, in accordance with Policy NH1 of the West Somerset Local Plan.

11.7 Subject to conditions, the development would also not give rise to adverse impacts upon archaeological potential within the site. The proposal would therefore comply with the NPPF and Policy NH1 of the West Somerset Local Plan.

11.8 The proposed development would not generate an unacceptable impact on highway safety subject to conditions and would provide adequate access and egress to and from the site in accordance with highway requirements. The proposal would therefore accord with the NPPF and Policy SD1 of the West Somerset Local Plan.

11.9 Appropriate consideration has been given to matters of flood risk and drainage to ensure that the development would not give rise to new risk to property or the environment. The proposal accords with the NPPF and Policy CC2 of the West Somerset Local Plan.

11.10 The proposal would not result in any adverse harm to the amenities of neighbouring or nearby properties in terms of undue loss of privacy or cause undue overlooking, overshadowing, overbearing or noise and disturbance impacts. The proposal would therefore accord with NPPF and Policy NH13 of the West Somerset Local Plan.

11.11 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.

11.12 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.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The permission hereby granted shall be limited to a period of forty years from the date when electricity is first exported from the solar panels to the electricity network (The First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority within fourteen days of the event occurring.

REASON: To establish the commencement date for the forty year operational life of the solar farm.

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

DRNO JPW0622-WASHFORD-013 REV B Red Line Boundary

DRNO JPW0622-WASHFORD-12 REV I Solar Layout

DRNO 24 Landscape Proposal Rev E

DRNO JPW1056-001 Typical Panel Planning Details

DRNO JPW1056-002 Typical Invertor Planning Details

DRNO JPW1056-003 Typical CCTV Planning Details

DRNO JPW1056-004 Typical Access Road Planning Details

DRNO JPW1056-005 Typical Fence and Gate Planning Details

DRNO JPW1056-006 Typical DNO Building Details

DRNO JPW1056-007 Typical Battery Unit Details

DRNO JPW1056-009 Existing and Proposed Cross Sections

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

4. Within 3 months of the solar array permanently ceasing to be used for the generation of electricity, or the end of this permission, whichever is the earliest, the development hereby permitted shall cease and the array, and associated infrastructure, shall be permanently removed from the land, and the site restored to its former condition (allowing for any appropriate enhancements) in accordance with details to be submitted to, and approved in writing by, the Local Planning authority prior to such works being carried out.

REASON: To ensure that the site is properly restored at the expiry of the permission, in the interests of protecting visual amenity including the protection of heritage assets; protecting ecology and biodiversity.⁵ The Solar PV Panels hereby permitted shall not be erected until samples of the materials to be used in the construction of the solar panel array have been submitted to, and approved in writing by, the Local planning authority. The development shall thereafter be carried out in accordance with the approved samples and retained as such thereafter.

REASON: To ensure high standards of design in accordance with Policy NH13 of the West Somerset Local Plan.

6. No other part of the development hereby approved shall be commenced until the site access roads shall be hardened, surfaced, drained and maintained thereafter to the satisfaction of the Local Planning Authority for a distance of not less than 6.00 metres back from its junction with the public highway.

REASON: To prevent mud and other debris being carried onto the public highway in the interests of highway safety in accordance with Policy TR1 and TR2 of the West Somerset Local Plan 7. Subject to Condition 6 hereof, no other part of the development hereby approved shall be commenced until the until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority and retained for that purpose at all times.

REASON: To ensure that adequate facilities are available for traffic to the site in the interests of highway safety in accordance with Policy TR1 and TR2 of the West Somerset Local Plan

8. Prior to the commencement of any work on the site a joint inspection of the route to be used by construction vehicles shall be carried out by the applicant and the highway authority, the scope and methodology shall be agreed in advance with the highway authority and include photographic evidence. The route shall then be inspected every six weeks during construction and finally on completion of the development. Any damage to the highway resulting from traffic movements generated by the application site shall be repaired within three months of detection to an acceptable standard and at no cost to the Highways Authority.

REASON: To minimise the impact of the development on the highway network, in the interests of highway safety and in accordance with TR1 and TR2 of the West Somerset Local Plan.

9. No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been first submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other scheme as may be subsequently agreed in writing by the Local Planning Authority.

REASON: To ensure, in accordance with Policy NH3 and NH4 of the West Somerset Local Plan and paragraph 205 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development.

10. No development shall take place until a detailed scheme of ecological mitigation and enhancement measures set out in a Biodiversity Management Plan (BMP), in accordance with the recommendations of the submitted Biodiversity Net Gain Assessment (January 2023, Ref: ECO02396 1), has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include proposals for protective measures during the construction process; external lighting; and planting, including a timetable for implementation. The development shall thereafter be undertaken in accordance with the approved BMP.

REASON: In the absence of being submitted with the application and in order to safeguard nature conservation and the protection and enhancement of biodiversity of the area in accordance with Policy NH6 of the West Somerset Local Plan.

11. All approved landscaping details shall be carried out in the first planting and seeding seasons following the erection of the solar panels, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards.

REASON: For the avoidance of doubt and in the interests of proper planning, in accordance with Policy NH13 of the West Somerset Local Plan.

12. No external form of illumination of the site shall be installed or used on the site other than low level lighting required on ancillary buildings during occasional maintenance and inspection visits.

REASON: To minimise light pollution in this rural area and in the interests of biodiversity and ecology, in accordance with Policy NH6 of the West Somerset Local Plan.

13. The installation or construction of all plant, equipment, and buildings shall be undertaken using a colour scheme which has previously been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be retained in accordance with the approved colour scheme.

REASON: In order to safeguard the landscape and amenity of the area in accordance with Policy SD1 of the West Somerset Local Plan.

14. Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. In respect to the protection of residential amenity and the local environment, the CEMP shall identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration, dust and waste disposal resulting from the site preparation, groundwork and construction phases of the development and manage Heavy/Large Goods Vehicle access to the site. It shall include details of the hours of operation and measures to be employed to prevent the egress of mud, water and other detritus onto the public and any non-adopted highways. The following specific details should also be included in respect to highway safety:

(a) the timetable of the works;

(b) daily hours of construction;

(c) any road closure;

(d) hours during which delivery and construction traffic will travel to and from the site, with such vehicular movements being restricted to between 8:00am and 6pm Mondays to Fridays inc.; 9.00am to 1.00pm Saturdays, and no such vehicular movements taking place on Sundays and Bank/Public Holidays unless agreed by the Planning Authority in advance;

(e) the number and sizes of vehicles visiting the site in connection with the development and the frequency of their visits;

(f) the compound/location where all building materials, finished or unfinished products, parts, crates, packing materials and waste will be stored during the demolition and construction phases;

(g) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park

on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;

(h) hours during which no construction traffic will be present at the site;

(i) the means of enclosure of the site during construction works;

(j) details of wheel washing facilities and road sweeping measures with the respective obligations;

(k) details of the amount and location of construction worker parking;

All works shall be carried out in accordance with the approved CEMP thereafter.

REASON: To minimise the impact upon the highway network during the construction period and to ensure adequate mitigation of associated environmental impacts in accordance with Policies TR1 and TR2 of the West Somerset Local Plan.

15. The construction of the development shall be undertaken in accordance with the Construction Traffic Management Plan prepared by RPS dated April 2021 (JNY9508-03).

REASON: To ensure construction traffic is managed on the highway network in the interests of highway safety and to ensure adequate mitigation of associated environmental impacts in accordance with Policies TR1 and TR2 of the West Somerset Local Plan.

16. Prior to the implementation of the Battery Storage System comprised in the development a detailed Battery Safety Management Plan (BSMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and operated only in accordance with the approved BSMP.

REASON: In the absence of being submitted with the application and in order to safeguard the landscape and amenity of the area in accordance with Policy SD1 of the West Somerset Local Plan.

17. No works shall take place until a scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and to prevent pollution has been submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented as approved.

REASON: To ensure development does not increase flood risk elsewhere and does not contribute to water pollution in accordance with Policy CC2 of the West Somerset Local Plan.

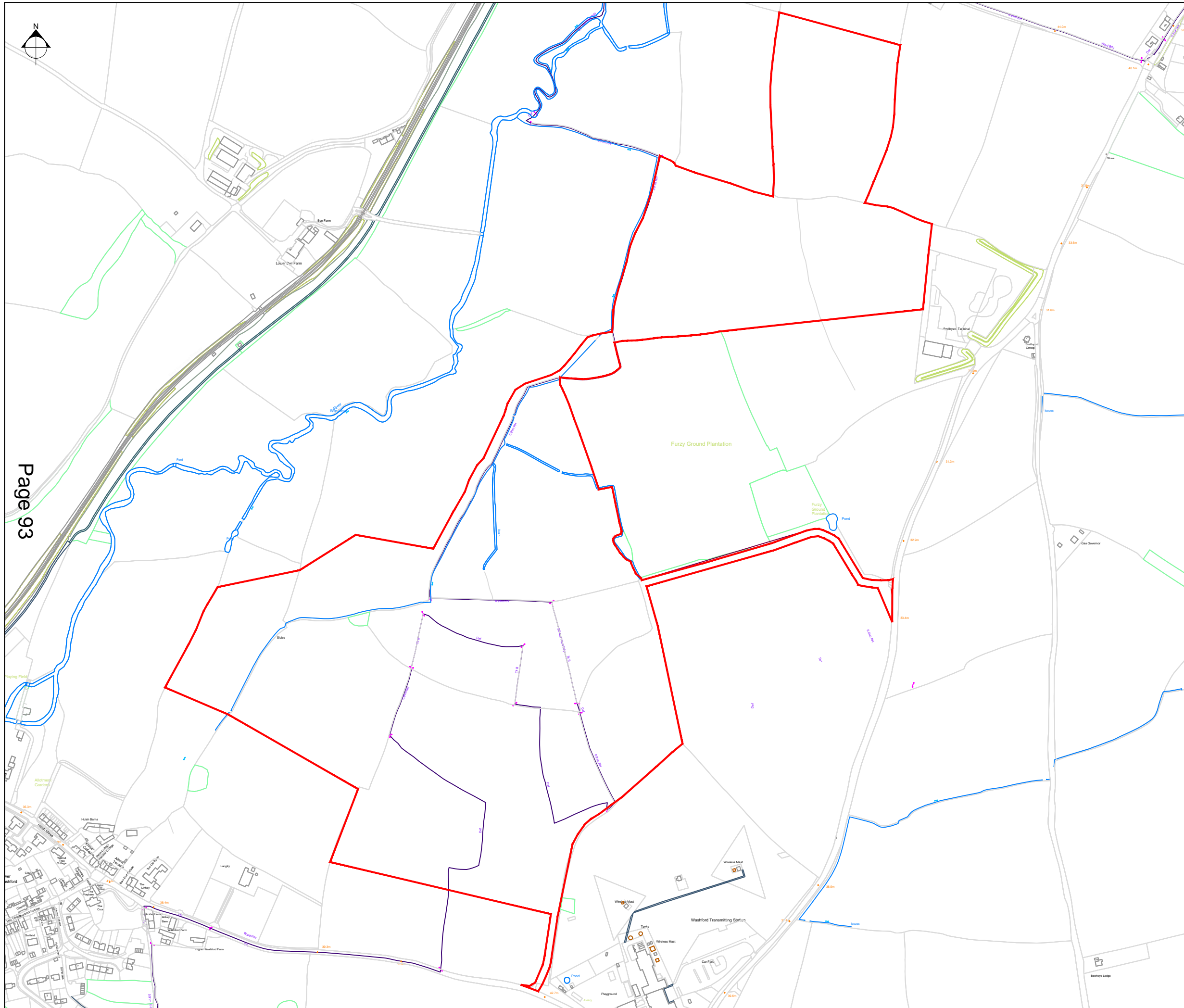
Informatives

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

National Grid, Wales and West Utilities and Wessex Water own and operate infrastructure within the area of this development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to these assets. The applicant must ensure that the proposed works do not impinge on legal rights of access and/or restrictive covenants that exist.

Safe digging practices, in accordance with HSE publication HSG47 (3rd Edition) “Avoiding Danger from Underground Services” must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is the applicants responsibility to ensure that this information is presented to all relevant people working on the construction of this scheme.

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Page 93

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Notes

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B	Red line amendment	GG	DW	25/03/2021
A	Red line amendment	GG	DW	09/02/2021
Rev	Description	By	CB	Date



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Client **ELGIN ENERGY EsCO LTD**

Project **LAND NORTHWEST OF WASHFORD TRANSMITTING STATION**

Title **REVISED RED LINE BOUNDARY**

Status **PLANNING** Drawn By **GG** PM/Checked by **AL**

Job Ref **JPW0622** Scale @ **A3** Date Created **OCT 2020**

RPS Drawing/Figure Number **JPW0622-WASHFORD-013** Rev **B**

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Application Details	
Application Reference Number:	42/23/0016
Application Type:	Section 73 Variation of Condition
Expiry Date:	19 June 2023
Decision Level:	Committee
Description	Variation of a Condition No. 02 (approved Plans) of application 42/14/0069 for the removal of 0.58ha of land from the approved employment area on land at Comeytrove, Taunton
Site Address:	Orchard Grove, Land at Comeytrove/Trull, Taunton
Parish(es):	38 - Taunton Town Council and 42 - Trull Parish Council
Conservation Area:	Partly within the Trull Conservation Area
Somerset Levels and Moors RAMSAR Catchment area:	Yes
AONB:	No
Case Officer:	Simon Fox, Major Projects Officer (Planning) 07392 316159 simon.fox@somerset.gov.uk
Agent:	Boyer Planning Ltd
Applicant:	Comeytrove Consortium
Committee Date:	Tuesday 18 July 2023
Reason for reporting application to Members:	Each stage of the Comeytrove Garden Community, known as Orchard Grove, has been subject to Planning Committee scrutiny given the significance of the scheme and the public interest.

1. Recommendation

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

2. Executive Summary of key reasons for recommendation

- 2.1 This application has been prompted by a Supreme Court decision (*Hillside*) relating to an entirely different site which involved the overlapping of full planning permissions onto sites with an underlying outline consent. In this case, the Orchard Grove site has full planning permission for a Care Home

which if implemented, the Court ruling in *Hillside* indicates, would prejudice the implementation of the outline consent. The Consortium, whilst wishing to implement the Care Home permission, will not prejudice the outline and as such this application seeks to revise the outline permission to overcome these legal implications.

- 2.2 After consideration of all representations and consultations, planning policy and material considerations including the planning history and the scope of the application, the application is considered appropriate to be recommended for approval subject to the conditions listed at Appendix 1 to this report.

3. Planning Obligations, conditions and informatives

3.1 Obligations

No agreement is needed in connection with this application because the original outline was accompanied by a site-wide section 106 agreement which is still legally enforceable against any subsequent planning permission granted under section 73, such as this.

3.2 Conditions

See Appendix 1.

3.3 Informatives

See Appendix 1.

4. Proposed development, Site and Surroundings

Details of proposal

- 4.1 This planning application is made under section 73 of the Town and Country Planning Act 1990 to vary an Outline Planning Condition to allow a material amendment to the permitted development at the Comeytrove Garden Community otherwise known as Orchard Grove, South West Taunton on behalf of the Comeytrove Consortium (Taylor Wimpey, Vistry and LiveWest).
- 4.2 This section 73 application is made pursuant to Outline Planning Permission (42/14/0069), which was granted on 8th August 2019 by Somerset West & Taunton Council for a residential-led mixed-use development of up to 2,000 homes, employment, school, local centre and associated infrastructure. The description of development reads:

"Outline Planning Application with all matters (except points of access for a residential and mixed use extension at Comeytrove/Trull to include up to 2,000 dwellings, up to 5.25 hectares of employment land, 2.2 hectares of land for a primary school, a mixed use local centre, and a 300 space park & bus facility on land at Comeytrove/Trull; amended and additional information received 04 September 2015"

- 4.3 This application seeks approval for a material amendment to the approved development at Orchard Grove to remove approximately 0.58ha of land from the employment zone.
- 4.4 The reason for seeking a material amendment to Outline Planning Condition 2 follows the Supreme Court judgement at Hillside Parks Limited v Snowdonia National Park Authority [2022] UKSC 30 ("*Hillside*") and the potential impacts the judgement has on the severability of multi-phased outline planning permissions.
- 4.5 The *Hillside* case relates to a succession of applications, appeals and claims ultimately reaching the Supreme Court over the implementation a series of planning permissions by the developer Hillside Parks Ltd on a site within Snowdonia National Park Authority. The case involved a dispute between the Applicant and the National Park Authority over whether works the Applicant had already undertaken over several years, and under separate planning permissions, departed too significantly from the original planning permission.
- 4.6 In summary, the judgment confirmed that in certain circumstances a later planning permission cannot now generally be utilised as a 'variation' of an earlier planning permission.
- 4.7 Given the above, the Consortium has sought legal advice on the potential risks following the recent *Hillside* Supreme Court judgement to the Orchard Grove Outline Planning Permission (ref: 42/14/0069) and the associated 'drop-in' planning permission (ref: 42/22/0054) for a new Care Home within Orchard Grove's employment zone.
- 4.8 Upon receipt of the Supreme Court ruling the Comeytrove Consortium took their own legal advice and raised the matter with the Case Officer who in turn invoked the involvement of SHAPE legal. The outcome of those discussions is this application.

- 4.9 To mitigate the risks highlighted above, it is necessary to remove the area of land comprising the Care Home which extends to 0.58ha from the approved Outline Planning Permission parameter plans, via this section 73 application. This will remove any potential prejudicial impact owing to *Hillside* that the 'drop in' Care Home Planning Permission could have on the future delivery of new homes at Orchard Grove.
- 4.10 This section 73 application for the variation of Outline Planning Condition 2 (42/14/0069), seeks an amendment to the approved parameter plans to remove an area of 0.58ha of land from the employment zone.
- 4.11 The amendment sought to Condition 2 is twofold:
- to replace the approved parameter plans with amended versions that 'blank out' 0.58ha of land from the employment zone; and
 - to revise the wording of the condition in part.
- 4.12 Approved Plans (to be superseded):
- Land Use Parameter Plan (drawing ref. 13708_9600- REV L);
 - Density Plan (drawing ref. 13708_9601 – REV I);
 - Scale Parameter Plan (drawing ref. 13708_9602 – REV K);
 - Access and Movement Plan (drawing ref. 13708_9603 – REV H); and
 - Green Infrastructure Parameter Plan (drawing ref. 13708_9604 – REV L).
- 4.13 Proposed Replacement plans:
- Land Use Parameter Plan (drawing ref. 13708 9600 Rev P)
 - Density Plan (drawing ref. 13708 9601 Rev K)
 - Scale Parameter Plan (drawing ref. 13708 9602 Rev M)
 - Access and Movement Plan (drawing ref. 13708 9603 Rev K)
 - Green Infrastructure Parameter Plan (drawing ref. 13708 9604 Rev N)
- 4.14 All other associated approved plans listed under Condition 2 will remain as approved under Planning Permission Ref. 42/14/0069.
- 4.15 The applicant is seeking the condition to be reworded as follows:

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

- *Land Use Parameter Plan (drawing ref. 13708 9600 Rev P);*
- *Density Plan (drawing ref. 13708 9601 Rev K);*
- *Scale Parameter Plan (drawing ref. 13708 9602 Rev M);*
- *Access and Movement Plan (drawing ref. 13708 9603 rev K);*

- *Green Infrastructure Parameter Plan (drawing ref. 13708 9604 Rev N);*
- *(A0) DrNo 9010 Rev M Site Location Plan;*
- *(A0) DrNo 9003 Rev B Existing Topographical Survey;*
- *(A1) DrNo 9001 Rev A Site Location Plan (Wider Area);*
- *(A1) DrNo 46006/2003/050_RevD_A38_ Roundabout_S278_Works (Amended access plan approved via s.96A non-material amendment [42/21/0077/NMA]);*
- *Environmental Statement Addendum Appendix 9.1 Appendix C Part 3 (A1) DrNo Figure 4.2 Rev C Proposed 40m ICD Roundabout Junction Arrangement on Honiton Road; and*
- *Environmental Statement Addendum Appendix 9.1 Appendix D Part 2 (A2) DrNo Figure 4.3 Rev A Proposed Secondary Access from Comeytrove Lane*
- *DrNo. 9700 Site Boundary Plan (indicating the location of the Eastern and Western Neighbourhoods)*
- *DrNo. 35482_ 0723_Phasing and Infrastructure Plan*

The phased scheme shown for illustrative purposes on the document entitled 'CIL Phasing Plan,' version 10 and dated May 2023 (approved under Condition 3) shall be built in accordance with the approved Plans and the approved Parameter Plans listed above unless a further planning application specific to one or more of the phases shown on the document entitled 'CIL Phasing Plan,' (Version 10) (or any further phasing plan subsequently approved under Condition 3), is submitted and approved by the Local Planning Authority in substitution for that part of the approved development. If such further planning application is approved, the remaining phase or phases may still be developed as approved in this Planning Permission, it being intended that this Planning Permission should permit each phase separately and severability from the others.

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

Site and surroundings

- 4.16 Outline consent (ref 42/14/0069) with all matters reserved (except points of access) has been granted for a residential and mixed use garden community at Comeytrove/Trull to include up to 2,000 dwellings, up to 5.25ha of employment land, 2.2ha of land for a primary school, a mixed use local centre and a 300 space 'park and bus' facility (application ref. 42/14/0069). The site area for the outline application was approx. 118 ha and was bounded by the A38 Wellington Road to the north-west, the suburb and parish of Comeytrove to the east and the farmland of Higher Comeytrove Farm to the south. The

Blackdown Hills AONB is located approximately 2.5 miles to the south of the site.

4.17 The site is generally characteristic by an undulating landscape, development has commenced in the western neighbourhood whereas the Eastern Neighbourhood is still relatively untouched save for the spine road leading to the new primary school site which is now under construction.

4.18 A small treed area at the south easternmost part of the site is in the Trull Conservation Area where there are also numerous listed buildings in the Conservation area bordering the site as well as Comeytrove Manor and Higher Comeytrove Farm located nearer the centre of the site and Rumwell Park and Rumwell Hall towards the north western part, as well as a Special Landscape Feature (Stonegallows).

4.19 The site is under construction, occupations commenced in April 2022 with currently circa 100 properties occupied at present.

5. Relevant Planning History

Reference	Description	Decision	Date
42/14/0069	Outline planning permission with all matters reserved (except access) for a residential and mixed use urban extension at Comeytrove/Trull to include up to 2,000 dwellings, up to 5.25ha of employment land, 2.2ha of land for a primary school, a mixed use local centre and a 300 space 'park and bus' facility	Approved	8 August 2019
42/15/0042	Demolition of a section of wall on the western side of Honiton Road for creation of the access to the south west Taunton Urban Extension (Under Planning Application No. 42/14/0069) on Honiton Road, Trull	Approved	9 August 2019

42/19/0053	Application for approval of reserved matters following outline application 42/14/0069 for construction of the strategic infrastructure associated with the Western Neighbourhood, including the spine road and infrastructure roads; green infrastructure and ecological mitigation; strategic drainage, earth re-modelling works and associated retaining walls on land at Comeytrove/Trull	Approved	18 March 2020
42/20/0005/DM	Prior notification of proposed demolition of chicken coops on land south west of Taunton	No objection subject to conditions	21 February 2020
42/20/0006	Application for approval of reserved matters following Outline Application 42/14/0069 for the appearance, landscape, layout and scale for the erection of 70 No. dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works (Phase H1b) on land at Comeytrove/Trull	Approved	22 July 2020
42/20/0024	Application for approval of reserved matters following outline application 42/14/0069 for the erection of a foul pumping station, water booster station and gas pressure reducing station to serve the permitted 2000 dwellings on land at Comeytrove/Trull	Withdrawn on procedural grounds – not a Reserved Matters	10 August 2021
42/20/0031	Approval of reserved matters in respect of the appearance, landscape, layout and scale, pursuant to planning permission	Approved	8 April 2021

	reference (42/14/0069) for the erection of 76 dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works at Phase H1a on land at Comeytrove/Trull		
42/20/0042	Erection of a foul pumping station, water booster station and gas pressure reducing station to serve the permitted 2000 dwellings under outline application 42/14/0069 on land at Comeytrove/Trull	Approved	08 April 2021
42/20/0043	Non-material amendment to application 42/19/0053 for the relocation of the approved sub-station on land at Comeytrove/Trull	Approved	19 October 2020
42/20/0056	Approval of reserved matters in respect of the appearance, landscape, layout and scale, pursuant to planning permission reference (42/14/0069) for the erection of 64 dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works at Phase H1c(i) on land at Comeytrove/Trull	Approved	8 April 2021
42/21/0004	Application for approval of reserved matters following outline application 42/14/0069 in respect of the appearance, landscape, layout and scale for the erection of	Approved	3 February 2022

	166 No. dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works at Parcel H1d on land at Comeytrove/Trull		
42/21/0020	Non-material amendment to application 42/20/0006 to allow for adjustments to highway alignments (Phase 1a and Parcel H1b) on land at Comeytrove/Trull	Approved	10 January 2022
42/21/0032	Erection and installation of an electricity sub-station on land falling within Phase H1C/H1F at Comeytrove/Trull	Approved	31 August 2021
42/21/0035	Approval of reserved matters in respect of the appearance, landscape, layout and scale, pursuant to planning permission reference (42/14/0069) for the erection of 55 dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works at Parcel H1c(ii) on land at Comeytrove/Trull (resubmission of 42/20/0056)	Approved	20 September 2022
42/21/0046	Application for approval of reserved matters following outline application 42/14/0069 for a local equipped play area (LEAP), landscaping, drainage and associated engineering operations, referred to as Garden Park, on land at Comeytrove/Trull	Approved	4 April 2022

42/21/0058	Re pointing of former kitchen garden wall (Building A) with removal of loose stones, removal of attached modern industrial shed along stable blocks northern wall and making good of gable end (Building B), and removal of stub wall (Building G) at the stable block associated with Comeytrove Manor, Manor Industrial Estate, Taunton	Pending	
42/21/0077	Application for a non-material amendment to application 42/14/0069 for realignment of the approved A38 roundabout on land south of the A38, Comeytrove	Approved	17 December 2021
42/21/0068	Conversion and change of use from commercial (Class E) to 1 No. residential dwelling at The Stable Block, Comeytrove Manor West, Lipe Hill Lane, Comeytrove	Pending	
42/21/0069	Conversion and change of use from commercial (Class E) to 1 No. residential dwelling at The Stable Block, Comeytrove Manor West, Lipe Hill Lane, Comeytrove	Pending	
42/22/0026	Application for a Non-Material Amendment to application 42/20/0042 to introduce a turning head at the entrance to the approved pumping station compound and associated delivery of designated cycle lane through the site on land at Comeytrove Rise, Trull	Refused on procedural grounds – not an NMA	21 April 2022
42/22/0040	SCC Consultation – Erection of primary school and nursery, to include construction of sports pitches, parking area and access onto spine road incorporating landscaping and	Approved	SWT Comments sent to SCC 26 May 2022, application approved by

	<p>infrastructure on land at Comeytrowe, Taunton</p> <p><i>For the full application file visit SCC's Planning register online, ref SCC/3938/2022</i></p>		<p>SCC December 2022</p>
42/22/0043	<p>Variation of Condition No. 02 (approved plans), for the inclusion of a turning head at the entrance of the approved pumping station compound, of application 42/20/0042 at Orchard Grove New Community, Comeytrowe Rise, Taunton</p>	<p>Approved</p>	<p>03 February 2023</p>
42/22/0054	<p>Erection of a care home (Use Class C2) comprising of 68 No. bedrooms with associated staff facilities, access, landscaping, parking and associated works on land at Comeytrowe, Taunton</p>	<p>Approved</p>	<p>31 January 2023</p>
42/22/0055	<p>Application for approval of reserved matters following outline approval 42/14/0069 for the appearance, landscaping, layout and scale of the strategic infrastructure associated with the delivery of the employment zone including employment estate roads, green infrastructure, ecology mitigation, drainage, earth re-modelling works and hard landscaping associated with the local square at Orchard Grove Community Employment Zone, land adjacent A38, Taunton</p>	<p>Approved</p>	<p>30 June 2023</p>
42/22/0056	<p>Application for Approval of Reserved Matters following Outline Application 42/14/0069 for the appearance, landscaping, layout and scale for the strategic infrastructure works, including associated green infrastructure</p>	<p>Pending</p>	

	and drainage, associated with the delivery of infrastructure roads WR02 and WR03 at Orchard Grove Community, Comeytrowe		
42/22/0062	Application for the approval of reserved matters following outline application 42/14/0069 for the appearance, landscaping, layout and scale for the erection of 20 No. dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works comprising Parcel H1f(i) together with additional details as required by Condition No's. 7, 9, 12, 13, 14, 15, 16, 18, 19, 20, 21 and 23 on land west of Comeytrowe Lane, Taunton	Approved	10 March 2023
42/22/0063	Application for the approval of reserved matters following outline application 42/14/0069 for the appearance, landscaping, layout and scale for the erection of 51 No. dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works comprising Parcel H1f(ii) together with additional details as required by Condition No's. 7, 9, 12, 13, 14, 15, 16, 18, 19, 20, 21 and 23 on land west of Comeytrowe Lane, Taunton	Pending	
42/22/0064	Variation of Condition No's. 02, approved plans, (for alterations to common infrastructure, including	Pending	

	drainage attenuation basins, retaining structures and earthworks, site remodelling, engineering works and landscape planting) and 04, landscaping details, of application 42/19/0053 on land at Comeytrove, Taunton		
42/22/0075/CB	Application to determine if prior approval is required for the proposed demolition (Class B) of former industrial buildings at Comeytrove Manor Industrial Estate, Lipe Hill Lane, Comeytrove	Prior Approval Required	18 January 2023
42/22/0076	Application for approval of reserved matters following outline approval 42/14/0069 for the appearance, layout and scale for the erection of a bat house and associated works at Orchard Grove Urban Extension at Comeytrove	Approved	31 March 2023
42/23/0019/CB	Application to determine if prior approval is required for the proposed demolition (Class B) of former industrial buildings at Comeytrove Manor Industrial Estate, Lipe Hill Lane, Comeytrove	Pending	
42/23/0022	Application for the approval of reserved matters following outline application 42/14/0069 for the access, appearance, landscaping, layout and scale for the erection of a substation to service the Primary School at Orchard Grove, Comeytrove	Approved	21 June 2023

6. Environmental Impact Assessment

- 6.1 Upon receipt of an application the Council has to consider if the development falls into Schedule 1 or 2 of the Environment Impact Assessment Regulations. The Council concludes it falls into neither.

- 6.2 Then the Council must consider if the application is:
- (i) a subsequent application in relation to Schedule 1 or Schedule 2 development;
 - (ii) has not been subject to a screening opinion; and
 - (iii) is not accompanied by an Environmental Statement (ES) under Reg 9 of the EIA regulations.
- 6.3 In this case the Garden Community development fell within Category 10b (Urban Development Projects) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the outline application was accompanied by a full Environment Statement.
- 6.4 The Council therefore must assess whether the information it has within the outline ES is sufficient to determine the application now before it.
- 6.5 A supporting ES Compliance Statement has been prepared by the applicant to accompany this s.73 application which sets out a review of the approved ES chapters in light of the variation sought to Outline Planning Condition 2 via this application.
- 6.6 It concludes that by virtue of removing 0.58 hectares from the proposed employment land, the maximum parameters assessed by the Environmental Statement will not be breached and the scope and impacts of the Orchard Grove development will be reduced. This, it states, does not, therefore, result in a greater significance of effect to the following ES Chapters: landscape and visual, ecology, transport, air quality, noise, water, heritage, ground conditions, and agricultural land. As such, it states, the conclusions of the approved ES chapters remain valid.
- 6.7 In assessing the socioeconomic impact in isolation, the following topics have been considered in identifying the likely significant socio-economic effects of the Proposed Development:
- Effects on the employment offer at the site;
 - Effects on Population and housing requirements; and
 - Effects on healthcare provision and education provision.
- 6.8 The statement concludes there will be no impact on population and housing requirements nor on healthcare and education provision (again the former was assessed as part of the application for the Care Home ref 42/22/0054. The removal of employment land could in isolation could have had impacts on job

creation but again the Care Home was approved on the basis that a good number of jobs would be created.

- 6.9 The conclusion of the LPA is that the Council considers the application of this condition variation will not have any further significant environmental effects over and above those assessed at the outline stage and a further environmental statement is not required.

7. Habitats Regulations Assessment

- 7.1 Since the granting of outline planning permission in August 2019 there has been a material change in circumstances which has required the Council, as the competent authority, to reassess a matter in relation to the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations') and the lawful approach to the determination of planning applications in light of recent advice from Natural England ('NE').
- 7.2 In a letter, dated 17 August 2020, NE advised the Council that whilst the Somerset Levels and Moors Special Protection Area ('SPA') could accommodate increased nutrient loading arising from new development within its hydrological catchment that the Somerset Levels and Moors Ramsar Site ('the Ramsar Site') could not. The difference, NE state, is that whilst such increased nutrient deposition is *"...unlikely, either alone or in combination, to have a likely significant effect on the internationally important bird communities for which the site is designated"* as regards the SPA such a conclusion cannot be drawn in relation to the Ramsar Site.
- 7.3 The typical consequence of such excessive phosphate levels in lowland ditch systems is *"the excessive growth of filamentous algae forming large mats on the water surface and massive proliferation of certain species of Lemna"* NB: (Lemna refers to aquatic plants such as duckweed).
- 7.4 This excessive growth *"adversely affects the ditch invertebrate and plant communities through... shading, smothering and anoxia (absence of oxygen)"* which in turn allows those species better able to cope with such conditions to dominate. The result is a decline in habitat quality and structure. NE state that *"The vast majority of the ditches within the Ramsar Site and the underpinning SSSIs are classified as being in an unfavourable condition due to excessive phosphate (P) and the resultant ecological response, or at risk from this process"*.

- 7.5 NE identify the sources of the excessive phosphates as diffuse water pollution (agricultural leaching) and point discharges (including from Waste Water Treatment Works ('WWTWs')) within the catchment noting that P levels are often 2-3 times higher than the total P target set out in the conservation objectives underpinning the Ramsar Site. In addition, NE note that many of the water bodies within the Ramsar Site have a phosphate level classed as significantly less than 'Good' by reference to the Environment Agency's Water Framework Directive and that the river catchments within the wider Somerset Levels are classed as having a "*Poor Ecological Status*".
- 7.6 At the time of the letter, the issue in terms of the Ramsar Site was that the conservation status of the designated site was 'unfavourable' but in a recent SSSI Condition Change Briefing Note for the Somerset Levels and Moors dated May 2021 (uploaded to this applications' online case file) the overall condition across all Somerset level and Moors SSSI's is 'Unfavourable Declining' due to evidence of failing water quality, most notably high Phosphate levels.
- 7.7 NE have advised the Council that in determining planning applications which may give rise to additional phosphates within the catchment they must, as competent authorities, undertake a Habitats Regulations assessment and undertake an appropriate assessment where a likely significant effect cannot be ruled out. NE identify certain forms of development affected including residential development, commercial development, infrastructure supporting the intensification of agricultural use and anaerobic digesters.
- 7.8 Each residential parcel approved so far on the site, plus the Care Home, have had their own phosphate mitigation plan and passed the HRA hurdle.
- 7.9 Following legal advice, the Council has adopted the view that if a planning permission has been previously implemented and the development is taking place on site and the amended proposal does not increase the number of dwellings or amend foul drainage details, then a new s.73 permission can be issued as an HRA can conclude that there would be no increase in impact above that already permitted. This is stated on the Council's website. The applicant has submitted a HRA concluding just this point and as such no additional phosphate mitigation will be required to allow this application to be approved.

8. Consultation and Representations

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

Date of Consultation: 20/21 March 2023

Date of revised consultation: N/A

8.1 Statutory Consultees

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

Statutory consultee	Comments	Officer comments
Taunton Town Council	No comments.	No further action.
<p>NB: At the time this application was submitted Comeytrove Parish Council was within its last week of existence, to be wholly replaced by a new Taunton Town Council.</p> <p>Taunton Town Council will also now administer land area previously part of Trull PC and Bishops Hull PC.</p> <p>Overall the application site area is now predominantly within Taunton Town Council area with a small part south of Dipford Road remaining within Trull parish.</p>		
Trull Parish Council	<p><i>“Trull Parish Council objects to the application 42/23/0016 for the following reasons: The request for this Section 73 application conflates two entirely separate issues:</i></p> <p><i>This Section 73 application seeks approval for: “Variation of Condition No. 02 (approved plans) for the removal of 0.58ha of land from the approved employment area under Outline Planning Permission 42/14/0069 to clarify that each phase of the development is permitted separately and severability from the others.”</i></p> <p><i>The first part: “the removal of 0.58ha of land from the approved employment area under Outline Planning Permission 42/14/0069” is uncontroversial given that the outline application merely specifies employment land “up to 5.25 hectares” anyway.</i></p> <p><i>The second part is what this application really appears to be about and that is “to</i></p>	<p>Additional information was produced to explain to TPC the reasoning for the application was a direct response to Hillside and not a ‘sweeping aside of the Supreme Court’s judgement’. The two issues they identify have not been artificially conflated, they are one of the same matter.</p> <p>No additional comments have been</p>

	<p><i>clarify that each phase of the development is permitted separately and severability from the others.” The concept of ongoing, severable permissions being granted over a period of many years has just been fought over in the quoted court case (Hillside Parks Limited v Snowdonia National Park Authority [2022] UKSC 30) and the Supreme Court has argued that it is not permissible, and a ‘drop-in’ application that is not congruent with the original application will mean that continuing with the original application would be unlawful.</i></p> <p><i>We therefore object to this application on the basis that this cannot be allowed to effectively sweep aside the Supreme Court’s judgement. (In addition, the Land Use Parameter Plan (Rev M) suggests that the area of land for the care home falls under the category of ‘Existing Land Use to be Retained’ – can the applicants confirm that it will continue to be used as agricultural land and be farmed accordingly?)”</i></p>	<p>received from TPC in response to this explanation.</p>
<p>Bishops Hull Parish Council (Neighbouring Parish)</p>	<p>No comment.</p>	<p>No further action.</p>
<p>Highway Authority - SCC</p>	<p>No formal comments received however it is understood there are no highway implications.</p>	<p>An oral update will be given.</p>
<p>Natural England</p>	<p>No comments received to date.</p>	<p>The site has been built out so far in full accordance with NE requirements and with full agreement to the approach through following to achieve phosphate neutrality. It is not expected NE would take a different view now on this</p>

		application. An oral update will be given.
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8.2 Non-Statutory Consultees

Non-Statutory consultee	Comments	Officer comments
Economic Development	Concerned about potential loss of employment land.	The rationale for the application is explained at the start of this report. The approved Care Home was approved as an employment generator and so there is no loss of employment land per se.

8.3 Local representation

8.3.1 In accordance with the Council's Adopted Statement of Community Involvement this application was publicised by letters of notification to neighbouring properties and those new properties on the site on 21 March 2023 and site notices were displayed on 17 April 2023.

8.3.2 4 letters were received. A summary of comments is provided in the table below. The full representations can be viewed on case file hosted on the Council's website.

Comment - Cannon
<i>"I was never in favour of building 2,000 homes on what was agricultural land in a beautiful spot of South West Taunton. If this planning application is to preserve any such land I am in favour of it - if not I am against yet more concreting over agricultural land when a) food security is under threat b) flying in more food that can be grown in UK contradicts climate change policy to reduce emissions".</i>
Officer response
The site benefits from outline consent and this change merely seeks to alter one part of one parameter. Whilst the contributors view is respected it is not relevant to this application.
Comment - White

A concern was raised relating to the Access and Movement Plan which is one of the Parameter Plans that sits alongside the Land Use Parameter Plan which is proposed to be altered by this application. The Access and Movement Parameter Plan states an access from Comeytrove Lane will be a *'Bus Only Access Point with vehicular access for up to 100 dwellings'* and the contributor sets out why this would be objectionable.

Officer response

The contributor is correct insofar as the Access and Movement Parameter Plan did say that and did so at the time the outline application was approved back in 2019 and is a stated approved plan in Condition 02. However, that plan needs to be viewed in relation to Condition 28 that was added at the committee meeting that resolved to approve the outline which stated:

"The vehicular access shown off Comeytrove Lane shall be for emergency service vehicles and public transport vehicles only and shall be retained as such at all times by means of a 'bus gate' system, the details of which shall have been submitted to and approved by the Local Planning Authority before the road becomes operational. There shall be no vehicular access to individual residential properties whatsoever, except as provided for by this condition. REASON: The new road and its access off Comeytrove Lane is not considered to be suitable to cater for all types of traffic, but it is accepted that access by emergency and public service vehicles would be appropriate".

The Parameter Plan was never amended to reflect Condition 28 before the Outline decision was issued and it is considered Condition 28 takes precedence. Condition 28 remains still to be discharged.

To prevent any misunderstandings given the Bus Gate is a sensitive issue locally the Parameter Plan has now been amended to remove any reference to access to dwellings and Condition 28 remains unaffected by this application.

Comment - Smith

Commentary on the *Hillside* judgement taken from the application is requoted.

"My sole purpose in objecting to 42/23/0016, is that it does not seek merely to make the necessary minor modifications to Conditioned plans. Boyers' Planning Statement makes clear that the new Section 73 consent would go far beyond a few simple changes to the plans. In their Planning Statement, Boyers elaborate :

1.3 This Section 73 application seeks approval for: "Variation of Condition No. 02 (approved plans) for the removal of 0.58ha of land from the approved employment area under Outline Planning Permission 42/14/0069 to clarify that each phase of the development is permitted separately and severability from the others.

[Boyers' grammar; my emphasis].

And :

5.4 On this basis, should this s.73 application be approved:

- The submitted information that has secured the discharge, or partial discharge, of any Outline Planning Conditions can be referenced and confirmed in the S.73 consent;
- The same S.73 consent can detail the partially implemented **and unimplemented** [my emphasis] Reserved Matter approvals as further conditional discharges; and
- Any **future** [my emphasis] Reserved Matter submissions would be made pursuant to the new s.73 consent.

As I understand the meaning of the proposed Section 73 consent, if 42/23/0016 is approved, it, and all subsequent Reserved Matters parcels within the Urban Extension, would be considered in isolation from each-other, and from the Conditions imposed on 42/14/0069. But the Urban Extension has been categorised as EIA development, and no application from the Consortium, or the LPA, can remove the obligations that EIA imposes upon the development, during the entire construction of the Urban Extension - as the Consortium itself has acknowledged, in re-visiting the Outline Environmental Statement in its documents for 42/23/0016.

The full Planning Committee must consider 42/23/0016, and, in my view, refuse it. As drafted, the Section 73 consent would exclude this, and all the remaining Reserved Matters parcels within the Urban Extension, from existing Conditions, and, for instance, the constraints imposed by phosphates considerations, and the necessity to remediate the old industrial estate. [On the 4th of April, SW&T confirmed that it had had no prior notice of the unpublicised demolition of three hazardous buildings on the industrial estate; and, under 42/23/0019/CB, the consortium is now proposing to demolish more of them, from the 20th of April. On at least three occasions, there have been delays of years between the completion of contamination reports and their placing in the public domain].

If the Consortium only seeks, belatedly, to minimise its exposure to “a Hillside challenge”, it should present a revised Section 73 consent, specifically for the Care Home site; and then, if necessary, for each subsequent Reserved Matters parcel, strictly, and solely, for that purpose”.

Officer response

The contributor misunderstands the legal mechanics required to approve this application. The approval of this application in effect grants a new outline consent, bound by the original s106 and non-material planning agreements and with all conditions reissued from the former outline to the ‘new’ outline. Those 29 conditions all requiring updating to reflect the fact that some have been discharged or partially discharged given the development is well underway. The new consent also needs to recognise that many applications for reserved matters have already been agreed, all of those consents have a host of approved plans that now need to be reflected. Future applications for reserved matters will be dealt with in exactly the same way as the previous ones have albeit they will be submitted under the umbrella of this new outline consent.

EIA matters are addressed at Section 6.

Comments relating to the application 42/23/0019/CB and contamination reports are not relevant to this application.

The way this application has been approached, the revised conditions and the view reached concerning EIA has been discussed and agreed with the Council's Legal officer.

Comment – Warburton

“Please find my Objection to this Application below.

These proposals seek not just significant change to the Outline Permission, but changes to the Planning system! Whilst a Care Home is a ‘Good Thing’, this is not a viable way to provide it.

SUMMARY

- *A s73 Application is not applicable here; the Employment Area is specified in the description of the Outline Permission.*
- *Government planning guidance ‘introduces a concept of “minor material amendment” where no such expression exists in the statutory scheme, nor is otherwise supported by the most recent authorities.*
- *If the planning authority proceeds with determining this s73 application, it must consider only the Conditions and not the description.*
- *Conditions which alter the extent or nature of the original permitted development are invalid.²*
- *A fresh application for full planning permission should be required rather than being able to rely upon the provisions of section 73.*
- *an Environmental Statement must be submitted with a section 73 application for an EIA development.*
- *If there were no inherent conflict or inconsistency with the “operative part” of the planning permission, the proposed change would be assessed on its merits.*
- *This Application would reduce the area for employment, designed to replace the original area lost to housing. 1 Armstrong v Secretary of State for Levelling-up, Housing and Communities & Anor [2023] EWHC 176 (Admin). 2 Finney v Welsh Ministers [2019] EWCA Civ 1868 3 Reid v Secretary of State for Levelling Up, Housing and Communities [2022] EWHC 3116 (Admin) 2*
- *The Hillside decision makes it clear that ‘a further planning application’ is required, for which a ‘minor material amendment’ cannot be substituted.*
- *The Hillside judgement leaves no doubt that that ‘each phase of the development is not and cannot be permitted separately and severability from the others.’*
- *If the application were granted then a new Planning Permission for the Urban Extension would be issued, separate from the previous planning permission - which remains valid.*
- *Conditions for the new permission must be re-evaluated for current policy and guidance.*

- Any new Permission would require new s106 agreements (subject to caveats).
- The CIL Phasing Plan (unseen) will require revision, other than for time-limits, which cannot be amended.
- Implementing the Care Home permission would still conflict with this new void area”.

The contributor goes on to expand on these points, concluding “This Application must be refused. It is an inappropriate methodology; it contravenes Regulations, Advice, Case Law and common-sense. Further, the contortions required to use this method do not take into account the residual problems – 0.59ha of land unfettered by previously agreed parameters and a new Outline Permission requiring updated Conditions, s106 agreements, EIA and CIL arrangements”.

Officer response

The way this application has been approached, the revised conditions and the view reached concerned EIA has been discussed and agreed with the Councils Legal officer.

8.3.3 There were no specific letters of support received.

9. Relevant planning policies and Guidance

9.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former Taunton Deane area. The Development Plan comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (SADMP) (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

9.2 Listed Buildings and Conservation Areas Act 1990 section 66 and 72 is relevant in order to assess the impact on heritage assets.

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.

Core Strategy 2012

SD1 - Presumption in favour of sustainable development

CP1 - Climate change

CP2 - Economy

CP4 - Housing

CP5 - Inclusive Communities

CP6 - Transport and Accessibility

CP7 - Infrastructure

CP8 - Environment

SP1 - Sustainable Development Locations

SS7 - Comeytrowe / Trull - Broad Location for Growth

DM1 - General requirements

DM4 - Design

Assessment of these policies underpinned the determination of the outline consent.

Site Allocations and Development Management Plan 2016

The site allocation policy - TAU1 - Comeytrowe / Trull - is of most relevance, but the pragmatic development management policies in the SADMP are not of relevance to this application scenario.

Other relevant policy documents

Somerset West and Taunton Design Guide

Taunton: The Vision for our Garden Town and the Taunton Design Charter and Checklist

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

Whilst of significant to the development of the wider site this collection of SPD, adopted since the outline consent was granted, is not especially relevant to this application scenario.

Neighbourhood Plans

Whilst the application site is no longer largely within Trull Parish the Trull Neighbourhood Plan still applies as part of the development plan and a material consideration.

The Trull Neighbourhood Plan includes policies that are aligned with the adopted policies in the Taunton Core Strategy and Site Allocations and Development Management Plan (SADMP) and provide for sustainable development in the parish. No policies expressly cover this application scenario.

The National Planning Policy Framework

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

There are no specific chapters to paragraphs that relate to the merits of this application.

An application made under Section 73 is in effect asking for the development to be implemented without complying with conditions, in this case 02. The council has determined it can proceed subject to different/modified conditions.

All policies and material considerations can only be considered as far as they relate to the details for which reserved matters approval is sought, as defined in the Development Management Procedure Order (DMPO) 2015.

10. Conclusion on Development Plan

- 10.1 To properly perform the S38(6) duty, the LPA has to establish whether or not the proposed development accords with the development plan as a whole.
- 10.2 This report assesses the material planning considerations and representations before reaching a conclusion on adherence with the development plan as a whole.

11. Local Finance Considerations

Community Infrastructure Levy

The development is CIL liable, and this is triggered by commencements of individual housing parcels and a CIL phasing plan.

12. Material Planning Considerations

- 12.1 The Supreme Court ruling in *Hillside* prevents any site with outline consent being able to drop-in subsequently approved 'full applications' without prejudicing the continued implementation of that outline consent. A ruling made with respect to a specific and individual case in Wales now has wider implications which do not necessarily follow conventional logic and common sense but the intricacies and occasional oddities of planning law.
- 12.2 Any threat to the continued implementation of the outline is a matter both the Consortium and the Council would wish to avoid and legal advice on both sides has brought us to this point.
- 12.3 Agreeing how to approach this has been relatively straightforward. The most complex matter has been an administrative one is seeking to reconcile the approval of many reserved matters consents into one drawing and document schedule to refer to as the 'to-date' approved plans that the development has been and should be built out in accordance with, along with all the various conditions approved with respect to the outline consent and the reserved matters.
- 12.4 This has required some of the original outline conditions to be updated and reworded to reflect the stage of the development that has been reached and the fact many conditions have been partially discharged for various phases, or in some cases wholly discharged. In addition of all the conditions attached to the numerous Reserved Matters have needed to be added again, updated to reflect subsequent discharges. In effect this S73 application now 'bakes-in' already approved plans and replaces the Reserved Matters applications determined so far, whilst also leaving three quarters of the site still to be approved via Reserved Matters, but pursuant to this new outline.
- 12.5 Members should be reassured that the legal mechanisms to deliver infrastructure, affordable homes and community facilities is all unaffected by this decision.
- 12.6 Members are also advised that this application does not represent an opportunity to revisit the 2019 approved outline consent with regards planning obligations, policy interpretation or societal circumstances that are not directly related to the specific proposal. Many of the impacts of using

employment land for a Care Home were considered by Committee is approving application 42/22/0054 in January 2023.

- 12.7 The main effect of this application is to allow the lawful implementation of the Care Home consent without prejudicing the mother outline consent, with the specialist provider eager to commence that development as soon as this application is determined (positively).

13. Planning Balance and Conclusion

- 13.1. The continued delivery of the Garden Community is welcomed to provide much needed housing including affordable housing and this application is required to maintain that momentum and deal with a very specific legal issue.
- 13.2. 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

The development must be carried out in accordance with the application and accompanying plan(s) submitted to the Local Planning Authority and is only valid subject to compliance with the following condition(s):

1. Development is to be carried out in accordance with the following approved plans which detail the layout, scale, appearance, and landscaping of residential phases H1a, H1b, H1c(i), H1c(ii), H1d, H1e and H1f(i); Bat House, Primary School sub-Station, Employment Land Infrastructure and the common infrastructure matters including details for roads, drainage, retaining features; groundworks; utilities; ecology; public open spaces and green infrastructure for the Western Neighbourhood: [as set out in the accompanying Approvals and Drawing/Document Schedule, dated 06 July 2023]. Approval of the details of the layout, scale, appearance, and landscaping of each subsequent phase not listed above (hereinafter called 'a subsequent phase' of the Development) (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase is commenced and the development of that phase shall (unless otherwise agreed with writing by the Local Planning Authority) be carried out as approved. Application for approval of the reserved matters for all subsequent phases shall be made to the Local Planning Authority not later than the expiry of ten years from the date of this

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

REASON: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority in accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by S51 (2) Planning and Compulsory Purchase Act 2004).

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

- Land Use Parameter Plan (drawing ref. 13708 9600 Rev P);
- Density Plan (drawing ref. 13708 9601 Rev K);
- Scale Parameter Plan (drawing ref. 13708 9602 Rev M);
- Access and Movement Plan (drawing ref. 13708 9603 rev K);
- Green Infrastructure Parameter Plan (drawing ref. 13708 9604 Rev N);
- (A0) DrNo 9010 Rev M Site Location Plan;
- (A0) DrNo 9003 Rev B Existing Topographical Survey;
- (A1) DrNo 9001 Rev A Site Location Plan (Wider Area);
- (A1) DrNo 46006/2003/050_RevD_A38_ Roundabout_S278_Works (Amended access plan approved via s.96A non-material amendment [42/21/0077/NMA]);
- Environmental Statement Addendum Appendix 9.1 Appendix C Part 3 (A1) DrNo Figure 4.2 Rev C Proposed 40m ICD Roundabout Junction Arrangement on Honiton Road; and
- Environmental Statement Addendum Appendix 9.1 Appendix D Part 2 (A2) DrNo Figure 4.3 Rev A Proposed Secondary Access from Comeytrove Lane
- DrNo. 9700 Site Boundary Plan (indicating the location of the Eastern and Western Neighbourhoods)
- DrNo. 35482_ 0723_Phasing and Infrastructure Plan

The phased scheme shown for illustrative purposes on the document entitled 'CIL Phasing Plan,' version 10 and dated May 2023 (approved under Condition 3) shall be built in accordance with the approved Plans and the approved Parameter Plans listed above unless a further planning application specific to one or more of the phases shown on the document entitled 'CIL Phasing Plan,' (Version 10) (or any further phasing plan subsequently approved under Condition 3), is submitted and approved by the Local Planning Authority in substitution for that part of the approved development. If such further planning application is approved, the remaining phase or phases may still be developed as approved in this Planning Permission, it being intended that this

Planning Permission should permit each phase separately and severability from the others.

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

3. An application for approval of reserved matters within the Eastern Neighbourhood shall not be submitted until there has been submitted to and approved in writing by the Local Planning Authority, a Phasing and Place-making Strategy covering (where relevant) the phasing of the delivery of housing, infrastructure, transport links and community facilities within the Eastern Neighbourhood. The Phasing and Place-Making Strategy shall set out information on how the delivery of these elements will be integrated through green infrastructure to ensure that a cohesive and high-quality place is created. The strategy should identify any potential opportunities for the consultation with or the involvement of the local community or other stakeholders in the delivery and/or maintenance of community facilities. Thereafter each application for approval of reserved matters shall include an explanation of how the development of the phase or sub phase it covers relates to the Phasing and Place-Making Strategy of the overall Eastern Neighbourhood Applications for approval of reserved matters for the Western Neighbourhood should be made in accordance with the approved document entitled 'CIL Phasing Plan,' version 10 and dated May 2023, unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure comprehensive development and the creation of a high quality place, in accordance with the principles of the National Planning Policy Framework and policies SS7 and DM4 of the adopted Taunton Deane Core Strategy

4. An application for approval of reserved matters for a phase or sub phase within the Eastern Neighbourhood shall not be submitted until there has been submitted to and approved in writing by the Local Planning Authority a Neighbourhood Masterplan and Design Guide for the Eastern Neighbourhood to which that application for approval of reserved matters relates. The Neighbourhood Masterplan and Design Guide shall be accompanied by a statement explaining how they accord with the approved Masterplan Principles Document and Parameter Plans or if they do not so accord, why they do not. The Neighbourhood Masterplan and Design Guide shall provide information on the proposed arrangement of development blocks, streets and spaces for the Eastern Neighbourhood to which they relates. The Neighbourhood Masterplan and Design Guide should demonstrate how the Eastern Neighbourhood will function and its overall character and grain The

Western Neighbourhood shall continue to be guided by the Master Plan and Design Guide dated March 2020.

REASON: To ensure high standards of urban design and comprehensively planned development to accord with policies DM1 and DM4 of the adopted Taunton Deane Core Strategy (March 2012).

5. An application for approval of reserved matters within the Eastern Neighbourhood and subsequent phases of the Western Neighbourhood shall not be submitted until there has been submitted to and approved in writing by the Local Planning Authority, an Appearance Palette which includes the phase or sub phase to which that application for approval of reserved matters relates. The Appearance Palette shall include details of individual character areas, guidance on building design, building materials, surface materials, street furniture and tree species for the phase or sub phase to which it relates. Any subsequent revisions to an approved Appearance Palette shall be subject to the approval of the Local Planning Authority.

Phase H1f shall continue to be guided by the Sub-Phase H1C-F Appearance Palette, dated March 2022.

REASON: To ensure high standards of urban design and comprehensively planned development to accord with policies DM1 and DM4 of the Adopted Taunton Deane Core Strategy (March 2012).

6. An application for approval of reserved matters which encompasses the land at Trull Green shown in the Urban Design Framework Plan on pages 12 and 13 of the Masterplan Principles Document (September 2015) as being subject to a Design Brief, shall not be submitted until such a Design Brief has been submitted to and approved in writing by the Local Planning Authority. The Design Brief shall, for the area to which it relates, provide information on the principles for the detailed design of the following matters - areas of public open space and public realm, and the landscaping of those spaces; streets; buildings including the proposed approach to architectural design and material; and 'Key Buildings' as shown on the Urban Design Framework Plan at pages 12-13 of the Masterplan Principles Document.

The A38 Access shall continue to be guided by the Design Brief for the A38 Access enclosed within the document entitled 'Western Neighbourhood Master Plan and Design Guide', dated March 2020.

REASON: To ensure high standards of urban design and comprehensively planned development to accord with policies DM1 and DM4 of the Adopted Taunton Deane Core Strategy (March 2012).

7. Applications for the approval of subsequent reserved matters shall be accompanied by a statement explaining how they accord with the Parameter Plans, Masterplan Principles Document and with the applicable approved Detailed Masterplan and Design Guide, Appearance Palette, Neighbourhood Masterplan and Design Guide and/or Design Brief or (where relevant) explaining why they do not.
REASON: To ensure high standards of urban design and comprehensively planned development to accord with policies DM1 and DM4 of the Adopted Taunton Deane Core Strategy (March 2012).

8. The development shall be carried out in accordance with the written Scheme of Investigation prepared by Cotswold Archaeology (ref: CA Project EX0034, Revision B, dated June 2019)
REASON: Areas of the site have been identified as of possible archaeological interest and therefore as requiring further archaeological investigation in accordance with section 12 of the National Planning Policy Framework and policy CP8 of the adopted Taunton Deane Core Strategy.

9. Each subsequent application for approval of reserved matters shall include a hard and soft landscaping scheme for the phase or sub phase of the Development to which it relates. The hard and soft landscaping scheme shall include for the phase or sub phase to which it relates details of the landscaping; details of the surface treatment of the open parts of the site; a programme of implementation; and a planting schedule including numbers, density, size, species and positions of all new trees and shrubs. The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the development phase.
REASON: To ensure provision of an appropriate landscaping scheme, and to ensure that the proposed development does not harm the character and appearance of the area in accordance with Policies CP8 and DM1 of the Taunton Deane Borough Council Core Strategy.

10. The landscaping/planting schemes shown on the approved plans shall have been completely carried out by the end of the first available planting season after the final occupation within the respective housing phase to which the scheme relates or in the case of the Garden Park, Bat House, Primary School Sub-Station, Employment Land Infrastructure its first use. For a period of ten years after the completion of the phase, the trees and shrubs shall be protected and maintained and any trees or shrubs that cease to grow, shall be replaced within the next available planting season with trees or shrubs of

similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

REASON: To ensure that the proposed 'landscape led' development benefits from the approved landscaping scheme in the interests of visual amenity, ecological enhancement and landscape character in accordance with Policy CP8 of the Taunton Deane Core Strategy and Policy ENV2 of the SADMP.

11. Prior to commencement of development in a subsequent phase of the Development, a foul water drainage strategy for that phase shall be submitted to and approved in writing by the Local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker. The foul water drainage strategy shall include appropriate arrangements for the points of connection and the capacity improvements required to serve the phase to which it relates. The foul water drainage strategy shall thereafter unless otherwise agreed in writing by the Local Planning Authority, be implemented in accordance with the approved strategy. Development in Phases H1a to H1f in the Western Neighbourhood shall be carried out in accordance with Stantec: Comeytrove, Land at South West Taunton – Condition 11: Infrastructure Phase 1-Foul Water Drainage Strategy, Rev D, June 2020.

REASON: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property, in accordance with policy DM1 of the adopted Taunton Deane Core Strategy.

12. The first application for approval of reserved matters in the Eastern Neighbourhood shall be supported by an updated outline surface water drainage strategy for the Eastern Neighbourhood covered by this outline permission based on the Flood Risk Assessment (Ref. 24721/020 and dated May 2015). This strategy (including the design) shall be submitted to and agreed in writing by the Local Planning Authority and shall incorporate measures to manage flood risk and water quality utilising sustainable drainage techniques. Subsequent applications for approval reserved matters shall accord with the approved strategy, unless otherwise agreed by the Local Planning Authority. Development in the Western Neighbourhood shall be carried out in accordance with Stantec: Comeytrove, Land at South West Taunton – Condition 12: Updated Outline Surface Water Drainage Strategy, Rev C, 06 March 2020.

REASON: To ensure that the proposed surface water drainage scheme is adequate to serve the Development and will not increase flood risk or degrade water quality elsewhere, in accordance with policies CP8 and DM1 of the adopted Taunton Deane Core Strategy.

13. Prior to the commencement of development in a subsequent phase of the Development, a detailed scheme for surface water drainage and watercourse proposals for that phase shall be submitted to and approved in writing by the Local Planning Authority. The detailed scheme of surface water drainage shall include:
- a) Evidence that an appropriate right of discharge for surface water and any necessary improvements has been obtained;
 - b) Details of the drainage during construction of that phase or sub phase;
 - c) Details of the final drainage scheme for that phase or sub phase (including, where applicable, gullies, connections, soakaways and means of attenuation) demonstrating how a 2 l/s/ha discharge rate can be accommodated;
 - d) Identification of all future land-use limitations, ownership, operation and maintenance arrangements for the works over the lifetime of the scheme;
 - e) Provision for exceedance pathways and overland flow routes;
 - f) A plan for the future maintenance and management of the system and overland flow routes; and
 - g) Appropriate use of interception and porous paving/surfacing infiltration techniques detection/attenuation facilities and wetlands

The approved scheme will need to meet the requirements of both the Environment Agency and the Parrett Internal Drainage Board. Prior to occupation of each phase it shall be demonstrated to the satisfaction of the Local Planning Authority that relevant parts of the approved scheme have been completed in accordance with the details and timetable agreed. The scheme shall thereafter be managed and maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: The application has insufficient details to determine if drainage matters are to be properly addressed. It is not possible at this time to know if the development of the site would have an adverse impact on flood risk elsewhere which might be contrary to the principles set out in section 13 of the National Planning Policy Framework, section 2 of the Technical Guidance to the National Planning Policy Framework and policies CP8 and DM1 of the adopted Taunton Deane Core Strategy. This condition is therefore required in order to prevent the increased risk of flooding and minimise the risk of pollution of surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development.

14. No subsequent phase or sub phase of development or Phase H1cii, H1e, H1fi, Employment Land infrastructure shall commence (including demolition,

ground works, vegetation clearance) until a Construction Environmental Management Plan for that phase or sub phase has been submitted to and approved in writing by the local planning authority. In discharging this condition the following information shall be supplied:

- a) Locations for the storage of all plant, machinery and materials including oils and chemicals to be used in connection with the construction of that phase or sub phase;
- b) Construction vehicle routes to and from site including any off site routes for the disposal of excavated material;
- c) Construction delivery hours;
- d) Expected number of construction vehicles per day;
- e) Car parking for contractors;
- f) A scheme to encourage the use of Public Transport amongst contractors; and
- g) Measures to avoid traffic congestion impacting upon the Strategic Road network.
- h) Details of all bunds, fences and other physical protective measures to be placed on the site including the time periods for placing and retaining such measures;
- i) The control and removal of spoil and wastes;
- j) Measures to prevent the pollution of surface and ground water arising from the storage of plant and materials and other construction activities;
- k) The proposed hours of operation of construction activities;
- l) The frequency, duration and means of operation involving demolitions, excavations, drilling, piling, and any concrete production;
- m) Sound attenuation measures incorporated to reduce noise at source;
- n) Details of measures to be taken to reduce the generation of dust; and
- o) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice

The agreed Construction Environmental Management Plan shall thereafter be implemented in full unless otherwise agreed in writing by the Local Planning Authority.

- For H1a Stantec: Comeytrowe, Land at South West Taunton - Parcel H1a - Framework Construction Environmental Management Plan, Rev 01, May 2020 and Bovis Homes and Linden Homes (Vistry Group) – Construction and Environmental Management Plan – RevO 26/03/2021
- For H1b Stantec: Comeytrowe, Land at South West Taunton - Parcel H1b - Framework Construction Environmental Management Plan, Rev 02, Dec 2019 and MJL - Outline Construction Environmental Management Plan (CEMP)-Rev 4 03/02/2021

- For H1ci Stantec: Comeytrowe, Land at South West Taunton - Parcel H1c and H1f - Framework Construction Environmental Management Plan, Sept 2020 and Bovis Homes and Linden Homes (Vistry Group) - Construction and Environmental Management Plan - RevO 26/03/2021
- For H1d Taylor Wimpey - Orchard Grove - Parcel H1d - Construction & Environmental Management Plan - Revision F (28/02/2022)

For Strategic Infrastructure Stantec: Land at South West Taunton, Infrastructure Phase 1, Framework Construction Environmental Management Plan, Rev 02, 11/12/2019.

REASON: In the interests of highway safety, to protect the amenities of nearby properties during the construction of the Development and to protect the natural and water environment from pollution in accordance with National Planning Policy Framework and Policy CP8 of the Adopted Taunton Deane Core Strategy.

15. Before each subsequent phase of the Development is commenced the following details shall, in respect of that phase be submitted to and approved in writing by the Local Planning Authority:
- a) A plan showing the location of and allocating a reference number to each existing tree on the part of the site within that phase which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained, the crown spread of each retained tree and which are to be removed;
 - b) Details of the species, height, trunk diameter at 1.5m above ground level, age, vigour, canopy spread and root protection area of each tree identified in the plan prepared pursuant to paragraph (a);
 - c) Details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - d) Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, (within the crown spread of any retained tree or of any tree on land adjacent to the site);
 - e) Details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

The development of that phase shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

- For the Western Neighbourhood - Western Neighbourhood Infrastructure Arboricultural Method Statement - AMS edp0782_r041a - 03/12/2019

- For H1b edp: Land at Comeytrowe, Taunton – Arboricultural and Ecological Technical Note – Parcel H1b – edp0782_r045 – 17/12/2019
- For H1ci edp: Land at Comeytrowe, Taunton – Arboricultural and Ecological Technical Note – Parcel H1c – edp0782_r059a – 27/01/2021
- For H1d edp: Land at Comeytrowe, Taunton – Arboricultural and Ecological Technical Note – Parcel H1c – edp0782_r056 – 21/12/2020

REASON: To ensure that the proposed development does not adversely impact upon the landscape quality or the value of important tree groups in accordance with Policy CP8 of the adopted Taunton Deane Core Strategy.

16. The development of a subsequent phase of the Development and Phases H1cii, H1e, H1fi, Employment Land Infrastructure shall not be commenced until a scheme for prevention of pollution during the construction of that phase has been approved by the Local Planning Authority. The scheme should include details of the following:

- a) Site security.
- b) Fuel oil storage, bunding, delivery and use.
- c) How both minor and major spillage will be dealt with. Containment of silt/soil contaminated run-off.
- d) Disposal of contaminated drainage, including water pumped from excavations. 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.

The development of that phase shall thereafter be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority

- For H1a Stantec: Comeytrowe, Land at South West Taunton - Parcel H1a - Framework Construction Environmental Management Plan, Rev 01, May 2020 and Bovis Homes and Linden Homes (Vistry Group) – Construction and Environmental Management Plan – RevO 26/03/2021
- For H1b Stantec: Comeytrowe, Land at South West Taunton - Parcel H1b - Framework Construction Environmental Management Plan, Rev 02, Dec 2019 and MJL - Outline Construction Environmental Management Plan (CEMP)-Rev 4 03/02/2021
- For H1ci Stantec: Comeytrowe, Land at South West Taunton - Parcel H1c and H1f - Framework Construction Environmental Management Plan, Sept 2020 and Bovis Homes and Linden Homes (Vistry Group) – Construction and Environmental Management Plan – RevO 26/03/2021
- For H1d Taylor Wimpey - Orchard Grove - Parcel H1d – Construction & Environmental Management Plan – Revision F (28/02/2022)

- For Strategic Infrastructure Stantec: Land at South West Taunton, Infrastructure Phase 1, Framework Construction Environmental Management Plan, Rev 02, 11/12/2019

Measures should be taken to prevent the run-off of any contaminated drainage during construction.

REASON: To prevent pollution of the water environment in accordance with policy CP8 of the adopted Core Strategy.

17. 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 the developer has submitted, and obtained written approval from the Local Planning Authority to, a remediation strategy detailing how this unsuspected contamination shall be dealt with.

REASON: To protect controlled waters in accordance with policy CP8 and DM1 of the adopted Taunton Deane Core Strategy.

18. No works (including demolition, ground works, vegetation clearance) shall be commenced on any phase of the Eastern Neighbourhood or Phase H1e, H1fi, Employment Land Infrastructure hereby permitted until details of a wildlife strategy (incorporating an Ecological Construction Method Statement [ECMS] and a Landscape and Ecological Management Plan [LEMP]) to protect and enhance that phase of the development for wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of all the submitted wildlife reports to date (EDP's Extended Phase 1 survey, Hedgerow survey 2011 and 2013, Bat and Building assessments 2012 and 2013, Breeding bird survey 2012, Hobby Survey 2013, Dormouse Survey 2012 and 2013, Water vole and Otter surveys 2012, Badger surveys 2012 and 2013, Amphibian survey 2012 and Reptile survey 2012.), and up to date surveys and include -

- 1) An Ecological Construction Method Statement (ECMS) containing details of protective measures to avoid impacts on protected species during all stages of development;
- 2) Details of measures to prevent pollution of Galmington Stream and other water courses on site
- 3) Details of the timing of works to avoid periods of work when protected species could be harmed by disturbance.
- 4) Arrangements to secure an Ecological clerk of Works on site.
- 5) Measures for the enhancement of places of rest for protected species.
- 6) A Landscape and Ecological Management Plan (LEMP) covering a period agreed by the Local Planning Authority.

- 7) Details of a sensitive lighting strategy.
- 8) Use of protective fences, exclusion barriers and warning signs.
- 9) The preservation of the Galmington Stream corridor including that of any tributaries, in order to conserve the integrity of the watercourse and its riparian habitats as a linear feature, and to provide connectivity between the downstream Local Nature Reserve and the countryside beyond.

Once approved the works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the Local Planning Authority:

- For the Western Neighbourhood edp: Land at Comeytrove, Taunton – Ecological Construction Method Statement-Western Neighbourhood – edp782_r040d, 24/02/2020
- For the Western Neighbourhood edp: Land at Comeytrove, Taunton – Strategic LEMP-Western Neighbourhood – edp782_r042d, 27/02/2020
- For H1a edp: Land at Comeytrove, Taunton – Arboricultural and Ecological Technical Note – Parcel H1a – edp0782_r049a_TC/TW_fj/er_29/04/2020
- For H1b edp: Land at Comeytrove, Taunton – Arboricultural and Ecological Technical Note – Parcel H1b – edp0782_r045 – 17/12/2019
- For H1c edp: Land at Comeytrove, Taunton – Arboricultural and Ecological Technical Note – Parcel H1c – edp0782_r059a – 27/01/2021
- For H1d edp: Land at Comeytrove, Taunton – Arboricultural and Ecological Technical Note – Parcel H1c – edp0782_r056 – 21/12/2020

The development shall not be occupied until the scheme for the maintenance and provision of the mitigation planting and maintenance of the hibernacula, bat, dormice and bird boxes and related accesses have been fully implemented. Thereafter the new planting and the wildlife resting places and agreed accesses shall be permanently maintained.

REASON: To ensure that valued ecological features are not harmed by the Development in accordance with National Planning Policy Framework, ODPM Circular 06/2005 and Policy CP8 of the Adopted Core Strategy 2011-2028.

19. Prior to the commencement of the Eastern Neighbourhood an Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Management Plan shall demonstrate how the long-term conservation of new and retained environmental resources, including habitats and species of biodiversity value, shall be secured and shall include arrangements for implementation responsibilities for the operation of the Ecological Management Plan following completion of development of each phase or sub phase of the Development. The development of the Eastern Neighbourhood shall thereafter be carried out in accordance with the

approved Ecological Management Plans unless otherwise agreed in writing by the Local Planning Authority:

- For the Western Neighbourhood edp: Land at Comeytrove, Taunton – Ecological Construction Method Statement-Western Neighbourhood – edp782_r040d, 24/02/2020
- For the Western Neighbourhood edp: Land at Comeytrove, Taunton – Strategic LEMP-Western Neighbourhood – edp782_r042d, 27/02/2020
- For H1a edp: Land at Comeytrove, Taunton – Arboricultural and Ecological Technical Note – Parcel H1a – edp0782_r049a_TC/TW_fj/er_29/04/2020
- For H1b edp: Land at Comeytrove, Taunton – Arboricultural and Ecological Technical Note – Parcel H1b – edp0782_r045 – 17/12/2019
- For H1c edp: Land at Comeytrove, Taunton – Arboricultural and Ecological Technical Note – Parcel H1c – edp0782_r059a – 27/01/2021
- For H1d edp: Land at Comeytrove, Taunton – Arboricultural and Ecological Technical Note – Parcel H1c – edp0782_r056 – 21/12/2020

REASON: An Ecological Management Plan is required as the habitat needs to be maintained functionally for the life of the development in order that Favourable Conservation Status of the affected populations is maintained, and to ensure net gains in biodiversity are delivered in accordance with National Planning Policy Framework and Policy CP8 of the Adopted Taunton Deane Core Strategy.

20. No more than 12 months prior to the commencement of works on a subsequent phase or Phase H1cii, H1e, H1fi, Employment Land Infrastructure of the Development in which breeding sites or resting places of European Protected Species may be present, updated surveys for that phase shall be undertaken. The species in question include but are not necessarily limited to:

- a) Bats;
- b) Dormice;
- c) Great crested newts; and
- d) Otters

The survey results shall be submitted in writing to the Local Planning Authority together with details of any required mitigation measures and the appropriate mechanism for delivery of such measures. The development of subsequent phases of the Development shall thereafter be carried out in accordance with the approved mitigation measures, unless otherwise agreed in writing by the Local Planning Authority

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

21. No subsequent phase or Phase H1cii, H1e, H1fi, Employment Land Infrastructure of the Development shall commence until a Lighting Strategy for Biodiversity for that phase has been submitted to and approved in writing by the local planning authority. The strategy shall:
- a) identify those areas/features of the site within that phase or sub phase that are particularly sensitive for bats, dormice and otters and that are vulnerable to light disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
 - c) Show that street lighting will be directed so as to avoid light spillage and pollution on habitats used by light sensitive species, and will demonstrate that light levels falling on wildlife habitats do not exceed an illumination level of 0.5 Lux. Shields and other methods of reducing light spill will be used where necessary to achieve the required light levels.

Unless otherwise agreed in writing by the Local Planning Authority all external lighting shall be installed in accordance with the specifications and locations set out in the approved Lighting Strategy for Biodiversity and shall be maintained thereafter in accordance with the strategy.

For H1a, H1b, H1ci and H1e edp: Land at Comeytrowe, Taunton – Lighting Strategy for Biodiversity – Western Neighbourhood Infrastructure - edp782_r044b - 29/01/2021

It is important to understand the provisional notes provided in section 2.7 of the report in relation to understanding the light spill maps of detailed locations A and B with regards to the both front and back light shield fixtures and the subsequent areas calculated of light spill.

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

22. The road bridge crossing the Galmington Stream will be constructed in accordance with the following specification:
- Bridge Report prepared by PBA document ref. 6006/2003/002 prepared October 2019]

- 46006-1501-0101-P09 Comeytrowe Spine Road Galmington Stream Culvert General Arrangement, Sheet 1 of 2
- 46006-1501-0102-P09 Comeytrowe Spine Road Galmington Stream Culvert General Arrangement, Sheet 2 of 2
- 13708-BRL_PL013_Common Infrastructure Proposals Dormouse Hedge_LR
- 191018_Condition 22_Bridge Design_RevB
- Technical Note – Stantec – Ref TN01_GLMBridge, dated 22/01/2021
- Email received from Boyer Planning dated 20 June 2022 inclusive of: 2x Tensar manufacturer's details of modular block retaining wall and 3x materials images (image001, image018, image019)

The road bridge shall thereafter be implemented in full and retained as such at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

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

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

REASON: To ensure the provision of appropriate access and highway safety for all road users and pedestrians in accordance with policies CP6 and DM1 of the adopted Taunton Deane Core Strategy.

24. The proposed roads, including footpaths and where applicable turning spaces and cycle way connections, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

REASON: To ensure the provision of appropriate access and highway safety for all road users and pedestrians in accordance with policies CP6 and DM1 of the adopted Taunton Deane Core Strategy.

25. No phase of the development hereby permitted shall be occupied or brought into use until the part of the Spine Road that provides access to that phase has been constructed in accordance with plans that shall previously have been submitted to and approved by the Local Planning Authority.

REASON: To ensure that the spine road will eventually link between the two approved points of access on to the A38 and the Honiton Road, which it has been established is required in order to prevent traffic congestion and danger on the highway elsewhere on the local road network, particularly in Taunton town centre. This is in accordance with policy CP6 of the adopted Taunton Deane Core Strategy.

26. No further dwellings shall be occupied in the Western Neighbourhood until the network of cycleway connections has been constructed within the development site in accordance with these approved plans:

- BRL-L-PL107 RevK – Western Neighbourhood Cycleway and Footpath Network (Condition 26) – Five Plan package (Neighbourhood wide and then Phase A-D)
- BRL-N1-PL140 RevD – Western Neighbourhood POS Delivery Plan

The plans shall be read in conjunction with each other and the already approved CIL Phasing Plan (version 10, dated May 2023) and the Landscape and Public Open Space Strategy (February 2020, in accordance with Schedule 8 of the s106 and approved by letter dated 06 March 2020), unless otherwise agreed in writing by the Local Planning Authority. The next application for Reserved Matters approval in the Eastern Neighbourhood shall be accompanied by a plan setting out a network of cycleway and footpath connections within and to the boundaries of the site to key existing and proposed external connections alongside a phasing plan for their implementation. The Eastern Neighbourhood shall thereafter be constructed in accordance with the implementation plan unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of sustainable development and to encourage movement by means other than the motor vehicle in accordance with the principles within the National Planning Policy Guidance and policies SD1, CP1, CP6, CP7, SP1 and DM1 of the adopted Taunton Deane Core Strategy.

27. Access from the public highway to the Primary School by a road (inclusive of footway and cycleway) built to an adoptable standard shall be provided prior to 1 June 2024.

REASON: The Local Education Authority has confirmed that this is the point at which the new school will be required to come on stream in order for sufficient places to be available for all of the children that will need the facility as a result of this approval. This is in accordance with Policy CP7 of the adopted Taunton Deane Core Strategy.

28. The vehicular access shown off Comeytrove Lane shall be for emergency service vehicles and public transport vehicles only and shall be retained as such at all times by means of a 'bus gate' system, the details of which shall have been submitted to and approved by the Local Planning Authority before the road becomes operational. There shall be no vehicular access to individual residential properties whatsoever, except as provided for by this condition.

REASON: The new road and its access off Comeytrove Lane is not considered to be suitable to cater for all types of traffic, but it is accepted that access by emergency and public service vehicles would be appropriate.

29. All phases of the Development shall be carried out in accordance with the approved layout scheme and phasing programme for the provision of access to the parts of the allocated site known as Higher Comeytrove Farm in accordance with the:

- Letter from Eversheds Sutherland dated 28/01/2022 setting out the phasing programme for delivery of the access.
- Document entitled 'CIL phasing plan', version Final 7 and dated 28/01/2021.
- Drawing No. 01-SK-20201 Revision J – Western Neighbourhood Phase 2
- Future Connection/Link Sketch (awp, dated 07/12/2021)].

REASON: In order to ensure that appropriate and timely provision is made for access to the other part of the allocated site identified within Policy TAU1 of the Site Allocations and Development Management Plan.

30. No individual dwelling hereby approved shall be occupied until 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.

REASON: To improve the sustainability of the dwellings in accordance with the Taunton Deane: Core Strategy Policies DM5 and CP8, the Supplemental

Planning Document - Districtwide Design Guide and Paragraphs 134, 154 and 180 of the National Planning Policy Framework.

31. Prior to first occupation of each phase the respective Phosphates Mitigation Strategy and Fallow Land Management Plan shall be implemented:

- For H1a and H1ci and H1d - Phosphates Mitigation Strategy (Rev 6, Brookbanks, dated 14/01/2021) and Fallow Land Management Plan (edp782_r055c, 15/01/2021)
- For H1cii - Phosphates Mitigation Strategy and Fallow Land Management Plan as contained within the Shadow Habitats Regulations Assessment Report, 220728_P1136_sHRA_H1c_H1f, 28 July 2022, ead ecology
- For H1e - Phosphates Mitigation Strategy and Fallow Land Management Plan as contained within the Shadow Habitats Regulations Assessment Report, 220816_P1136_sHRA_H1e, 16 August 2022, ead ecology
- For H1fi - the Phosphates Mitigation Strategy and Fallow Land Management Plan as contained within the Shadow Habitats Regulations Assessment Report, 220816_P1136_sHRA_H1C_H1F, 28 July 2022, ead ecology

The fallow land identified within the Fallow Land Management Plan shall be retained and maintained in accordance with that plan unless otherwise agreed in writing with the local planning authority. The Applicant may from time to time submit to the local planning authority a revised Phosphates Mitigation Strategy and Fallow Land Management Plan for its approval particularly in the event that Natural England guidance in relation to measures relevant to phosphates mitigation changes in future or in the event that alternative mitigation strategies becomes available and in anticipation that the fallow land will in time come forward for development. Should the fallowed land not come forward for development within a period of 25 years following this approval the provisions of the Shadow HRA Assessment Reports listed below shall be implemented and maintained in perpetuity:

- For H1a and H1ci and H1d the Shadow HRA Assessment Report 210115_P1136_sHRA_Final, ead, 15/01/2021
- For H1cii the Shadow Habitats Regulations Assessment Report, 220728_P1136_sHRA_H1c_H1f, 28 July 2022, ead ecology
- For H1e the Shadow Habitats Regulations Assessment Report, 220816_P1136_sHRA_H1e, 16 August 2022, ead ecology
- For H1fi the Shadow Habitats Regulations Assessment Report, 220816_P1136_sHRA_H1C_H1F, 28 July 2022, ead ecology

REASON: To allow the development to proceed as phosphate neutral so as to ensure no adverse effect on the integrity of the Somerset Levels and Moors

Ramsar site to accord with the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended).

For Infrastructure in the Western Neighbourhood, reserved matters approval 42/19/0053 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

32. Notwithstanding the details shown on the approved plan, details of the location of parking spaces to be incorporated adjoining the approved road (including the principal road) shall be submitted to accompany each reserved matters which includes an adjoining development parcel. In addition, details submitted in respect of reserved matters for the local centre shall address measures to incorporate the spine road within the public realm and provide adequate priority to pedestrians.

REASON: To ensure that adequate parking is provided for residents and visitors, and to ensure that the spine road responds approximately to the requirements for the local centre.

33. Prior to the construction above base course level of the roads, footways and cycleways shown on plans 46006/2013/120 Rev B, 46006/2013/121 Rev C, 46006/2013/122 Rev C, 46006/2013/123 Rev C and 46006/2013/124 Rev C , a hard landscape scheme shall be submitted to and approved in writing by the Local Planning Authority showing details of the hard surface treatment of the roads, footways and cycleways, and a programme of implementation. The development shall be carried out in accordance with the approved details.

REASON: In the interests of the appearance of the development and the surrounding area.

34. Within 3 months of this decision details shall be provided of the materials to be used including baskets and filling material, and of adjacent landscaping to be planted adjacent to the gabions so as to soften their appearance. The gabions shall be constructed in accordance with the approved details.

REASON: In the interests of visual amenity.

For Phase H1a, reserved matters approval 42/20/0031 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

35. The development of this phase hereby approved shall be carried out and completed in full accordance with the recommendations of the Noise Impact Assessment (Stantec, November 2020) and the specifications set out in the

Energy and Sustainability Statement (AES Sustainability Consultants Ltd, July 2020).

REASON: To safeguard residential amenity and in the interests of climate change objectives to accord with Policies CP1, CP8, DM1 and DM5 of the Taunton Deane Core Strategy and the provisions of the NPPF regarding achieving a good standard of amenity.

36. The EV Charging facilities for this phase shall be carried out and completed in full accordance with the following:

- Email from Lawrence Turner, Boyer Planning dated 18/11/2021
- EVCP Plan – H1a 16/11/21
- EVCP Specification – 16/11/21

Each dwelling shall thereafter only be occupied following its individual compliance with the agreed scheme

REASON: To ensure that the proposed estate is laid out in a proper manner with adequate provision for various modes of transport to accord with Policies CP1, CP6, CP7 and CP8 of the Core Strategy and Policy A2 of the SADMP.

For Phase H1ci, reserved matters approval 42/20/0056 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

37. The development of this phase hereby approved shall be carried out and completed in full accordance with the materials plan and specification DrNo PL-VI-14 RevC and PL-VI-14.1 RevD as amended by the use of Ibstock Leicester Multi Yellow (0841) instead of Wienerberger Trinity Cream Gilt Stock. The use of this brick specially relates to Plots 139 and 140. This brick should be used with a cream/buff mortar.

REASON: To accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

38. The development of this phase hereby approved shall be carried out and completed in full accordance with the specifications set out in the Energy and Sustainability Statement (AES Sustainability Consultants Ltd, July 2020).

REASON: To safeguard residential amenity and in the interests of climate change objectives to accord with Policies CP1, CP8, DM1 and DM5 of the Taunton Deane Core Strategy.

39. The provision of EV charging facilities for this phase shall be carried out and completed in full accordance with the following:

- Email from Lawrence Turner, Boyer Planning dated 18/11/2021
- EVCP Plan – H1a 16/11/21

- EVCP Specification – 16/11/21

Each dwelling shall thereafter only be occupied following its individual compliance with the agreed scheme

REASON: To ensure that the proposed estate is laid out in a proper manner with adequate provision for various modes of transport to accord with Policies CP1, CP6, CP7 and CP8 of the Core Strategy and Policy A2 of the SADMP.

40. The retained area of ground to the rear of Plots 88-100 and 111-115 shall not be used as garden land in connection with any residential property. The prohibition of use and access (unless for maintenance) shall be set out in a scheme to be submitted to and approved by the Local Planning Authority, and then carried out in full prior to the occupation of Plots 88-100 and 111-115. Referring to the same areas of land, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification), no development comprised within Schedule 2 other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

REASON: So as to protect the residential amenity of adjacent occupiers by way of overlooking in accordance with Policy CP8 of the Taunton Deane Core Strategy.

41. The erection of the boundary fence to Jeffreys Way shall be carried out and completed in full accordance with the following:

- 13708 PL-VI-15.1d Boundary Treatments
- 13708 PL-VI-15g Boundary Treatment Plan
- Email from Lawrence Turner, Boyer Planning dated 02/07/2021

REASON: So as to protect the residential amenity of adjacent occupiers in accordance with Policy CP8 of the Taunton Deane Core Strategy.

42. The rooflights in the rear roofslopes of Plots 101, 102, 114 and 115 serving the ensembles of those respective properties shall be fitted with obscure glazing prior to the first occupation of that respective dwelling.

REASON: So as to protect the residential amenity of adjacent occupiers in accordance with Policy CP8 of the Taunton Deane Core Strategy.

For Phase H1cii, reserved matters approval 42/20/0035 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

43. Prior to the first occupation of any dwelling within this phase a specification shall have been agreed in writing by the Local Planning Authority and been

fully implemented to reinstate the native hedgerow removed in the vicinity of Plots 181/182-186. The replacement hedgerow shall include nine specimen trees.

REASON: To ensure that the proposed 'landscape led' development benefits from the approved landscaping scheme in the interests of visual amenity, ecological enhancement and landscape character in accordance with Policy CP8 of the Taunton Deane Core Strategy and Policy ENV2 of the SADMP.

44. The development hereby approved shall be carried out and maintained in accordance with drawing DrNo PL-VI-24 RevG (Materials Plan), DrNo PL-VI RevB (External Materials and Colours Specification), DrNo PL-VI-25 RevC (Boundary Treatments Plan) and DrNo PL-VI-25.1 RevB (Boundary Treatments) unless any variation in writing is first agreed with the Local Planning Authority.
REASON: To accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

45. Each individual dwelling in this phase hereby approved shall only be occupied following its individual compliance with the Energy and Sustainability Statement H1a, AES Sustainability Consultants Ltd, July20 and the agreed scheme of electric vehicle charging infrastructure as outlined on drawing no. PL-VI-23 RevL and letter dated from Boyer Planning dated 04/08/2022.
REASON: To support the Council in its declaration of a Climate Emergency and to accord with para 110 of the National Planning Policy Framework and Policies PM2 and PP2 of the adopted SCC Parking Standards (2013).

46. In accordance with the submitted Arboricultural and Ecological Technical Note, May 2021 ref edp0782_r067 all protective hedge and tree fencing shall be erected prior to any works within the parcel. Notwithstanding the document, all fencing shall be the fixed type of fencing shown at Annex EDP 2. No trenches shall be dug within the RPAs of trees or hedges for underground services (or anything else) without the prior assessment and written agreement of the Local Planning Authority.
REASON: To safeguard existing trees and hedges to accord with Policy ENV1 of the SADMP.

47. Prior to the first occupation of Plot 172, the side window in the first floor in the southern elevation shall be fitted with obscure glazing and fixed shut. This shall be retained and maintained as such in perpetuity.
REASON: In the interests of residential amenity to accord with the aims and objectives of the National Planning Policy Framework.

48. Details of the cycle/pedestrian crossing points from the Garden/Pocket Park to Highfield Park and over the estate road to Parcel H1e within Highfield Park shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation in this phase such agreed details shall have been fully implemented unless otherwise agreed in writing with the Local Planning Authority.

REASON: To facilitate the safe passage of pedestrians and cyclists throughout the site to accord with Policy A3 of the SADMP.

49. Details of any temporary turning heads for vehicles shall be submitted to and approved in writing. Prior to the first occupation in this phase such agreed details shall have been fully implemented unless otherwise agreed in writing.

REASON: Due to the phased nature of the internal estate roads to allow vehicles to turn safely in the interests of Highway Safety to accord with the aims and objectives of the National Planning Policy Framework.

50. Prior to the commencement of works on this phase information relating to the management of construction stage drainage shall be submitted to and approved in writing by the Local Planning Authority. The information shall confirm specific measures for this part of the site particularly to confirm whether there is a risk of flooding off site during the construction period and, if so, how that would specifically be managed and mitigated. The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

51. Prior to first occupation of this phase information relating to the management responsibilities of the various components of the proposed surface water drainage network including private systems shall be submitted to and approved in writing by the Local Planning Authority. The information shall include typical maintenance schedules for all the proposed components and details of how each party will be advised of their responsibility and maintenance obligations (including private systems). The development shall thereafter be carried out in accordance with the approved details. REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

For The Garden Park (LEAP), reserved matters approval 42/21/0046 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

52. No retaining wall or gabion structure as approved by application 42/19/0053 shall be constructed.

REASON: Where two contradicting consents overlap the most recent will take precedence. To accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

53. Any drainage culvert headwall pedestrian safety guardrails shall be timber or black painted metal, or as otherwise agreed in writing by the Local Planning Authority and shall be maintained as such thereafter.

REASON: To accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

54. A scheme of ecological enhancement shall be submitted to approved in writing by the Local Planning Authority and fully implemented prior to the first use of the LEAP hereby approved.

REASON: To ensure that the proposed 'landscape led' development provides ecological enhancement in accordance with Policy CP8 of the Taunton Deane Core Strategy and Policy ENV2 of the SADMP.

55. Prior to the commencement of the development of this phase an Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Ecological Management Plan shall demonstrate how the long-term conservation of new and retained environmental resources, including habitats and species of biodiversity value, shall be secured and shall include arrangements for implementation responsibilities for the operation of the Plan following completion of development.

REASON: An Ecological Management Plan is required as the habitat needs to be maintained functionally for the life of the development in order that Favourable Conservation Status of the affected populations is maintained, and to ensure net gains in biodiversity are delivered in accordance with National Planning Policy Framework and Policy CP8 of the Taunton Deane Core Strategy.

For Phase H1d, reserved matters approval 42/21/0004 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

56. The development hereby approved shall be carried out and completed in full accordance with the following:

- 13708-PL-TW-14 Rev.H Materials Plan - H1d
- 13708-PL-TW-24 Rev.H Materials Plan - H1d

- TW-Material Plan-Exterior Material Plan Site Ref:20999-Drawing No.21017-MP/01
- TW-Material Plan-Exterior Material Plan Site Ref:20999-Drawing No.21017-MP/02
- TW-Material Plan-Exterior Material Plan Site Ref:20999-Drawing No.21017-MP/03
- 13708-PL-TW-15 Rev.I Boundary Treatment Plan
- 13708-PL-TW-25 Rev.I Boundary Treatment Plan

REASON: To accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

57. The provision of EV charging facilities for this phase shall be carried out and completed in full accordance with the following:

- 13708-PL-TW-19 Electric Vehicle Charging Plan, Parcel H1d Taylor Wimpey
- 13708-PL-TW-29.1 Electric Vehicle Charging Plan, Parcel H1d Taylor Wimpey

Each dwelling shall thereafter only be occupied following is individual compliance with the agreed scheme. This scheme is also contingent on the applicant providing the service capacity and infrastructure for 14 double charging points with the Park and Bus Facility prior to the occupation of 200 dwellings.

REASON: To support the Council in its declaration of a Climate Emergency and to accord with para 110 of the National Planning Policy Framework and Policies PM2 and PP2 of the adopted SCC Parking Standards (2013).

58. Works will not in any circumstances commence on this phase until:

- a) Construction operatives have been inducted by a licensed dormouse ecologist to make them aware of the possible presence of dormouse, their legal protection and of working practices to avoid harming dormouse. Written confirmation of the induction will be submitted to the Local Planning Authority by the licensed dormouse ecologist within one week of the toolbox talk.
- b) Works potentially affecting dormouse will then proceed under the supervision of the licensed dormouse ecologist.

The letter from edp (ref LP/edp0782_r078/TW/cr) dated 08 February 2022 is deemed an acceptable proposal to safeguard the dormouse population.

REASON: A pre-commencement condition is required to ensure the strict protection of European protected species and in accordance with Policy CP8 of the Taunton Deane Core Strategy.

59. Notwithstanding Condition 02 the development hereby approved shall be carried out and maintained in accordance with drawing DrNo PL-TW-34 RevF (Materials Plan), DrNo PL-TW-35 RevC (Boundary Treatments Plan) and DrNo PL-TW-35.1 RevA (Boundary Treatments Details) unless any variation in writing is first agreed with the Local Planning Authority.

REASON: To accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

60. Each individual dwelling hereby approved on this phase shall only be occupied following its individual compliance with the Energy and Sustainability Statement H1e, AES Sustainability Consultants Ltd, December 2020 (Rev2 August 2022) and the agreed scheme of electric vehicle charging infrastructure as outlined on drawing no. PL-TW-77 RevB and letter dated from Boyer Planning dated 04/08/2022.

REASON: To support the Council in its declaration of a Climate Emergency and to accord with para 110 of the National Planning Policy Framework and Policies PM2 and PP2 of the adopted SCC Parking Standards (2013).

61. In accordance with the submitted Arboricultural and Ecological Technical Note, August 2022 ref edp0782_r057b all protective hedge and tree fencing shall be erected prior to any works within the parcel. Notwithstanding the document, all fencing shall be the fixed type of fencing shown at Annex EDP 2. No trenches shall be dug within the RPAs of trees or hedges for underground services (or anything else) without the prior assessment and written agreement of the Local Planning Authority.

REASON: To safeguard existing trees and hedges to accord with Policy ENV1 of the SADMP.

62. Details of the cycle/pedestrian crossing points from the Garden/Pocket Park to Highfield Park and over the estate road to Parcel H1e within Highfield Park shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation on this phase such agreed details shall have been fully implemented unless otherwise agreed in writing with the Local Planning Authority.

REASON: To facilitate the safe passage of pedestrians and cyclists throughout the site to accord with Policy A3 of the SADMP.

63. Prior to the commencement of works on this phase information relating to the management of construction stage drainage shall be submitted to and approved in writing by the Local Planning Authority. The information shall confirm specific measures for this part of the site particularly to confirm whether there is a risk of flooding off site and, if so, how that would specifically be managed and mitigated. The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

64. Prior to first occupation on this phase information relating to the management responsibilities of the various components of the proposed surface water drainage network including private systems shall be submitted to and approved in writing by the Local Planning Authority. The information shall include typical maintenance schedules for all the proposed components and details of how each party will be advised of their responsibility and maintenance obligations (including private systems). The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

65. Notwithstanding the approved landscaping plans a further plan showing additional tree planting shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works on this phase. Thereafter the landscaping secured by this condition shall be covered by Condition 10.

REASON: To ensure that the proposed 'landscape led' development benefits from the approved landscaping scheme in the interests of visual amenity, ecological enhancement and landscape character in accordance with Policy CP8 of the Taunton Deane Core Strategy and Policy ENV2 of the SADMP.

For Phase H1fi, reserved matters approval 42/22/0062 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

66. Notwithstanding Condition 01 the development hereby approved shall be carried out and maintained in accordance with drawing (A1) DrNo PL-VI-34 Rev F (Materials Plan), (A1) DrNo PL-VI-35 Rev F (Boundary Treatments Plan) and DrNo PL-TW-35.1 RevB (Boundary Treatments Details) unless any variation in writing is first agreed with the Local Planning Authority.

REASON: To accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

67. Each individual dwelling hereby approved on this phase shall only be occupied following its individual compliance with the Energy and Sustainability Statement H1f(i), AES Sustainability Consultants Ltd, January 2023 and the agreed scheme of electric vehicle charging infrastructure as outlined on drawing no. PL-VI-33 RevX and letter dated from Boyer Planning dated 04/08/2022 (received in connection with application 42/21/0035).

REASON: To support the Council in its declaration of a Climate Emergency and to accord with para 110 of the National Planning Policy Framework and Policies PM2 and PP2 of the adopted SCC Parking Standards (2013).

68. In accordance with the submitted Arboricultural and Ecological Technical Note, September 2021, Report Reference edp0782_r070 all protective hedge and tree fencing shall be erected prior to any works within the parcel.

Notwithstanding the document, all fencing shall be the fixed type of fencing shown at Annex EDP 2. No trenches shall be dug within the RPAs of trees or hedges for underground services (or anything else) without the prior assessment and written agreement of the Local Planning Authority.

REASON: To safeguard existing trees and hedges to accord with Policy ENV1 of the SADMP.

69. Notwithstanding the approved plans revised details of the secondary avenue between the parcel (plot 204) and the spine road shall be submitted to and approved in writing by the Local Planning Authority. Such details shall provide for tree planting in the roadside verge, and a scheme for the Manor Park crossing point for pedestrians and cyclists. Prior to the first occupation on this phase such agreed details shall have been fully implemented unless otherwise agreed in writing with the Local Planning Authority.

REASON: To facilitate the safe passage of pedestrians and cyclists throughout the site to accord with Policy A3 of the SADMP and to ensure that the proposed 'landscape led' development benefits from the approved landscaping scheme in the interests of visual amenity, ecological enhancement and landscape character in accordance with Policy CP8 of the Taunton Deane Core Strategy and Policy ENV2 of the SADMP.

70. Notwithstanding the approved plans details of the surfacing materials for the cul-de-sac and private drive hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation on this phase such agreed details shall have been fully implemented unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure consistency with the treatment of other parcels in the interests of visual amenity to accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

71. The development shall be carried out in accordance with the submitted Construction Environmental Management Plan (CEMP) Rev1 06/01/2023. The wheel-wash facility as shown on DrNo 10603-SK-18 RevC shall be in situ and fully operational from the commencement of works on this phase until the completion of works on this phase unless otherwise agreed in writing.

REASON: In the interests of residential amenity and highway safety.

72. Prior to the commencement of works on this phase information relating to the management of construction stage drainage shall be submitted to and approved in writing by the Local Planning Authority. The information shall confirm specific measures for this part of the site particularly to confirm whether there is a risk of flooding off site and, if so, how that would specifically be managed and mitigated. The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

73. Prior to first occupation on this phase information relating to the management responsibilities of the various components of the proposed surface water drainage network including private systems shall be submitted to and approved in writing by the Local Planning Authority. The information shall include typical maintenance schedules for all the proposed components and details of how each party will be advised of their responsibility and maintenance obligations (including private systems). The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

74. A scheme shall be submitted to and agreed by the Local Planning Authority detailing the provision and specification of electric vehicle charging points for each dwelling on this phase. Each dwelling on this phase shall thereafter only be occupied following its individual compliance with the agreed scheme. The submitted scheme shall also detail provision of electric vehicle charging points for visitor parking spaces and set out where and why it has not been possible to supply a particular dwelling, apartment or parking area with an electric vehicle charging point.

REASON: To ensure that the proposed estate is laid out in a proper manner with adequate provision for various modes of transport to accord with Policies CP1, CP6, CP7 and CP8 of the Core Strategy and Policy A2 of the SADMP.

75. Notwithstanding the approved landscaping plans revised/additional plans shall be submitted to show: additional tree planting in rear gardens; and revised details (size and species) of the street trees in the secondary avenue verge. Such details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of landscaping works on this phase. Thereafter the landscaping secured by this condition shall be implemented in accordance with Condition 10.

REASON: To ensure that the proposed 'landscape led' development benefits from the approved landscaping scheme in the interests of visual amenity, ecological enhancement and landscape character in accordance with Policy CP8 of the Taunton Deane Core Strategy and Policy ENV2 of the SADMP.

For Employment Land Infrastructure and the Local Square in the Western Neighbourhood, reserved matters approval 42/22/0055 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

76. Pursuant to Drawing No. 1083-02-SK-7201-A but excluding soft landscaping covered by Condition 78, the Local Square, the Gateway and the highway works on the road within Parcel H1a (Merton Road) pursuant to Condition 91 shall be laid out in accordance with the approved plans and details agreed via condition prior to the first operational use of any part of the employment land road by vehicles accessing employment land plots and the approved Care Home, application ref 42/22/0054, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure a coordinated approach to the development to accord with Conditions 03 and 26 of the outline consent, to ensure pedestrian and cycle linkages are available and the bus stop is relocated to accord with Policies A3 and D9 of the SADMP.

77. The SUDs area shown on Drawing No. 1083-02-SK-7201-A shall be fully installed and be operational to receive surface water prior to the employment land road reaching base course construction.

REASON: To ensure a coordinated approach to the development with regard drainage.

78. The planting schemes shown on the approved plans shall have been completely carried out by the end of the first available planting season

following the commencement of each element shown on Drawing No. 1083-02-SK-7201-A. Prior to the landscaping of any area a detailed planting method statement and watering regime shall have been submitted to and approved by the Local Authority, which shall then be adhered to thereon. For a period of ten years after the completion of the development (as a whole), the planting shall be protected and maintained and any hedging/shrubs/trees that cease to grow or are damaged or otherwise removed, shall be replaced by new hedging/shrubs/trees of similar size and the same species or other appropriate hedging/shrubs/trees as may be approved in writing by the Local Planning Authority.

REASON: To ensure that the proposed development is softened with greenery given its location in the interests of visual amenity, ecological enhancement and landscape character in accordance with Policy CP8 of the Taunton Deane Core Strategy and Policy ENV2 of the SADMP.

79. A lighting plan covering the Local Square and Gateway areas and the employment area road shall have been submitted, agreed in writing by the Local Authority and implemented in accordance with the phasing set out in Condition 76.

REASON: In the interests of public safety to accord with Policy D8 of the SADMP.

80. Prior to the first operational use of any part of the employment land road by vehicles accessing employment land plots and the approved Care Home, application ref 42/22/0054, a scheme detailing the Gateway feature stone wall and pillars, lighting, seating, litter bins, signage, path surface treatments and public art shall be submitted to and agreed for The Local Square and Gateway areas and implemented in accordance with the phasing set out in Condition 76.

REASON: To ensure residents have access to good quality open space to accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

81. A scheme setting out the specification and provision of an in-ground electrical supply and lockable floor box or pop-up power column or feeder pillar in the Local Square shall be agreed in writing by the Local Authority and implemented in accordance with the phasing set out in Condition 76.

REASON: To ensure the Local Square has adequate services to accommodate a range of community events and activities to accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

82. Prior to the first operational use of any part of the employment land road by vehicles accessing employment land plots and the approved Care Home, application ref 42/22/0054, a scheme detailing full planting and landscaping details (size, number and species), lighting, seating, litter bins, signage, path surface treatments and public art shall be submitted to and agreed for The Maze POS area, indicated by Drawing No.1000-L-04-P8. The agreed scheme shall be fully implemented as part of The Maze Park to be fully laid out and operational by the final occupation in Parcel H1d, application 42/21/0004. The landscaping shall thereafter be protected via Condition 10.

REASON: To ensure residents have access to good quality open space to accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

83. Prior to the first operational use of any part of the employment land road by vehicles accessing employment land plots and the approved Care Home, application ref 42/22/0054, a scheme of ecological mitigation and enhancement in the form of dormouse, bird and bat boxes, hibernaculum and log piles of a specification to be agreed in writing shall be installed across the area covered by this application. The wildlife boxes shall be retained and maintained hereon.

REASON: To secure ecological mitigation and enhancement of the site to accord with the aims and objectives of the National Planning Policy Framework.

84. No development hereby approved which shall interfere with or compromise the use of footpath T 29/11 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.

REASON: To ensure the Public Right of Way is not obstructed.

85. The development of this phase shall be carried out in accordance with the submitted Construction Environment Management Plan (Construction Method Statement), AWP, dated 26/05/2023 Rev B. Specific details shall be provided regarding the provision of a wheel-wash facility to be in situ and fully operational from the commencement of works until the completion of works unless otherwise agreed in writing. Specific details of the location of the works compound to be used/sited to carry out the works hereby approved shall also be submitted and agreed in writing by the Local Authority prior to the commencement of works.

REASON: In the interests of residential amenity and highway safety.

86. Prior to the commencement of works on this phase information relating to the management of construction stage drainage shall be submitted to and approved in writing by the Local Planning Authority. The information shall confirm specific measures for this part of the site particularly to confirm whether there is a risk of flooding off site and, if so, how that would specifically be managed and mitigated. The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

87. Prior to the first operational use of any part of the employment land road by vehicles accessing employment land plots and the approved Care Home information relating to the management responsibilities of the various components of the proposed surface water drainage network including private systems shall be submitted to and approved in writing by the Local Planning Authority. The information shall include typical maintenance schedules for all the proposed components and details of how each party will be advised of their responsibility and maintenance obligations (including private systems). The development shall thereafter be carried out in accordance with the approved details.

REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

88. Each subsequent application for reserved matters for employment land plots shall include specific details of the proposed strategy for surface water drainage based on the approved strategic Drainage Statement, Rev F; the plot specific scheme shall include on plot Sustainable Urban Drainage solutions in addition to the strategic attenuation feature (or justification as to why these cannot be achieved), allowing for climate change uplift based on the current guidance at the time of application.

REASON: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

89. Notwithstanding Condition 76, Prior to commencement of development on the Local Square, a scheme to include temporary provision of 10 parking spaces in association with the Taylor Wimpey sales office within the local square area indicated by Drawing No. 1083-02-SK-7201-A is to be submitted and approved by the LPA. Such a scheme shall include full details of the parking area and a timescale for the creation and retention of the parking spaces and a phasing plan for the restoration of the land to the approved plan Drawing No. 1000-L-02 Rev P10.

REASON: To support the continuation of the sales office and to avoid roadside parking whilst also seeking a phasing plan for the full provision of the Local Square public space.

90. Once constructed pursuant to Condition 76 the cycleway and footway connections hereby approved shall be maintained in perpetuity and kept free of obstruction.

REASON: To maintain public access through the employment land to The Maze Park as shown on DrNo 1000-L-04 Rev P10 and visa versa to accord with Policies A3, D8 and D9 of the SADMP.

91. Prior to the commencement of works on this phase details of cycle and pedestrian crossovers in accordance with LTN 1/20 to the estate road serving Parcel H1a (Merton Road) and the employment road shall be submitted to and approved by the Local Planning Authority. The crossovers shall be implemented in accordance with Condition 76.

REASON: To ensure a coordinated approach to the development to accord with Conditions 03 and 26 of the outline consent, to ensure pedestrian and cycle linkages are available and the bus stop is relocated to accord with Policies A3 and D9 of the SADMP.

For the Bat House in the Western Neighbourhood, reserved matters approval 42/22/0076 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

92. The development hereby approved shall be carried out and completed in full accordance with the Bat Box Cross Section drawing ref 1083 AWP dated 13/06/2023.

REASON: In the interest of visual amenity to accord with Policy D7 of the Site Allocations and Development Management Plan 2016.

For the Primary School Sub-Station in the Eastern Neighbourhood, reserved matters approval 42/23/0022 as shown on the Phasing Plan DrNo. 35482_0723_Phasing and Infrastructure Plan

93. The walling material for the development hereby approved shall be Wienerberger Pembridge Red bricks and the roofing material shall be Redland, Brown 02 Granular Finish Double roman tiles, with black rainwater goods. The development shall thereafter be carried out in accordance with this stated specification unless any variation in writing is first agreed with the Local Planning Authority.

REASON: To accord with Policy DM4 of the Taunton Deane Core Strategy and Policy D7 of the SADMP.

NOTES TO APPLICANT

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and entered into pre-application discussions to enable the grant of planning permission.
2. **WILDLIFE AND THE LAW.** The protection afforded to wildlife under UK and EU legislation is irrespective of the planning system and any activity undertaken on the tree(s) must comply with the appropriate wildlife legislation.
BREEDING BIRDS. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed. If works are to be carried out during the breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.
BATS. The applicant and contractors must be aware that all bats are fully protected by law under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Natural Habitats and Species (Amendment) Regulations 2012, also known as the Habitat Regulations. It is an offence to intentionally or recklessly damage, destroy or obstruct access to structures or places of shelter or protection used by bats, or to disturb bats whilst they are using these places.
Trees with features such as rot holes, split branches or gaps behind loose bark, may be used as roost sites for bats. Should a bat or bats be encountered while work is being carried out on the tree(s), work must cease immediately and advice must be obtained from the Government's advisers on wildlife, Natural England (Tel. 0845 1300 228). Bats should preferably not be handled (and not unless with gloves) but should be left in situ, gently covered, until advice is obtained.
The condition relating to wildlife requires the submission of information to protect species. The Local Planning Authority will expect to see a detailed method statement for each phase of the development clearly stating how wildlife will be protected through the development process and to be provided with a mitigation proposal that will maintain favourable status for these species that are affected by this development proposal.
Dormice and bats are known to be present on site as identified in submitted ecological surveys. Both species concerned are European Protected Species within the meaning of The Conservation of Habitats and Species Regulations 2010. If the local population of European Protected Species are affected in a

development, a licence must be obtained from Natural England in accordance with the above regulations.

It should be noted that the protection afforded to badgers under the Protection of Badgers Act 1992 is irrespective of the planning system and the applicant should ensure that any activity they undertake on site must comply with the legislation.

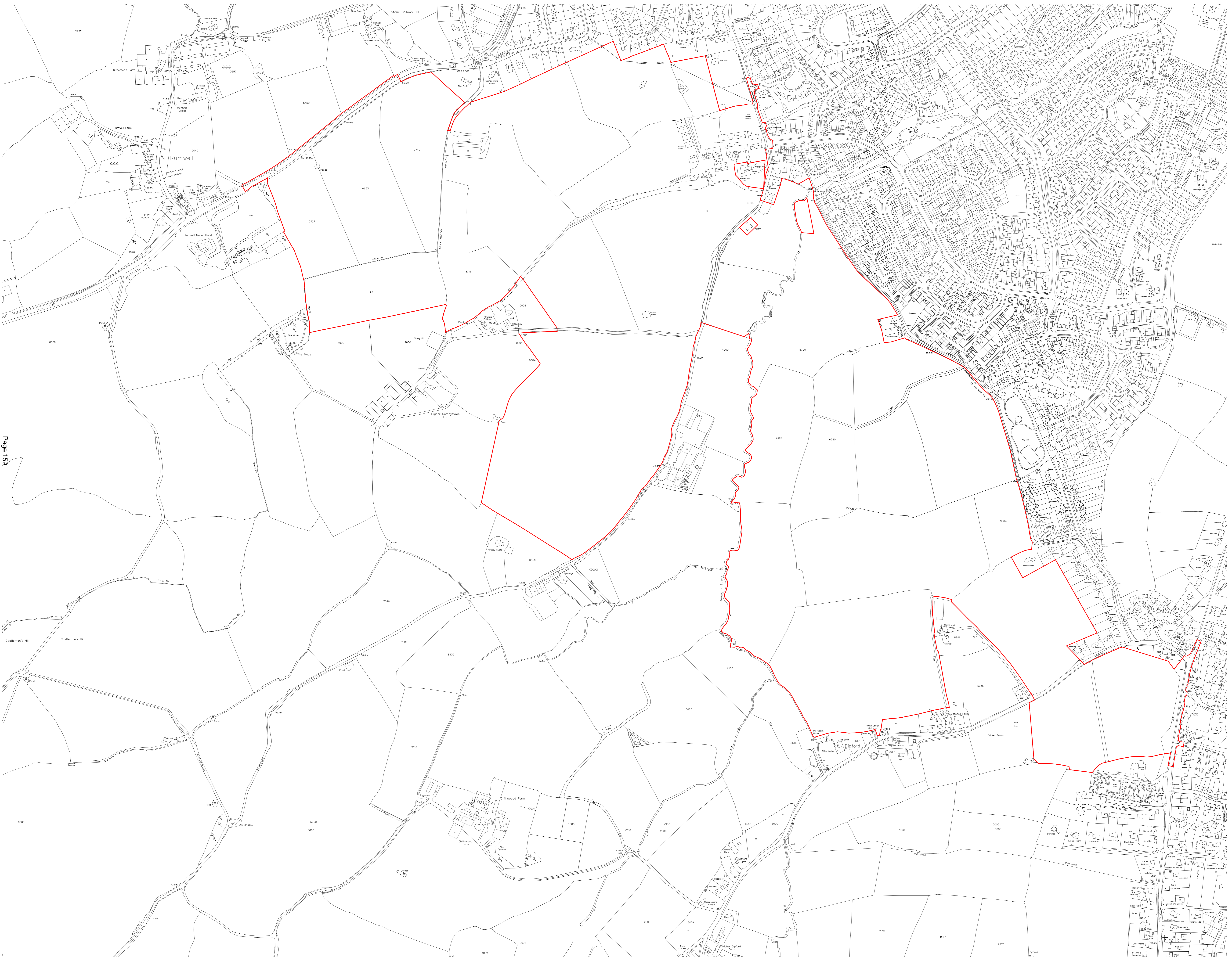
Nesting birds are present on site and all operatives on site must be appropriately briefed on their potential presence. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed.

3. The point of water connection for the overall Comeytrowe development has been identified as off the new 450mm diameter main near Cannonsgrove House. Temporary connections prior to the construction of a trunk main to the point of connection to the south will need to be agreed with Wessex Water under Section 41 of the Water Industry Act. Outline details as follows; Subject to application 100 – 150 dwellings at the northern extent of the site may connect at an agreed point to one of the mains in the A38 close to Stonegallows. This connection will necessitate some upgrade works to Stonegallows pumping station. System valves are likely to be required with installation proposed at Heron Drive and Heron Close. The remaining properties and ancillary development (subject to agreement of demand requirements and application, not exceeding 800 dwellings total, including the 100 - 150 above) will connect to the 300mm DI main in Comeytrowe Lane. Properties above 55mAOD seeking connection to the 300mm DI main will require an on site booster(s) station.
4. Somerset Industrial Archaeological Society (SIAS) have drawn attention to a relatively small but important industrial archaeological site at the former Comeytrowe Farm. Research has traced sales particulars at the Somerset Heritage Centre dated 1901 which identifies the Mill House and the overshot waterwheel driving machinery via six pulleys, shafting and brackets. This particular example is worthy of consideration for retention within the overall planning scheme. It is understood that they are likely to be listed by virtue of being within the curtilage of Comeytrowe Manor. If they are curtilage listed Listed Building Consent would be required to demolish or alter any of the curtilage structures. If they are not curtilage listed, the water wheel would be classed as a non-designated heritage asset and the applicant would need to make provision for the water wheel within any reserved matters application, as clearly, its loss would represent substantial harm. Every effort should be made to retain this feature.

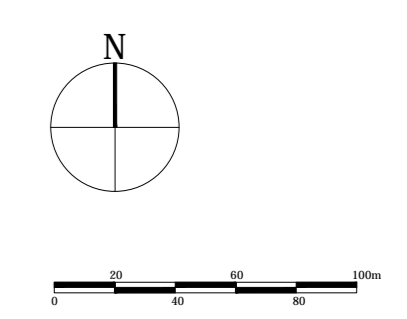
5. If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group.
 - A PROW being made less convenient for continued public use.
 - New furniture being needed along a PROW.
 - Changes to the surface of a PROW being needed.
 - Changes to the existing drainage arrangements associated with the PROW.
 - If the work involved in carrying out this proposed development would make a PROW less convenient for continued public use (or) create a hazard to users of a PROWthen a temporary closure order will be necessary and a suitable alternative route must be provided.
6. Potential surface improvements to the path T 29/10 can be technically approved under a s38 adoption agreement. In the event that there is not an agreement, then a separate s278 agreement will be required. The applicant will need to demonstrate that the crossing point of T 29/11 over the proposed access road, is safe for the public to use and constructed appropriately through the technical approval process as part of a relevant legal agreement.
7. It is noted that there is reference in the flood risk section of the Environmental Statement to the Routes to the River Tone Project. The applicant should be liaising with the Project team to ensure that the development contributes to the Project and vice versa.
8. The applicant is advised to refer to the 'SBD Homes 2019' design guide available on the Secured by Design website - www.securedbydesign.com - which provides further comprehensive guidance regarding designing out crime and the physical security of dwellings.
9. The applicant is reminded that all future outline, reserved matters or full applications related to the employment area as defined in the outline consent and accompanying approved parameters plans and Western Neighbourhood Masterplan will be required to demonstrate they have considered the noise impacts on adjacent residential properties and included sufficient mitigation. This should be demonstrated and informed by appropriate noise surveys submitted with each application.
10. Your attention is drawn to the agreement made under Section 106 of the Town and Country Planning Act 1990, relating to this site/property.
11. Notes with particular to the Employment Land Infrastructure and the Local Square in the Western Neighbourhood, reserved matters approval 42/22/0055 as shown on the Phasing Plan DrNo. 35482_ 0723_Phasing and Infrastructure Plan.

- 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.
- Your attention is drawn to comments of Avon & Somerset Constabulary's Designing Out Crime Officer dated 24/05/2023.
- The applicant is asked to be aware that some minor amendments may be requested to the proposed landscaping and paths at the Maze POS to facilitate pedestrian and cycle access to the adjoining site forming part of the wider allocation in the Local Plan.
- Despite the extent of the application red line this application does not give any consent for the park and bus facility or A38 Gateway as defined in the section 106 agreement accompanying the outline consent 42/14/0069.
- The applicant is advised that the indicative floorplates of industrial buildings shown on DrNo. 1000-L-03-P8 is not approved by this consent. The applicant is advised that more land will likely be required to be given over to strategic landscaping to mitigate the change in levels and the proposed industrial buildings when viewed from the wider Special Landscape Feature and adjacent listed buildings. Attention is also drawn to the Scale Parameter Plan
- with particular reference to the parameters for the employment land area.
- The applicant is advised that no works are approved on the north side of the spine road (Egremont Road) between the estate road to Parcel H1a (Merton Road) and the PROW T 29/11.
- A cycle transition on the westbound (southern side) of the carriageway of the Spine Road is shown which requires cycles to go back on themselves. This transition is likely to be problematic to users and will need to be reviewed at the s38 stage.

 Application Site



Page 159



Project
Land at South West Taunton

Drawing Title
Site Location Plan

Date	Scale	Drawn by	Check by
07.02.14	1:2500@A0	PT	MT
Project No	Drawing No	Revision	
13708	9010	M	

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Application Details	
Application Reference Number:	3/26/23/005
Application Type:	Full Planning Permission
Earliest decision date:	28 June 2023
Expiry Date	02 August 2023
Extension of Time Date	NA
Decision Level	Committee
Description:	Installation of solar panels on static caravans (Resubmission of 3/26/22/013)
Site Address:	The Blue Anchor, Cleeve Hill, Watchet, TA24 6JP
Parish:	26
Conservation Area:	NA
Somerset Levels and Moors RAMSAR Catchment Area:	NA
AONB:	NA
Case Officer:	Briony Waterman
Agent:	Mr Elston,
Applicant:	Mr Kravis
Committee Date:	18/07/2023
Reason for reporting application to Committee	Applicant is a Councillor

1. Recommendation

1.1 That permission be GRANTED subject to conditions.

2. Executive Summary of key reasons for recommendation

2.1 The proposal for the erection of 18 solar panels per caravan at Anchors Drop is an amended resubmission of application 3/26/22/013 for the installation of solar panels on main building and static caravans along with ground mounted solar panels in the north-western garden area. The current proposal removes the panels on the main building and the ground mounted panels. It is considered to meet the policy requirements CC1 of the West Somerset Local Plan to 2032 and Paragraphs 7-14 of

the National Planning Policy Framework and is not considered to have a significant impact upon the visual or residential amenity of the area.

3. Planning Obligations and conditions and informatives

3.1 Conditions (full text in appendix 1)

3.1.1 Time limit - 3 years

3.1.2 Drawing numbers

3.1.3 Removal of panels

3.2 Informatives (full text in appendix 1)

3.2.1 Proactive Statement

3.3 Obligations

NA

4. Proposed development, site and surroundings

4.1 Details of proposal

Installation of 18 solar panels on the static caravans in situ (Resubmission of 3/26/22/013) This proposal varies from the original in that the ground mounted panels, and solar panels on the main building have been removed from the proposal.

4.2 Sites and surroundings

Anchors Drop, formerly the Blue Anchor, is a two storey pub located adjacent to the B3191 with a car park to the south east. Beyond the car park are 6 static caravans which share an access with the pub and are partially screened from the highway by hedging. The area is not covered by any Conservation Areas and there are no listed buildings in close proximity.

5. Planning (and enforcement) history

Reference	Description	Decision	Date
3/26/22/013	Installation of solar panels on main building and static caravans along with ground mounted solar panels	Refuse - committee overturn	20/04/2023

Reference	Description	Decision	Date
	in the north-western garden area		
3/26/21/022	Change of use of land with siting of 6no. static caravans for holiday let use (retention of works already undertaken)	Granted	01/06/2022
3/26/08/025	Erection of two detached bungalows with attached garages	Refused	13/11/2008
3/26/07/018	Permission for 2 existing caravans on the road side of the top field. Allowed at appeal for the temporary accommodation of seasonal staff, limited to a period of 5 years	Refused	14/09/2007

6. Environmental Impact Assessment

NA

7. Habitats Regulations Assessment

The site lies outside the catchment area for the Somerset Moors and Levels Ramsar site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that the development is not likely to have a significant effect on the Ramsar site (either alone or in combination with other projects) pursuant to Regulations 63(1) of the Habitats Regulations 2017.

8. Consultation and Representations

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

8.1 Date of consultation: 07 June 2023

8.2 Date of revised consultation (if applicable): NA

8.3 Press Date: NA

8.4 Site Notice Date: A site notice was posted to the applicant on the 07/06/2023

however the LPA has not had confirmation that it was displayed. However it is considered that the statutory to advertise has still been met as it went into the local paper and neighbour letters were sent out.

8.5 Statutory Consultees the following were consulted:

Consultee	Comment	Officer Comment
Old Cleeve Parish Council	<p>Resolved to support the application with the following comments: Support the principle but not at the scale and some locations previously approved.</p> <p>Only on the caravans is not considered as intrusive as the previous, but questions remain about the structural integrity of the caravans.</p> <p>If approved should be time limited to the same time frame as the approved caravans, questions remain about the viability.</p> <p>18 panels on each caravan is likely to require battery storage, there are no proposals for this</p>	<p>The comments are noted. Whilst not material planning considerations the applicant should be aware of the points raised and ensure the caravans are suitable for installing solar panels.</p> <p>A condition has been included regarding the time limits of the panels.</p>
SCC - Ecologist	Having reviewed the above application, the existing static caravans hold negligible ecological value, therefore the development can continue.	Noted
Highways Development Control	No observations	Noted

8.6 Internal Consultees the following were consulted:

Consultee	Comment	Officer comment
Landscape		

8.7 Local representations

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

Two letters have been received from the same person making the following comments:

Objections	Officer Comment
Why has this been requested as caravans are for 5 years only.	Can only determine the application as is,
Questions of the health and safety of the site, planning have enforcement notices to comply	Noted, the enforcement issues are separate to the current application.
Concern that the caravans which are in poor condition are possibly not structurally sound enough for such work	Noted, and would be a Building Regulations concern.
108 solar panels would not be necessary to run The Blue Anchor and the caravans, this many leads me to the mind that this would be a business adventure to sell the energy back to the grid	Despite the number of panels whether they are selling back to the grid is not a planning consideration.

9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former

West Somerset area. The Development Plan comprises the Adopted West Somerset Local Plan to 2032, Somerset Mineral Local Plan (2015), and Somerset Waste Core Strategy (2013).

As a result of local government reorganisation Somerset Council was established from the 1 April 2023. The Structural Change Order agreeing the reorganisation of local government requires the Council to prepare a local plan within 5 years of the 1 April 2023 and the Council will be bringing forward a Local Development Scheme to agree the timetable for the preparation of the local plan and scope in due course.

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

OC1	Open Countryside development
SD1	Presumption in favour of sustainable development
CC1	Carbon reduction - small scale schemes
CC3	Coastal Change Management Area

Neighbourhood Plans:

NA

Supplementary Planning Documents:

District Wide Design Guide, December 2021

Other relevant policy documents:

Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (March 2022)

9.1 National Planning Policy Framework

The proposal is considered to accord with the general principles of the NPPF, in particular "Chapter 2 Achieving Sustainable Development".

10. Material Planning Considerations

The earlier application, 3/26/22/013 was for the installation of solar panels on the main building and static caravans along with ground mounted solar panels in the north western garden area. This application was refused at Planning Committee for

the following reasons:

“The site is located within an area identified as a coastal change management area and a coastal zone which is vulnerable to rapid coastal erosion and where development will only be permitted where a coastal location is essential and which cannot be located elsewhere. The proposed ground mounted solar panels do not constitute tourism related development nor has any evidence been put forward to indicate that the scale of the proposed development is essential to support tourism related development on this site. The proposal is therefore considered to conflict with policies CC3 and CC4 of the West Somerset Local Plan to 2032.

The proposal by virtue of the number and location of the ground mounted collar panels would have a substantial detrimental impact on the character and appearance of the area. The ground mounted panels would be visible from the adjoining highway, nearby properties and beach and would contribute to the proliferation of development in the countryside. No public benefits have been identified that would clearly outweigh the harm. The proposal is therefore considered to conflict with Policy CC1 of the West Somerset Local Plan to 2032.”

The current proposal removes the ground mounted panels and panels on the main building.

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

10.1.1 The principle of development

The panels are to be erected on existing caravans within the curtilage of the property known as "Anchors Drop". The former Somerset West and Taunton Council had declared a "Climate emergency" and as such any schemes which endeavour to reduce the carbon footprint of a building are to be commended. However, there are other policy and material considerations to take into account before determining this application.

Policy CC1, carbon reduction - non wind energy generating schemes, of the West Somerset Local Plan states:

Energy generating development proposals (other than those for wind turbines.) will be supported where:

- *They respect the local natural environment in which they are located*
- *They respect the local historic environment and the significance of any*

*designated and identified potential heritage assets within and neighbouring it;
and*

- They respect the positive economic and social characteristics of communities affected especially those neighbour them; and*
- Adequate measures are taken to mitigate the cultural, economic, environmental and social impact of any related development of the communities affected, both in the short and the longer term.*

Given the location of the proposal, policy CC3, coastal change management area, of the West Somerset Local Plan is also considered relevant. The policy states:

"Development within the coastal change management areas, as defined on the policies map, will be limited to temporary, tourism-related development.

No development will be permitted within parts of the coastal change management area which are vulnerable to rapid coastal erosion.

Exceptionally, where the use of such development locations are necessary for sustainable development purposes, other types of development may be permitted where they would be protected by new or existing sea defence which are to be maintained in the long term."

Given the above, the proposal for solar panels is considered to comply with policy. By their nature the solar panels are temporary as are the caravans on which they are to be sited. The panels will not be visible other than glimpses from the public highway and it is not considered to have a detrimental impact upon the visual amenity of the area. It is considered that, whilst the proposal is within the coastal change area, the addition of solar panels is not considered to have a detrimental impact, the panels are temporary and fixed to temporary structures. The site is not listed, nor is it within a Conservation Area.

Sustainability is a key theme which runs through the National Planning Policy Framework, in particular paragraphs 7 to 14.

The proposed scheme is outside of any defined settlement limits and is therefore defined as being within the open countryside, however the proposal is located within the curtilage of an existing building and is therefore considered acceptable in principle.

10.1.2 Visual amenity

The proposal is not considered to have a significant impact upon the visual amenity of the area. The caravans are well screened from the highway and public views by the existing boundary treatments and it is considered that any perceived negative visual impact is outweighed by the benefits of renewable energy generation.

10.1.3 Residential amenity

Due to the nature and location of the proposal it is considered that the proposals would not have a significant impact. The panels would be located on top of the existing caravans which are approximately 85m away from the nearest property, screened by the existing boundary and the highway.

10.1.4 Highways

Due to the location of the proposal it is considered that there would be no impact upon the parking and turning arrangements on the site, and no adverse impact to other highway users.

11 Local Finance Considerations

11.1 Community Infrastructure Levy

NA

12 Planning balance and conclusion

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

12.2 For the reasons set out above, having regard to all the matters raised, 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:

(A1) DrNo 2239.3-201 Proposed Plans and Elevations

(A2) DrNo 2239.3-200 Proposed Site Plans

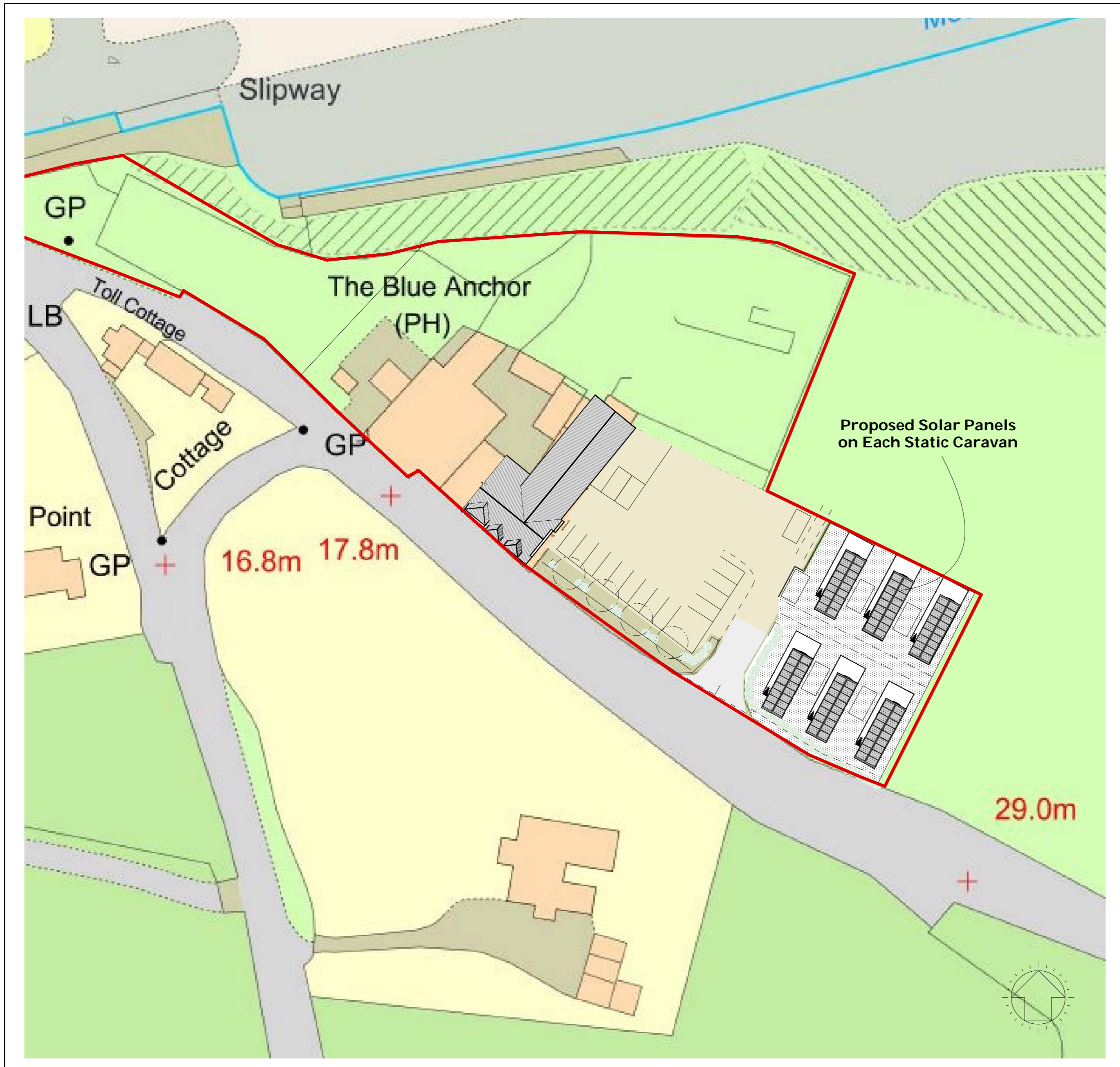
Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The solar panels, hereby approved, shall be removed from site when the caravans are removed from the site.

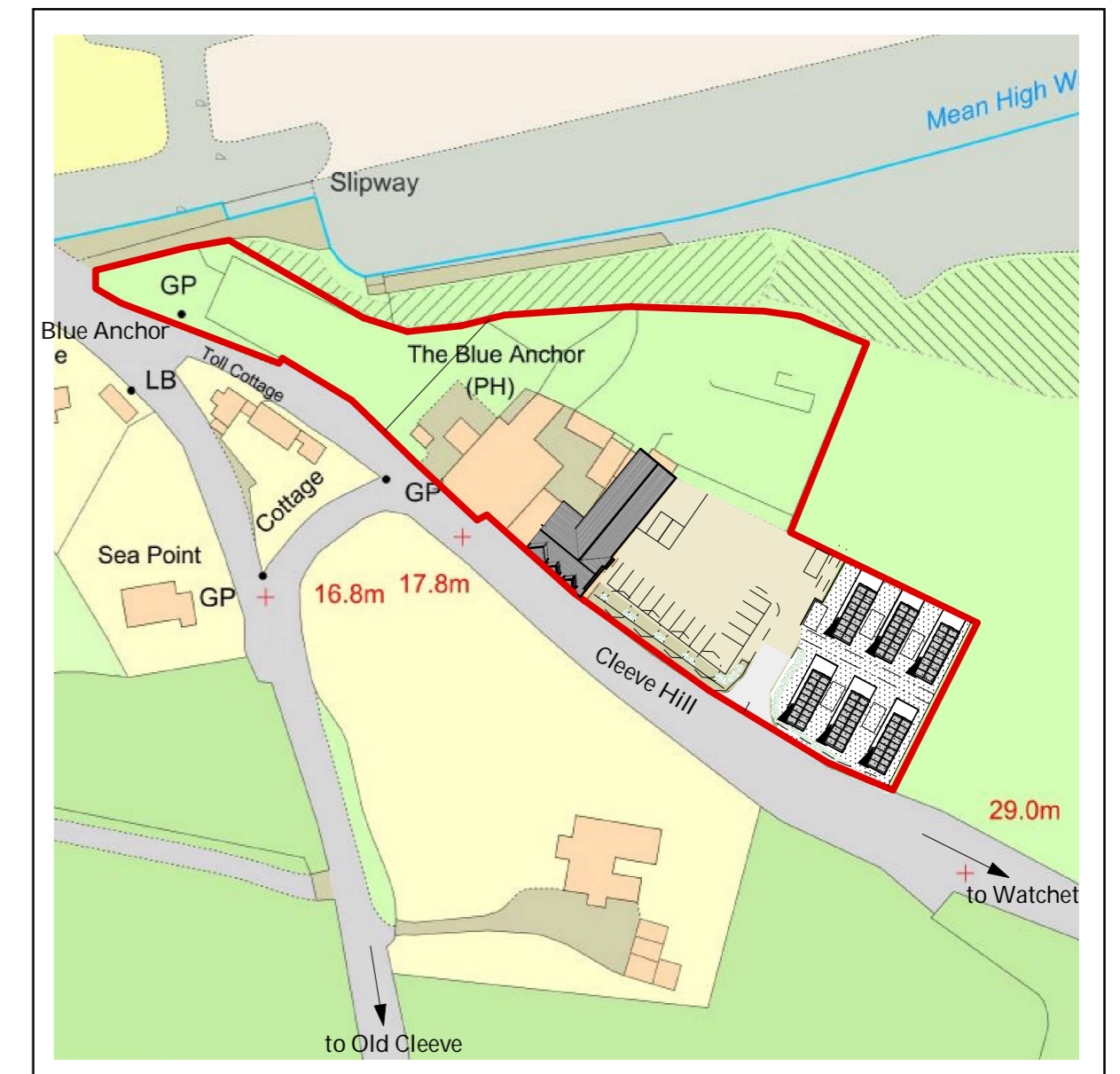
Reason: In order to maintain the appearance of the area.

Notes to applicant.

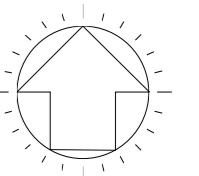
In accordance with paragraph 38 of the National Planning Policy Framework 2021 the Council has worked in a positive and creative way and has granted planning permission



Site Block Plan @ 1:500



Site Location Plan @ 1:1250



Title:	Blue Anchor Pub, Blue Anchor	Blake House 12 Bampton Street Minehead Somerset TA24 5TT 01643705275 07813164587 design@architecturalstudio.co.uk www.architecturalstudio.co.uk
Drawing:	Proposed Site Plans	
Number:	2239.3/200B	
Date:	May 2023	
Scale:	1:500 & 1:1250 @ A2	
Drawn By:	AGE	

The contractor is to check all dimensions on site before commencing work to his/her own satisfaction. Do not scale from drawings unless for the purposes of Town and Country Planning Act. The copyright of this drawing belongs to Architectural Studio. It may not be altered, reproduced or issued without prior written agreement.

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Application Details	
Application Reference Number:	18/22/0014
Application Type:	Full Planning Permission
Earliest decision date:	03 November 2023
Expiry Date	28 November 2022
Extension of time	27 July 2023
Decision Level	Committee
Description:	Change of use of land with construction of a horse riding arena on land to the west of Brufords Farm, Northway Lane, Halse
Site Address:	Brufords Farm, Northway Lane, Halse, Taunton, TA4 3JL
Parish:	Halse
Conservation Area:	N/A
Somerset Levels and Moors RAMSAR Catchment Area:	Yes
AONB:	N/A
Case Officer:	Kieran Reeves
Agent:	Williams Planning
Applicant:	Mr & Mrs Everington
Committee Date:	18 July 2023
Reason for reporting application to Committee	The agent is employed within the Development Management section of the Council

1. Recommendation

1.1 That permission be GRANTED subject to conditions

2. Executive Summary of key reasons for recommendation

2.1 The proposal is for the change of use of land with construction of a horse riding arena (manege) on land to the west of Brufords Farm, The principle of the proposed development is considered to be compliant with local and national planning policy. The design and the impact of the landscape, following amendments to the scheme, are considered to be acceptable and the impact on the nearby listed building would be negligible. Impacts on highway safety, neighbouring residential amenity and ecology would not be harmful, subject to the attachment of certain conditions.

3. Planning Obligations and conditions and informatives

3.1 Conditions

3.1.1 Standard time condition (three years)

3.1.2 Standard plans condition

3.1.3 Landscaping condition

3.1.4 Surface drainage to be approved

3.1.5 Surface of manege to be approved

3.1.6 Ecological enhancement measures

3.1.7 Fencing condition

3.1.8 Restriction on use

3.1.9 No amplified music

3.1.10 No external lighting

3.2 Informatives

3.2.1 Proactive statement

3.3 Obligations

3.3.1 No planning obligations required

4. Proposed development, site and surroundings

4.1 Details of proposal

4.1.1 Planning permission is sought for the construction of a manege for the use of the occupiers of Brufords Farm. The manege would measure 45 metres by 25 metres and it would be surrounded by a perimeter post and rail fence that would be constructed from natural timber. A surface would be laid across the manege, which would be designed to accommodate horses. In this case, a sand surface. The submitted plans show that there would be cut and fill of the existing ground levels to

allow a flat surface for the manege, and trees would be planted to the south and west of the manege. The proposal has since been amended to reduce the amount of engineering works required so that the slope below the manege is less steep and pronounced.

4.2 Sites and surroundings

4.2.1 Brufords Farm is a Grade II listed residential property, which is located in open countryside to the north west of Halse and the north east of Fitzhead. The dwelling is a detached building that originates from the 17th Century. There is a detached outbuilding to the north of the dwelling and stables to the east. The proposed manege would be constructed in a field to the west of the dwelling and it would be accessed through the property via the existing vehicular access. The nearest residential property to the site is Northway, which is on the opposite side of the road.

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 located within the Somerset Levels and Moors Ramsar site, which is currently deemed to be in an unfavourable condition due to phosphate levels. This development will not result in an increase in population within the district and accordingly is considered to be phosphate neutral.

8. Consultation and Representations

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

8.1 Date of consultation: 03 October 2022

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

8.3 Press Date: N/A

8.4 Site Notice Date: 13 October 2023

8.5 Statutory Consultees

Consultee	Comment	Officer Comment
Halse Parish Council	No comments received	N/A
Wessex Water	No comments received	N/A

8.6 Internal Consultees

Consultee	Comment	Officer Comment
Ecology	Looking at the Google Street View of the road splay where the access track will come off the road and running around the back of the shed to the field, I'm satisfied there would be negligible ecological value to be impacted by the proposed development, therefore the development can continue.	Discussed at Section 10.5 of the report
Transport Development Group	No observations	Noted
Landscape Officer	<u>Objection</u> The proposals would result in changes that would include the creation of a steep engineered embankment, measuring over 70m in length, with its top over 8m above the adjacent public lane. There is concern that the presence of the embankment would be perceived from the lane and public rights of way to the south as being oppressive and urbanising of the historic vernacular context and degrade the quality of the landscape. Permitting the proposed development would conflict with local plan policy CP8, and as a consequence there is a	Discussed at Section 10.2 of the report

	<p>landscape objection.</p> <p>Verbal update provided to the Case Officer confirming that the amendments made have resulted in the impact being lessened to an acceptable level.</p>	
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8.7 Local Representations

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

No public representations have been received in relation to this application.

9. **Relevant planning policies and Guidance**

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former Taunton Deane area. The Development Plan comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (SADMP) (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015) and Somerset Waste Core Strategy (2013).

As a result of local government reorganisation Somerset Council was established from the 1 April 2023. The Structural Change Order agreeing the reorganisation of local government requires the Council to prepare a local plan within 5 years of the 1 April 2023 and the Council will be bringing forward a Local Development Scheme to agree the timetable for the preparation of the local plan and scope in due course.

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

- SP1 - Sustainable development locations,
- SP4 - Realising the vision for rural areas,
- CP1 - Climate change,
- CP8 - Environment,

DM1 - General requirements,
DM2 - Development in the countryside,

Supplementary Planning Documents

District Wide Design Guide, December 2021

Neighbourhood plans:

No neighbourhood plan in force in this area

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 current adopted development plan does not include any planning policies that specifically relate to equestrian development. . The proposal will be considered on their merits in line with national policy guidance and other relevant policies in the development plan. Paragraph 11(d) of the National Planning Policy Framework (NPPF) states that *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission can be granted 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 proposed; 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.

10.1.2 Officers note that the construction of a manege for the sole use of a residential property would help to promote sustainable travel as the users would not have to travel in a private vehicle to access similar facilities elsewhere in the wider local area. It is considered that a domestic manege to serve one residential property can be

regarded as being supported in principle under the NPPF, subject to other material planning considerations being satisfied. Policies DM1 and CP8 of the development plan are considered to be important policies to have regard to in terms of the impact on other material considerations.

10.2 Design of the proposal & the impact on the character and appearance of the locality and heritage

10.2.1 The proposed manege would take the typical form for this type of development, a rectangular flat area that would involve cut and fill on the sloping site. The manege would be finished with a natural timber post and rail fence around the perimeter and a surface would be installed that would be suitable for horses to use. The surface material has not been agreed at this stage, but Officers recommend that these details can be secured through an appropriately worded planning condition. The Landscape Officer initially raised concerns with the proposal and commented that it *would include the creation of a steep engineered embankment, measuring over 70 metres in length, with its top over 8 metres above the adjacent public lane. The Landscape Officer's primary concern was that the presence of the embankment would be perceived from the lane and public rights of way to the south as being oppressive and urbanising of the historic vernacular context and degrade the quality of the landscape.*

10.2.2 The application has been amended following the comments of the Landscape Officer. The manege has been reduced from 60 metres by 30 metres to 45 metres by 25 metres. This is a notable reduction when comparing the original site plan with the amended site plan. The reduction in the size has allowed for the manege to be pulled away from the public road and the hedgerow that lines its northern edge. This has also reduced the amount of cut and fill required and the embankment on the fill side of the manege would be significantly less steep than the original scheme. The slope would be more akin to the natural slope of the field. Additionally, tree planting is also proposed to help break up the visual impact of the development. It is noted that trees to the south of the site are at a height where they already offer some screening of the proposed location for the manege.

10.2.3 Although no formal consultation response has been provided by the Landscape Officer on the amended scheme, they have verbally confirmed to the Case Officer that the proposal's impact has been lessened to an acceptable level following the amendments. Officers are satisfied that the reduction in the size of the manege has made a notable difference to the impact that the proposed development would have on the landscape character and appearance. When taking this into account with the existing partial screening provided by trees to the south of the site, the proposed additional trees, and a condition requiring the surface material to be agreed prior to installation, it is considered that the proposed development would have an

acceptable landscape impact and the impact would be compliant with Policies DM1 and CP8.

10.2.4 Brufords Farm is a Grade II listed building. The impact on its setting also needs to be considered. Applications for planning permission affecting a listed building or its setting must be determined in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires that *in considering whether to grant planning permission for development which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.*

10.2.5 The manege would be constructed in the field to the west of the listed building. There is the potential for the manege to be seen from within the curtilage of the listed building. However, the building would be on higher ground than the manege and with the reduced scale of the embankment on the lower side of the manege, it is considered that the only noticeable feature from the listed building curtilage would be the fencing around the manege, which would appear as rural fencing within a rural context. As such, there would be a negligible on the views from within the curtilage. In terms of the wider viewpoints, when looking at the site from the south, the listed building is set down more within the landscape and it is well screened by existing trees. The manege would be more visible but would also benefit from existing screening and additional planting. It would be difficult to see the manege in the context of the setting of the listed building and therefore its impact on the setting of the listed building when viewed from afar would also be negligible. Officers are satisfied that the impact on the heritage asset would not harm the character, appearance or setting of the listed building and Policies DM1 or CP8 of the development plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would be complied with.

10.3 Access, highway safety and parking provision

10.3.1 The proposal would result in the occupiers of Brufords Farm no longer having to travel in a vehicle with a horse box or a horse lorry to use a manege located elsewhere in the wider local area. As the manege would only be used by the occupiers of Brufords Farm, there would not be an increase in vehicles coming to and from the property. As such, there would not be an increase in the highway impact at the access to the property or on the local road network. The Highway Authority have confirmed that they have no observations on the proposal. The application is considered to comply with Policy DM1 of the development plan in terms of the highway impact, subject to the attachment of a condition restricting the use of the manege to only the occupiers of Brufords Farm.

10.4 The impact on neighbouring residential amenity

10.4.1 Northway is the nearest residential property to the application site. It is located on the opposite side of the public road. There are no other residential properties near the site. The proposal would not impact on the amenity of the neighbouring property in terms of overbearing or overlooking as it would be located a sufficient distance from the neighbouring dwelling and its garden. There is the potential for the use of the manege to impact on amenity when being used for dressage due to music being played during such activities. Officers have therefore considered it to be appropriate and necessary to attach a condition that prevents the playing of amplified music and use of lights. With the attachment of these conditions, the proposed development would not result in material harm to neighbouring residential amenity and the impact would comply with Policy DM1 of the development plan

10.5 The impact on ecology and biodiversity

10.5.1 The proposal would involve excavation works within an agricultural field. The agent has confirmed that the field has been maintained as it has been for years - taking a cut and then being used for grazing. They have also confirmed that the manege would be sited away from hedgerows and trees, and it would not be on land that has high ecological value. The Council's ecologist has looked at photographs of the application site and taken into account the case made by the agent, as outlined above. The ecologist is satisfied there would be negligible ecological value to be impacted by the proposed development and the development can continue without the need for an ecological survey. Subject to a condition securing ecological enhancements in accordance with Paragraph 174(d) of the NPPF and a condition restricting external lighting, the proposal's impact on ecology would comply with Policies DM1 and CP8 of the development plan.

11 Local Finance Considerations

11.1 Community Infrastructure Levy - N/A

12 Planning balance and conclusion

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

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

12.3 In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998 and the Equality Act 2010.

Appendix 1 – Planning Conditions and Informatives

Recommended Conditions

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

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

(A3) Location Plan

(A1) DrNo 011-BF-PL-01D Proposal

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

3. Prior to commencement of the development hereby permitted, a landscaping scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include details of the species, siting and numbers to be planted. The scheme shall be completely carried out within the first available planting season (1 October to 31 March) from the date of commencement of the development. Written confirmation of the completion of the landscaping scheme shall be submitted to the Local Planning Authority. For a period of 20 years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow or are uprooted shall be replaced by trees or shrubs of similar size and species.

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

4. No works shall be undertaken on site unless details of surface water drainage works to serve the manege hereby permitted have been submitted to, and approved in writing by, the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to first use of the manege and shall thereafter be retained in that form.

Reason: To ensure the adequate provision of drainage infrastructure.

5. Prior to the laying of the surface on the manege hereby permitted, a sample of the surface material for the manege shall be submitted to, and be approved in writing by, the Local Planning Authority. Once approved, the surface of the manege shall be finished in the approved material, and it shall be retained in that form thereafter, unless permission is granted by the Local Planning Authority for an alternative material.

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

6. Prior to first use of the manege hereby permitted, a scheme for ecological enhancement measures shall be submitted to, and approved in writing by, the Local Planning Authority. The ecological enhancement measures shall then be installed in accordance with the approved scheme and retained as such thereafter.

Reason: To provide net gains for biodiversity in accordance with Paragraph 174(d) of the National Planning Policy Framework.

7. The fence around the manege hereby permitted shall only be constructed from natural timber and erected as post and rail at the maximum height shown on drawing number BF-PL-01D. It shall be retained in that form thereafter and it shall not be replaced with a different type of fence, nor shall its height be increased above the height shown on drawing number BF-PL-01D, without planning permission being granted by the Local Planning Authority for those works.

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

8. The manege hereby permitted shall not be used other than for private recreational use in association with Brufords Farm (edged in blue on the approved Local Plan), and shall not be used for livery letting, leasing or any other commercial activity including breeding, giving of riding instruction, gymkhanas, trials or horse shows without the prior grant of planning permission from the Local Planning Authority.

Reason: To protect the amenities of this rural area and in the interests of protecting highway safety.

9. No amplified music shall be played in association with the manege hereby permitted.

Reason: To protect the quiet character of the area and the amenity of neighbouring residential properties.

10. The manege hereby permitted shall not be artificially illuminated in any way without the prior agreement in writing of the Local Planning Authority.

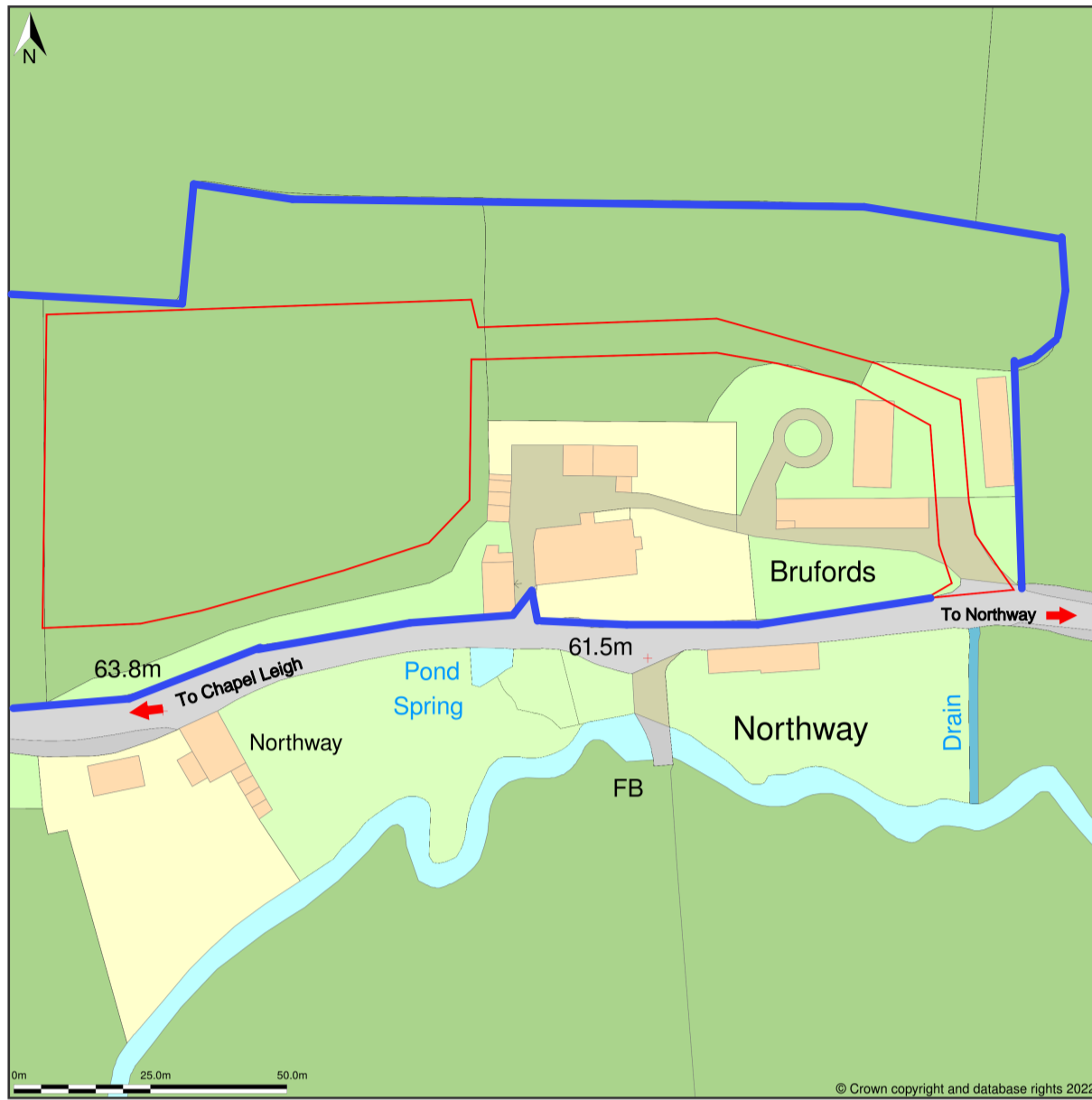
Reason: To protect the visual character and appearance of this rural landscape, and to prevent harm to local wildlife and any protected species.

Recommended Informative

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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Dr No 001 Location Plan - Brufords Farm, Northway Lane, Halse, Taunton, Somerset, TA4 3JL



Site Plan A shows area bounded by: 313032.81, 128914.06 313232.81, 129114.06 (at a scale of 1:1250), OSGridRef: ST13132901. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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Application Details	
Application Reference Number:	45/22/0010
Application Type:	Full Planning Permission
Earliest decision date:	27 October 2022
Expiry Date	31 October 2022
Extension of time	
Decision Level	Committee
Description:	Proposed Change of Use of Blue Ball Public House (Sui-generis) to Holiday Accommodation with Ancillary Bar (C3) and Community Use (F1 & F2) at Blue Ball Inn, Cockercombe Road, Bagborough (AMENDED DESCRIPTION)
Site Address:	BLUE BALL INN, COCKERCOMBE ROAD, BAGBOROUGH, TAUNTON, TA4 3HE
Parish:	45
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment Area:	No
AONB:	Quantock Hills
Case Officer:	Russell Williams
Agent:	
Applicant:	MR G FOWLER
Committee Date:	18 July 2023
Reason for reporting application to Committee	In accordance with the former SWT constitution and given the controversial and sensitive nature of the proposals.

1. Recommendation

1.1 That permission be REFUSED.

2. Executive Summary of key reasons for recommendation

Background

2.1 The application before Members was previously determined under Delegated Powers, with planning permission being granted on 19 December 2022 for the proposed change of use of The Blue Ball Inn from a public house to a holiday let with ancillary bar and community use. West Bagborough Parish Council had objected to

the application together with over 4 individuals. Accordingly; the application should have been referred to the planning committee for determination in accordance with the Council's constitution. Failure to follow the Council's scheme of delegation resulted in the Decision being unlawful and this was confirmed by the Court's following an application for Judicial Review. The original Decision Notice has now been quashed by Order of the Court, dated 9 May 2023 and the proposal has been considered afresh by officers.

2.2 Given this background and having regard to the controversial and sensitive nature of the proposals, the application being referred to Planning Committee for re-determination.

Reasons for recommendation

2.3 The proposed change of use of the Public House (Sui Generis) to a Holiday Let (C3) and community use (Use Class F1 and F2) would conflict with Core Strategy Policies CP2, CP5 and DM2 and Site Allocations and Development Management Plan Policy C4 together with guidance contained within the NPPF. The application would result in a reduction in employment opportunities and economic activity in the rural area and fails to adequately demonstrate that every reasonable effort has been made to secure a continued community use for the property, which if permission is granted, would revert to a holiday let with very occasional community use. As such the proposals would adversely impact upon the provision of community facilities in the area to the detriment of the local community and economy and conflict with local and national planning policy.

3. Planning Obligations and conditions and informatives

3.1 Conditions

None

3.2 Informatives (bullet point only)

3.2.1 Proactive Statement

3.3 Obligations

None

4. Proposed development, site and surroundings

4.1 Details of proposal

The planning application seeks permission for the Change of Use of Blue Ball Public House (Sui-generis) to Holiday Accommodation with Ancillary Bar (C3) and Community Use (F1 & F2) at Blue Ball Inn, Cockercombe Road, Bagborough.

The application only seeks planning permission for the change of use of the buildings identified within the existing planning unit and only limited information has been submitted demonstrating how the buildings within the site will function as holiday accommodation, the ancillary bar and community use.

4.2 Sites and surroundings

The site hosts existing buildings arranged in an ad hoc courtyard arrangement.

To the north of the site is an extensive area of car parking, associated with the existing use. The site is in the Quantock Hills Area of Outstanding Natural Beauty (AONB) but has no other statutory designation constraints.

The site (public house) is not registered as an asset of community value (ACV).

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

The site has no directly relevant planning history.

Reference	Description	Decision	Date
N/A			

6. **Environmental Impact Assessment**

N/A

7. **Habitats Regulations Assessment**

N/A - site is outside the catchment area for Phosphates.

8. **Consultation and Representations**

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

8.1 Date of consultation: 05 September 2022

8.2 Date of revised consultation (if applicable):

8.3 Press Date:

8.4 Site Notice Date: 15 September 2022

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

Consultee	Comment	Officer Comment
WEST BAGBOROUGH PARISH COUNCIL	<p>The Parish Council objects to this proposal and supports the widespread objection amongst both close neighbours and other parishioners to this proposed change of use.</p> <p>Our comments here try to reflect the major concerns expressed by parishioners at a recent Parish Council meeting. The Blue Ball is an historic pub and has been for over 400 years. It would not be right to accept that it is no longer a viable concern without a detailed study of the financial management of the pub. Parishioners are asking why, when the pub has been successful for over 400 years, it has now failed completely over the past few years. Simply accepting the claims of the applicant is not right in their view. For example, there are claims, which the Parish council cannot verify, that the rent charged to tenants was in excess of £50k per annum. There have been long periods when the pub has been periodically shut with no information as to whether it would re-open.</p> <p>This inevitably led to a situation where people thought it was permanently closed and went elsewhere.</p>	<p>Concerns regarding 'viability' are considered as part of the sequential approach expected in Policy.</p> <p>Concerns regarding noise from use are material and considered within the report.</p>

Consultee	Comment	Officer Comment
	<p>There is significant concern that the type of facility proposed, aimed at large groups of up to 16, attracts a different clientele, holiday accommodation in particular.</p> <p>Experience elsewhere in the Parish of such groups shows that anti-social behaviour such as loud noise beyond midnight, fireworks and external lighting being used throughout the night are commonplace in such developments. In this location, which is currently very quiet and has no street lighting, it would be a huge invasion of the close neighbours' enjoyment of their properties. It is also a concern to those with animals and causes a significant amount of distress to livestock. As this area is within the AONB, close to national trust land and a horse riding business, this would have additional negative consequence. It is also worth noting that due to the local geography, situated as it is at the top of a deep valley any noise would be magnified thus increasing its intrusion.</p> <p>There is already a significant amount of large holiday accommodation across the Parish, which calls into question the need for further such developments</p>	
<p>THE QUANTOCK HILLS AONB SERVICE</p>	<p>The AONB Service objects to this application. Although the physical landscape is not overly impacted by the proposal, the change in character from rural pub to holiday accommodation would have a high</p>	<p>The objection is noted.</p> <p>Matters relating to economic changes are considered in this report.</p>

Consultee	Comment	Officer Comment
	<p>impact on the AONB.</p> <p>The character of the area is under threat from a development of this nature.</p> <p>The potential to generate high levels of noise, light and disturbance to tranquillity is significant and at odds with the AONB's primary purpose, to conserve and enhance the AONB's natural beauty, its special qualities and distinctive characteristics.</p> <p>The Quantock Hills AONB Management Plan 2019-2024 is clear with regard to new structures and the need to support businesses and the local economy as a whole but it is also clear that great care needs to be given to the design and siting of any new developments within or close to the AONB. The Plan is a material consideration for the LPA and states in Chapter 2.6 Development Planning and Infrastructure: "The impact on the AONB's special qualities by development in the setting of the Quantock Hills needs to be fully considered in the planning process in line with NPPF paragraph 172. (Now paragraph 176 of revised NPPF 2021). The setting of the Quantock Hills AONB is the area within which development and land management proposals, by virtue of their nature, size, materials or design can be considered to have an impact, positive or negative, on its natural beauty and special qualities. This</p>	<p>Matters relating to noise are considered in this report.</p> <p>The claim that a proliferation of holiday lets in the AONB is detrimental is noted.</p>

Consultee	Comment	Officer Comment
	<p>includes threats to tranquillity from light pollution, recreation and tourism pressures, traffic and noise.” The relevant policies to be considered in the Management Plan include: DPIP3 – Protect local distinctiveness in AONB settlements and Quantock lanes and roads. DPIP6 – Ensure development in the setting of the AONB does not harm the natural beauty, character and special qualities of the AONB or otherwise prejudice the delivery of AONB purposes. DPIP7 – Protect the dark skies and tranquillity of the AONB. The impact of artificial lighting on ‘Dark Skies’ which are recognised as important elements of tranquillity and contribute a sense of wildness and remoteness, has not been assessed. Nor has the potential for noise and disturbance been considered. Any application should identify, describe and evaluate any special qualities and distinctive characteristics within the AONB. Any impact which causes loss, damage or detriment to these qualities or characteristics must be considered in the determination by the Planning Authority.</p> <p>There is a point where the increase in this type of holiday accommodation within the Hills is in danger of causing harm to the very qualities that attract people in the first place, whether they come to live in the area or just visit.</p> <p>From the description, the type of accommodation being offered does</p>	

Consultee	Comment	Officer Comment
	not seem to attract those wishing to enjoy the tranquilly of the hills and this location seems inappropriate for such a venture. It is interesting to note in the Business Proposal that it states "...allowing for the property to act as an events venue and possibly in the future even back to a pub." Why would this be considered when the applicant has made it very clear that a pub is no longer viable?	
LANDSCAPE	No comments received	No objection is recorded
ECONOMIC DEVELOPMENT	No comments received	No objection is recorded
WESSEX WATER	No comments received	No objection is recorded
SCC - ECOLOGY	No comments received	No objection is recorded
SCC - TRANSPORT DEVELOPMENT GROUP	Standing Advice	Response is noted - no objection if the proposal accords with Standing Advice

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

Consultee	Comment	Officer comment
N/A		

8.7 **Local representations**

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

14 letters have been received making the following comments (summarised)

Material Planning Considerations	
Objections	Officer Comment
Noise from Use	Noise levels from use are considered below and against what is currently in

	use at the site.
Economic Loss	Considered in this report
Loss of an amenity (asset) / visitor attraction	Considered in this report. It is noted the site is not registered as an ACV.
Loss of a community asset / function space	Considered in this report. It is noted the site is not registered as an ACV.
Support	Officer comment
N/A	

8.7.1 Summary of objections - non planning matters

- The PH has been run by people without experience;
- Refusal of owner to sell despite offers;
- Property is dilapidated;
- People need places to eat / drink;
- No need for community function space;
- Rents have been unrealistic

8.7.2 Summary of support - non planning matters

None

9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former Taunton Deane area. The Development Plan comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (SADMP) (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015) and Somerset Waste Core Strategy (2013).

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

new Somerset authority to prepare a local plan within 5 years of vesting day

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

CP1 - Climate change,

CP2 - Economy,

CP5 - Inclusive communities,

DM2 - Development in the countryside,

SD1 - Presumption in favour of sustainable development,

A1 - Parking Requirements,

C4 - Protection of community facilities,

CP8 - Environment,

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:

10.1.1 The principle of development

The Blue Ball at Triscombe is a commercial public house located within the Parish of West Bagborough, and is within the Quantock Hills AONB.

The application, as amended, seeks planning permission for the change of use of the existing public house and associated land and outbuildings within the red line area of the Site Plan, from a Public House to a holiday let with ancillary bar and community uses (Use Classes F1 and F2).

Within Paragraph 1.4.15 of the Site Allocations and Development Management Plan (SADMP) document the Council defines community facilities as buildings and spaces which are inclusive and provide for the health and wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of a community. It goes on to confirm that public houses are a community facility.

Having regard to the above, the application would, if approved, result in the loss of a

public house and its replacement with a permanent holiday let with a degree of community use. It is important to note that the community use, as submitted, would operate temporarily during the year and only if and when the holiday accommodation is not occupied or when an occasional booking is made for private events.

Core Strategy (CS) Policy CP5 establishes a framework for the Council's policies on protection of and provision of community facilities and services. CS Policy CP5 states that where viable, proposals will contribute towards *"the protection and enhancement of the supply of community facilities and local services."*

The National Planning Policy Framework (NPPF) states that planning policies and decisions should deliver the social, recreational and cultural facilities and services that the community needs and guard against unnecessary loss of valued facilities. They should also ensure that established facilities and services, where it is economically viable, are retained, and able to develop for the benefit of the community.

To assist Officers in assessing proposals that would result in the loss of community facilities, the former Taunton Deane Borough Council adopted a Technical Note (TN) in February 2014 that provides approved guidance for assessing such proposals.

Paragraph 3.1 states that *"any proposal for the loss of a community service or facility must demonstrate that the current use is not viable through a viability assessment and agreed marketing strategy."* Guidance on marketing strategies is set out in Section 5 of the TN

With the loss of a community facility being proposed, the principle of development falls to be considered against SADMP Policy C4. The policy seeks to ensure the protection of community facilities (which includes public houses in its definition). It states that the loss or change of use of existing community, cultural and social facilities will only be permitted where:

- A. Evidence is submitted to demonstrate that there is no longer a community need for the facility;*
- B. The facility is no longer financially viable;*
- C. It could not be put to another similar, community use; or*
- D. Replacement facilities are provided on site, or within the vicinity to meet the needs of the local population.*

The criteria have been assessed by Officers as follows:

A. Evidence is submitted to demonstrate that there is no longer a community need for the facility

No evidence has been submitted to adequately demonstrate there to be no ongoing community need for the facility.

No formal commercial marketing of the property appears to have been undertaken and a search online brings up no evidence of a marketing campaign seeking to sell, lease or rent the public house as a business entity.

It is stated that *“multiple options for both a new tenancy and the possibility of a freehold sale have been looked at. No possible applicants have wanted to take on The Blue Ball.”*

Whilst this may be the case, such a statement is not sufficient to demonstrate that there is no longer a community need for the facility. Indeed, objections indicate that there is an ongoing need for the facility and were a formal marketing campaign to be undertaken, it is entirely reasonable to believe an attractive rural property such as The Blue Ball could find a buyer or new tenant.

Criteria A is not satisfied as the applicant has failed to evidence that every reasonable endeavour has been made to find tenants or buyers and that the property is no longer needed as a community facility.

B. The facility is no longer financially viable

The application is supported by anecdotal evidence within the supporting Business Proposal that since 2008 and until its more recent closure, there have been 7 tenants of the property. It is stated that “the majority of tenants have not made a success of the pub and have left with financial difficulties.” Unfortunately this statement is not supported by any detailed evidence such as financial accounting.

Notwithstanding, no commercial viability appraisal has been submitted and it has not been demonstrated beyond all reasonable doubt that The Blue Ball could not operate as a financially viable business given the correct tenants/owners with a well-researched business plan.

Anecdotal evidence is no sufficient to demonstrate conformity with criteria B, which is not satisfied.

C. It could not be put to another similar, community use

As with criteria A above, no evidence has been submitted to demonstrate that the property could not be put to an alternative community use. Whilst it is noted that the proposals include a small degree of “community use”, the primary use of the property would be as a holiday let and the community use, allowing private parties for personal

or corporate events, would be limited to the low season when the holiday let is in lower demand and have very limited community benefit.

The application provides no detail on how the buildings and wider site could be used for community purposes and the provision of private and corporate events falls short of what can be considered a genuine community facility.

No evidence has been submitted to demonstrate whether or not the property could provide for health and wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of a community. This could extend to contacting local groups, the Parish Council etc. In the absence of adequate evidence, the proposals conflict with criteria C.

D. Replacement facilities are provided on site, or within the vicinity to meet the needs of the local population.

The application does not provide for replacement public house facilities on the site and there are no other comparable facilities in the area that could serve the needs of the rural community.

It is noted that the application includes the provision of an ancillary bar, but that appears that the bar is intended to be ancillary to the holiday let business and for use by holiday makers, not the public.

The proposal would lead to the loss of the public house with inadequate alternative provision being made. The proposals therefore conflict with criteria D.

In addition to the above, Core Strategy Policy DM2 (7.b) sets out the Council's approach towards the change of use of the buildings in the open countryside.

This policy states, in sub-section 7(b) that for a change of use to be acceptable a sequential approach must be followed for the conversion of existing buildings. The policy sets out a sequential approach to identifying whether a site is suitable for being used as one of the preferred uses, being

- i. Community uses;
- ii. Class B business uses;
- iii. Other employment generating uses;
- iv. Holiday and tourism;
- v. Affordable, farm or forestry dwellings;
- vi. Community housing;
- vii. In exceptional circumstances, conversion to other residential use.

Subsections v to vii are not applicable for consideration in this instance.

It is well established that in assessing a proposal for the change of use of a rural building against the hierarchy laid in DM2 (7.b), it is necessary for a property to be marketed for a minimum period of 12 months. As noted above, this has not taken place and instead the Council have been provided with anecdotal statements over the historic failure of the pub as a business. An assessment of the proposals against Policy DM2 has been provided but again, it is anecdotal evidence based upon simple assumptions and not hard commercial evidence. Such is not sufficient as to demonstrate conformity or otherwise with Policy DM2 (7.b).

Importantly, the proposed development seeks permission to change the use of the public house to a holiday let with ancillary community use. Whilst community uses are the first preferred use in the hierarchy, the principle use of the site would be as a holiday let and based upon the submitted statements, the community use would be infrequent and limited to the low season for the holiday let. This community use therefore carries a very limited amount of weight in assessing the principle of the development. Furthermore, insufficient evidence has been submitted to demonstrate whether the site is suitable or viable for Class B Business Uses or other employment generating uses.

The proposals would result in the loss of a public house which is an important community facility and in the absence of appropriate marketing, accounting and other forms of commercially reliable evidence, the proposed change of use will conflict with CS Policies CP5 and DM2(7.b), SADMP Policy C4 and Paragraph 84 (d) of the NPPF.

10.1.2 Design of the proposal

The planning application proposes no physical changes to the buildings. Therefore design is not a consideration in this instance.

10.1.3 Quality of Accommodation

The planning application only seeks permission for a change of use and no detailed plans relating to the provision of holiday accommodation, the ancillary bar or community facility have been submitted. As such this is not a consideration in this instance.

10.1.4 Access, Highway Safety and Parking Provision

Access to the site and level of parking will remain unaltered by the proposal. The parking area to the north west of the buildings is within the control of the applicant and is approximately 725 sq.m in area; its size is suitable for approximately 35

vehicle parking spaces.

In this instance the proposed change of use would not result in any adverse impacts upon of highways safety in the area and suitable access and parking provision will remain available to users.

10.1.5 The impact on the character and appearance of the locality

The change of use from a Public House to a holiday let with ancillary community use has received a number of objections, citing the change in character of the site, though the appearance of the buildings itself would not change as a result of this application.

The AONB Unit have stated in their objection that:

"the change in character from rural pub to holiday accommodation would have a high impact on the AONB.

The character of the area is under threat from a development of this nature.

The potential to generate high levels of noise, light and disturbance to tranquilly is significant and at odds with the AONB's primary purpose, to conserve and enhance the AONB's natural beauty, its special qualities and distinctive characteristics."

They have also stated that, in their opinion, the change of use would be contrary to Policies DPIP3; DPIP6 and DPIP7 of the Quantock Hills AONB Management Plan 2019 - 2024. In this instance the government states, in published guidance, that "You (the LPA) can use AONB management plans to help ... make decisions on development proposals."

The Policies in the Management Plan are material to consideration. For aiding consideration, the identified policies read:

DPIP3: Protect local distinctiveness in AONB settlements and Quantock lanes and roads.

DPIP6: Ensure development in the setting of the AONB does not harm the natural beauty, character and special qualities of the AONB or otherwise prejudice the delivery of AONB purposes.

DPIP7: Protect the dark skies and tranquillity of the AONB.

In relation to character, as the physical appearance of the buildings are not proposed to change, and with no change to lanes (roads), it is considered the proposal accords with Policy DPIP3.

With regards to Policy DPIP6, the Management Plan suggests in section 1.1 that 'special qualities' are those "special qualities [that] emerge from the land and the interaction of humans with it. Identified qualities include not only the flora, fauna, geological and physiographical features but also historic and cultural associations along with our sensory perceptions of the area such as views and tranquillity."

In relation to 'character', the Management Plan does not offer a clear definition. However, the character is defined by the special qualities that exist, which in this case are considered to be historic association of the site as a public house, its use and the tranquillity of its setting.

In this case, the scheme seeks to change the use of a building to a holiday let with plans for future expansion, and ancillary community use. mixed use, including full retention of the buildings as they are, as well as greater use of the site for holiday lets, but with the retention of the public bar facility and availability of use for events.

In this regard, the historic association is considered to be one that is retained (in that the buildings and their appearance will remain, providing that historic link (association) as expected by policy).

For consideration, and that also needs to be acknowledged, is that the sites' current lawful use is that of a public house (licensed premises), together with associated accommodation. Although the wider AONB is characterised by tranquillity, it must also be accepted that as a Public House that has the ability to provide associated entertainment, this in itself could result in noise at various times of the day (from visitors, music etc.), with unlimited numbers of people at the venue.

The proposed change to holiday lets, and community use (F1 - Class F1 is use for learning and non-residential institutions; F1 (a) Provision of education; F1 (b) Display of works of art other than for sale or hire; F1 (c) Museums; F1 (d) Public libraries or reading rooms; F1 (e) Public halls or exhibition halls; F1 (f) Public worship or religious instruction; F1 (g) Law courts. F2 - Class F2 is for local community use; F2 (a) Shops (mostly) selling essential goods, including food, where the shops premises do not exceed 280 square metres and there is no other such facility within 1000 metres; F2 (b) Halls or meeting places for the principal use of the local community; F2 (c) Areas or places for outdoor sport or recreation (not involving motorised vehicles or firearms); F2 (d) Indoor or outdoor swimming pools or skating rinks), could through licensing bodies control numbers, which at present is not possible.

In terms of perceived impacts on tranquillity (noise) as cited by the Parish Council, AONB Unit and objectors, the change proposed when considered against the sites' fall back position as a pub is not considered one that would result in loss of

tranquillity over or above that which could be experienced from the sites' use now. Knowing the above, the character and special qualities of the AONB would at a minimum be maintained (preserved).

In addition to the above, and in relation to Policy DPIP7, with no external changes proposed, light emissions from the site as currently experienced would not be amplified or exacerbated.

In light of the above it is not considered the change of use would result in an unacceptable impact on character or appearance of the area when considered as a whole.

10.1.6 The impact on neighbouring residential amenity

A number of objections have cited impacts that could arise from the sites use (noise; anti-social behaviour).

In this instance, knowing the sites existing lawful use as a Public House, the change to holiday lets and community uses as identified (Classes F1 and F2) is considered one that would have no greater impact on neighbouring residential amenity to that which could currently be experienced.

Furthermore, controls and powers to address and stop noise (that arises from anti-social behaviour) are available to the relevant authorities via the Anti-social Behaviour, Crime and Policing Act 2014. It is not the role of the planning authority to duplicate existing controls.

10.1.7 The impact on trees and landscaping

The proposed change of use details no physical changes. As a result there would be no impact on trees or ecology.

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

With no physical changes proposed there would impact on ecology or biodiversity.

In this instance, as the site is outside of the phosphate catchment area, there would be no effect on the Somerset Levels and Moors RAMSAR site.

10.1.9 Waste/Recycling facilities

This is not applicable in this instance as the application seeks planning permission

for the change of use only.

10.1.10 Flood risk and energy efficiency

With no physical change proposed the scheme would have no effect on flood risk or energy efficiency.

10.2 Economic Effects

A number of objections have suggested the change of use would be detrimental to the economy of the area.

Policy CP2 of the Development Plan says that proposals which lead to the loss of existing or identified business will not be permitted unless the overall benefit of the proposal outweighs the disadvantages of the loss of employment or potential employment on the site.

The benefits of providing a use within the buildings that would keep them in active occupation, as well as providing employment opportunities for marketing, cleaning and management are noted, however the level of employment associated with running a holiday let business and occasional "community" events is limited and will fall well short of the employment and economic activity associated with a well run public house, particularly if food is offered as is the case with rural establishments such as The Blue Ball.

It is therefore considered that the proposals will result in a loss of employment and economic activity, to the detriment of the local rural economy. Such conflicts with CS Policy CP2 and Paragraph 84 of the NPPF.

10.3 Heritage impact

The site is not listed and is not within a conservation area. As such, the proposed change of use would have no effect on heritage assets.

11 Local Finance Considerations

11.1 Community Infrastructure Levy

Creation of holiday accommodation is CIL liable regardless of size.

This proposed development measures approximately 402 sqm.

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £50,250.00. With index linking this increases to approximately £71,000.00.

12 Planning balance and conclusion

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

12.2 For the reasons set out above, the development fails to comply with CS Policies CP2, CP5 and DM2(7.b), SADMP Policy C4 and guidance within the NPPF at paragraph 84. The development would result in the loss of a community facility which are already poorly provided in the area. The justification for the proposed change of use is inadequate and fails to evidence a lack of viability for the public house business along with a failure to appropriately market the property in order to establish whether a buyer or new tenant can be found for the business or whether other employment generating uses of community uses may exist. The harm associated with the loss of the community facility and conflict with development plan policies carries significant weight and when regard is had to the limited benefit of creating a holiday let and the occasional use of the site for community purposes, the harm associated to the proposals significantly and demonstrably outweighs the limited benefit. Having regard to all the matters raised, it is therefore recommended that planning permission is refused.

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 – Reason/s for refusal

- 1 The local planning authority does not consider that sufficient evidence has been provided as to demonstrate that there is no reasonable likelihood of the property being found a new owner or tenant so as to prevent the loss of the community facility through conversion to an alternative re-use. Furthermore, the proposal will result in the loss of the only remaining community facility within the area of Triscombe, resulting in the loss of a rural business and source of local employment opportunities. Such is contrary to Policies CP2,

CP5 and DM2 (7.b) of the Taunton Deane Core Strategy, Policy C4 of the Site Allocations and Development Management Plan and Paragraph 84 of the National Planning Policy Framework, which recognise the importance of maintaining and providing local community facilities within rural areas in order to sustain the viability of communities and the local economy and tackle social exclusion.

Notes to applicant.

1. In accordance with paragraph 38 of the National Planning Policy Framework 2021 the Council works in a positive and creative way with applicants and looks 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.



The Cottages



Blue Ball Inn



Tally Ho Cottage

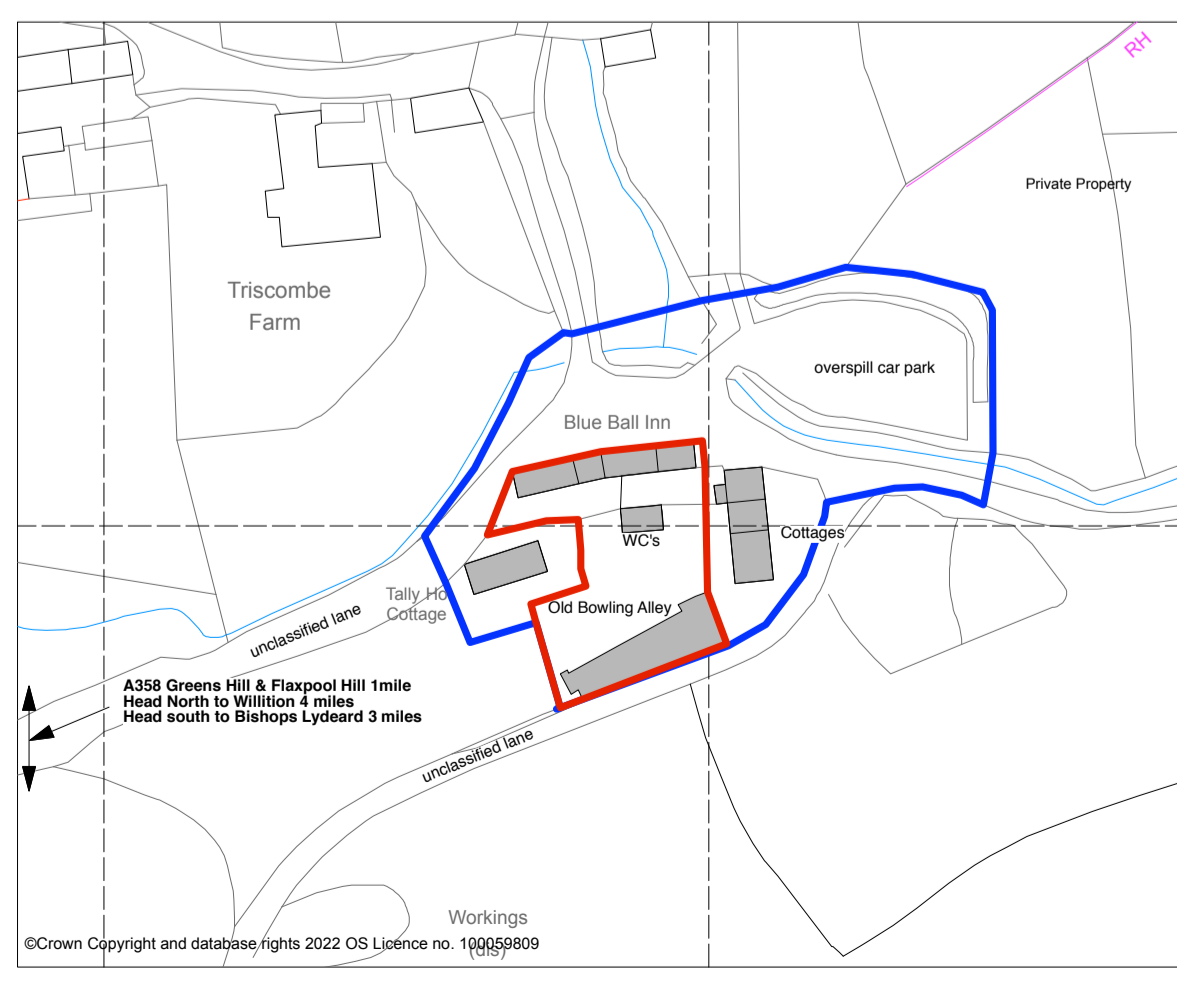


WC's & The Cottages

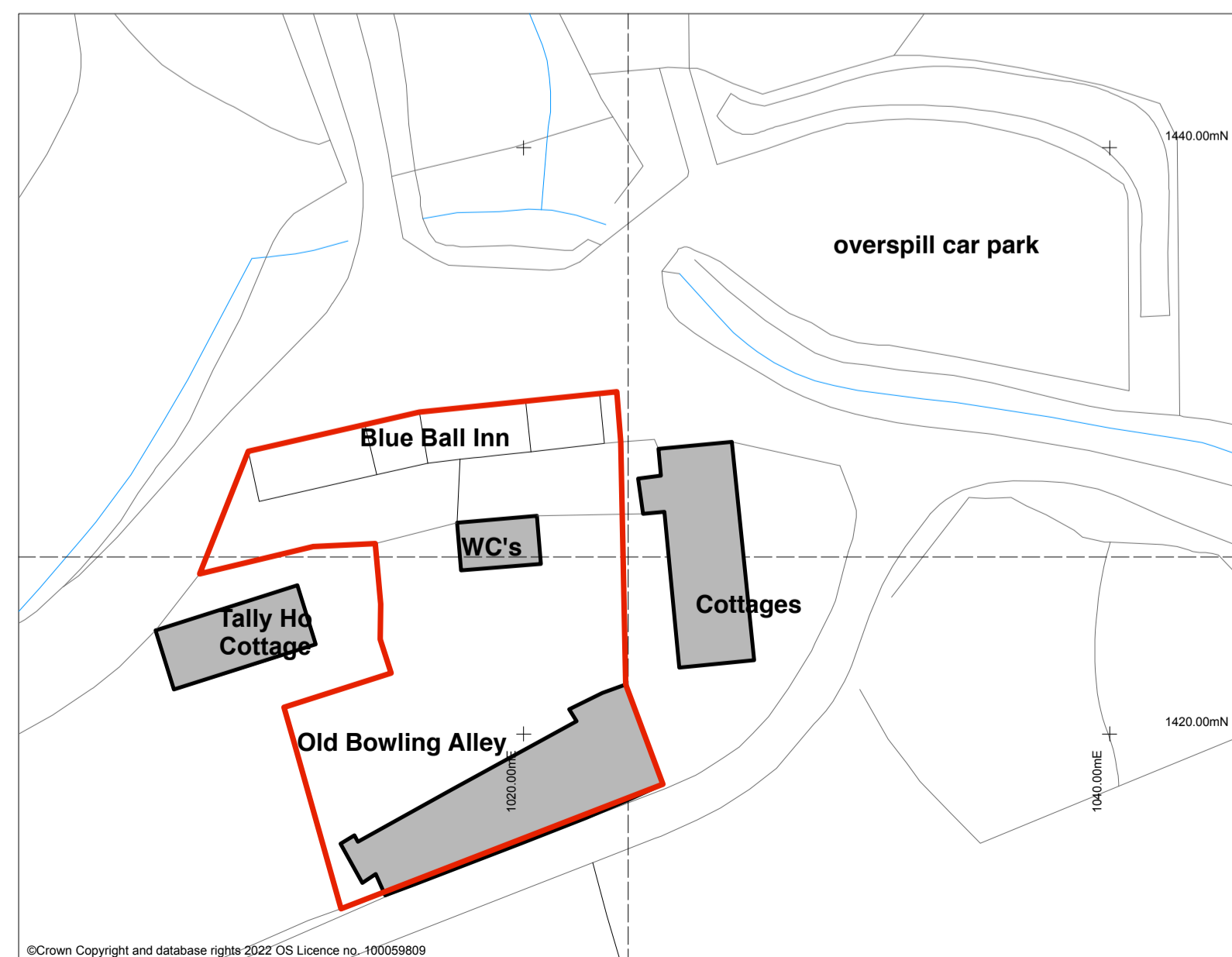
Page 209



Gardens



Location Plan 1:1250



Block Plan 1:500

AB	Arch Head Height	ER	Earth Rod	RSD	Roller Shut Door
A/B	Air Brick	ET	EP+Transformer	RSJ	Rolled Steel Joist
AR	Assumed Route	FB	Flower Bed	SI	Sign Post
AV	Air Valve	FBD	Floor Board Direction	SP	Arch Spring Point Height
BB	Bellisha Beacon	FH	Fire Hydrant	SV	Stop Valve
BH	Bore Hole	FL	Floor Level	SW	Surface Water
BL	Bed Level	FP	Flag Pole	SY	Cable Stay
BO	Bollard	FW	Foat Water	Tac	Tactile Paving
BRP	Brace Post	GG	Gully Grate	TC	Telecom Cover
BS	Bus Stop	GV	Gas Valve	TH	Trial Pit
BU	Bush	HH	Head Height	THL	Threshold Level
BW	Barbed Wire Fence	IC	Inspection Cover	TL	Traffic Light
BOX	Box (Utilities)	IL	Invert Level	TOW	Top of Wall
C/B	Close Board Fence	I/R	Iron Railings	TP	Telegraph Pole
CH	Cill Height	K/O	Kerb Outlet	TS	Trailer Signal Cover
CL	Cover Level	LP	Lamp Post	TV	Cable TV Cover
CLL	Chain Link Fence	MH	Manhole	UB	Universal Beam
C-Lev	Ceiling Level	MP	Marker Post	UC	Unknown Cover
Col	Column	NB	Name Board	UK	Unknown Tree
C/P	Chestnut Paling Fence	OHL	Overhead Line (approx)	USB	Under Side Beam
CR	Cable Riser	Par	Panel Fence	UTL	Unable To Lift
C/W	Chicken Wire	PB	Post Box	VP	Vent Pipe
DC	Drainage Channel	PM	Parking Meter	WB	Waste Bin
DH	Door Head Height	PO	Post	WH	Weep Hole
DIL	Dilapidated	P/R	Post & Rail Fence	WL	Water Level
DP	Down Pipe	P/W	Post & Wire Fence	WM	Water Meter
DR	Drain	P/Wall	Partition Wall	WO	Wash Out
EBX	Electric Box	RE	Rodding Eye	W/C	Floor to Ceiling Height
EC	Electric Supply Cover	RL	Ridge Level	W/C	Floor to False Ceiling Ht
EL	Eaves Level	RP	Reflector Post	W/C	Floor to False Ceiling Ht
EP	Electric Pole	RS	Road Sign	W/C	Floor to False Ceiling Ht
				W/C	Survey Control Station

DRAWING NOTES

Topographical Surveys
Trees are drawn to scale showing the average canopy spread. Descriptions and heights should be used as a guide only.

All building names, descriptions, number of storeys, construction type including roof line details are indicative only and taken externally from ground level.

All below ground details including drainage, voids and services have been identified from above ground and therefore all details relating to these features including: sizes, depth, description etc will be approximate only. All critical dimensions and connections should be checked and verified prior to starting work.

Detail, services and features may not have been surveyed if obstructed or not reasonably visible at the time of the survey.

Surveyed physical features may not necessarily represent the legal boundary line.

Measured Building Surveys
Measurements to internal walls are taken to the wall finishes at approx 1m above the floor level and the wall assumed to be vertical.

Cill heights are measured as floor to the cill and head heights are measured from all to the top of window.

General
The contractor must check and verify all site and building dimensions, levels, utilities and drainage details and connections prior to commencing work. Any errors or discrepancies must be notified to Survey Solutions immediately.

The accuracy of the digital data is the same as the plotting scale implies. All dimensions are in metres unless otherwise stated.

The survey control listed is only to be used for topographical surveys at the stated scale. All control must be checked and verified prior to use.

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Do not scale from this drawing.



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Rev A. Changes to the red line boundary. 01/09/2022

JACKSON ARCHITECTS LTD

PROJECT: Blue Ball Inn Triscombe Taunton Somerset TA4 3HE PROJECT NO: 1047

DRAWING TITLE: Site survey, Location & Block Plans SCALE: 1:200

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