

# Public Agenda Pack



Notice of Meeting of

## **PLANNING COMMITTEE - WEST**

**Tuesday, 20 June 2023 at 2.00 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

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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, 19 June 2023** by email to [democraticserviceswest@somerset.gov.uk](mailto:democraticserviceswest@somerset.gov.uk) . Further information on the public speaking arrangements at Planning Committee is provided in the Public Guidance Notes near the front of this agenda pack.

The meeting will be webcast and an audio recording made.

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, 12 June 2023.

# **AGENDA**

**Planning Committee - West - 2.00 pm Tuesday, 20 June 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 (Pages 23 - 24)**

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.)

## **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 and you will be asked to speak before Councillors debate the issue.

We are now live webcasting most of our committee meetings and you are welcome to view and listen to the discussion. The link to each webcast will be available on the meeting webpage, please see details under 'click here to join online meeting'.

**5 Planning Application 3/39/21/028 - Land to the North of the Transmitting Station, Washford, Williton (Pages 25 - 88)**

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

**6 Planning Application 06/22/0027 - Quantock View, Bishops Lydeard, Taunton (Pages 89 - 104)**

To consider an application for formation of five car parking spaces on part of green space at Quantock View, Bishops Lydeard.

**7 Planning Application 38/19/0426 - Corfield Hall, Magdalene Street, Taunton (Pages 105 - 126)**

To consider an application for demolition of Corfield Hall and erection of 11 no. almshouse flats with community room and ground floor offices for Taunton Heritage Trust.

**8 Planning Application 42/22/0055 - Orchard Grove, Land at Comeytrove/Trull, Taunton (Pages 127 - 166)**

To consider an 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.

**9 Planning Application 3/32/22/010 - The Babbling Brook, Shurton Road, Stogursey, TA5 1QE (Pages 167 - 202)**

To consider an application for a three year temporary change of use of land and siting of 3 No. non-permanent pods for year around holiday letting.

**10 Planning Application 38/23/0098 - 22 Wilton Street, Taunton, TA1 3JR (Pages 203 - 214)**

To consider and application for construction of additional parking space with rearranged pedestrian access at 22 Wilton Street, Taunton.

## **11 Planning Appeal Decisions (for information) (Pages 215 - 248)**

### **Please note:**

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

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

#### **Exclusion of the Press and Public**

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

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

*(Or for any other reason as stated in the agenda 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](mailto: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.



### **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 meeting will be webcast and can be viewed at:

<https://someset.public-i.tv/>

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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, 16 May 2023 at 1.00 pm

**Present:**

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

Cllr Norman Cavill  
Cllr Caroline Ellis  
Cllr Steven Pugsley  
Cllr Gwil Wren  
Cllr Habib Farbahi

Cllr Dixie Darch  
Cllr Andy Hadley  
Cllr Sarah Wakefield  
Cllr Mandy Chilcott

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

Apologies were received from Councillors Ross Henley, Andy Sully (substituted by Councillor Habib Farbahi) and Rosemary Woods (substituted by Councillor Mandy Chilcott).

Councillor Marcus Kravis was absent.

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

The Chair advised that the minutes of the previous Somerset West and Taunton Planning Committee meetings held on 23 February, 2 March, 27 March and 30 March 2023 (two meetings) would be approved at the Full Council meeting on 24 May 2023.

**3 Declarations of Interest or Lobbying - Agenda Item 3**

In addition to the interests listed in the agenda papers, Members present at the meeting declared the following interests:

Councillors Simon Coles, Norman Cavill, Dixie Darch and Caroline Ellis confirmed that following the Taunton Town Council elections, which took place after the agenda was published, they are no longer Taunton Shadow Town Councillors.

Agenda item 5 – application 19/22/0023

No declarations of interest were made in relation to this application

Agenda item 6 – application 32/22/0004

All Councillors on the Committee (with the exception of Councillors Chilcott and Farbahi) had received an email from the agent in respect of this application. Councillors confirmed that they had not fettered their discretion and were able to take part in the debate and vote on the application.

Councillor Gwil Wren confirmed that, as the Divisional Ward Member he'd had a telephone conversation with the agent/ applicant and had also sent them an email. Therefore, he would abstain from voting on this application.

Councillor Sarah Wakefield also confirmed that she's had a conversation with the agent but had not fettered her discretion.

Councillor Cavill declared a personal interest as a farmer.

Agenda Item 7 – application 42/23/0022

Councillor Farbahi confirmed that he represented Comeytrove and had commented on previous planning applications, particularly relating to the pumping station. However, in relation to this application he had expressed no view and would take part in the debate and vote on the matter.

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

Mrs Janet Lloyd (former Somerset West and Taunton Councillor) addressed the Committee to highlight a discrepancy with the published timescales for public speaking. In one place it stated 12 noon providing 1 clear working day before the meeting. (for example, for a meeting being held on a Wednesday, the deadline will be 12 noon on Monday prior to the meeting). However, in the planning committee guidance it says no later than 12 noon on the working day before the Committee meeting.

The Chair confirmed that the discrepancy had already been picked up by Democratic Services and was in the process of being amended.

There were no other speakers in public question time.

Speakers for the applications were as follows:

Application No.	Name	Position	Stance
32/22/0004	Mr Piers Pepperell	Member of the public/ local vet	In support
	Cllr Janet Lloyd	Chair of Sampford Arundel Parish Council	In support
	Mr Sam Tucker	Applicant	In support

There were no registered speakers for applications 19/22/0023 and 42/23/0022.

**5 19/22/0023 Erection of a detached garage with store and office above at Deep Springs, Village Road, Hatch Beauchamp - Agenda Item 5**

The Officer's Report stated that this application had been referred to the Planning Committee West as the agent submitting the application is an agency member of staff working in the Employment, Economy and Planning Service.

The Recommendation was that permission be granted subject to conditions.

The proposal is considered to comply with policy and would not have an adverse impact upon the neighbouring properties. Amended plans had been submitted reducing the height by approximately 1 metre, taking into account the comments received from the Parish Council. The dimensions of the building measure approximately 7 metres tall by 9.5 metres wide and 7 metres deep.

The Planning Officer outlined the application to the Committee with the assistance of a presentation.

There were no public speakers for this application.

Discussion took place around:

- The height and how it compared to the historic application. The Planning Officer confirmed that the original application approved in 2019 didn't have the store above but this one does to make a home office in the store. Also, that the height of the garage was 7 metres tall and designed to accommodate a motor home,

and that conditions 3 and 4 in the report relate to it as a residential garage. It cannot be changed without a further planning permission.

- Whether residents would be aware that the plans had changed and were given the opportunity to comment on the amended plans. The Planning Officer confirmed any amended plans go back out to consultation.
- Whether the structure would be visible from the road. The Planning Officer confirmed that there would be glimpses only.
- In terms of condition 1, what the time limit three years related to. Officers confirmed that condition 1 limits the life of the planning permission and means that work would need to begin within 3 years of the date of the planning permission.
- In terms of condition 2, what is meant by drawing numbers. Officers confirmed that if the Committee decides to approve the application the plans would be included in Condition 2 so the developer is clear about what is permitted when they carry out the building work
- In respect of conditions 3 and 4, relating to the garage being retained for parking and ancillary use of the garage and office, and what that meant. Officers confirmed it would be ancillary to residential use of the building known as Deep Springs. Many people work from home now so that would be appropriate but if the it could not be used as an independent commercial unit without coming back for a separate new planning permission.
- Whether the conditions were enforceable. Officers confirmed that the conditions are enforceable and if the Council received a complaint, the enforcement officer would carry out a visit and issue an enforcement notice if appropriate.

The Committee **RESOLVED** that planning application 19/22/0023 be approved in accordance with the Officer's Recommendation which was that permission be granted subject to conditions.

Proposed by Cllr Steven Pugsley; seconded by Cllr Caroline Ellis

On being put to the vote the proposal was carried unanimously by 11 votes in favour, 0 vote against and 0 abstentions.

Cllr Derek Perry arrived at the meeting at 1.25pm, prior to the commencement of agenda item 6.



**6 32/22/0004 Application for Outline Planning with all matters reserved, except for access, for the erection of 1 No. agricultural workers dwelling on land to the South East of Home Farm, Breach Hill, Sampford Arundel - Agenda Item 6**

The Planning Officer outlined the application to the Committee with the assistance of a presentation.

The key points were:

- This is an outline application with the access only for consideration. Appearance, landscaping, layout and scale are not under consideration at this stage.
- The proposed development uses existing access from the main driveway, goes around existing agricultural buildings and then joins back up to the development site.
- There is a proposal for an orchard between the existing Farm House and the proposed new agricultural workers dwelling to protect the amenity of each dwelling. The proposed orchard is not for consideration as part of this planning application and overlooking and loss of amenity would be considered at the design stage of the dwelling at reserve matters should this application gain consent.
- The proposal is that the new dwelling would be sited adjacent to the existing dwelling. This would then make it adjacent to the settlement boundary of the village and the existing farm complex.
- The site is in the countryside in an unsustainable location and therefore needs to fully compliment Policy 1a which assesses new permanent agricultural workers dwellings.
- The proposed dwelling would be required for a full time worker employed by the business which is considered to be financially acceptable. Figures show 9.38 full time employees are required to service the existing business.
- There is no other dwelling associated with the holding.
- The applicant's vets submitted two letters, the first submitted as part of the application stating it would be wise to have 1 preferably 2 experienced workers situated on site at Home Farm. The second letter confirmed it is essential rather than wise.
- The access to be used by the proposed dwelling and highway conditions would be used to secure parking provision, use of garages and electric vehicle charging points.
- Policy H1a relates to permanent housing for rural workers. Point d states 'the functional need could not be fulfilled by another existing dwelling on the unit, or

any other existing accommodation in the local area which is suitable and available for occupation’.

- In this case the justification for criteria d) is 10-15 minute drive time. That is the search area for the local area. An alternative accommodation assessment was submitted by the agent which showed two 2 bedroom dwellings with parking all within the 10-15 minutes drive time.
- A further update for committee was an additional reason for refusal relating to phosphates and the fact that insufficient information had been submitted to satisfy the Local Planning Authority that the ecology impacts from the development have been sufficiently taken into account and, as such substantial mitigation measures have not been provided’.

The Planning Officer set out that the recommendation was to refuse the application on the grounds of:

1. The proposed development does not accord with policy H1a of the Site Allocations and Development Management Plan as there is other suitable accommodation available within a 10-15 minute drive time.
2. The proposed development has failed to successfully address the matter of phosphates.

There were three public speakers for this application.

The Committee was addressed by Mr Piers Pepperell, Director at Mount Vets, speaking in support of the application. His comments included:

- That he had been a veterinary surgeon and member of the Royal College of Veterinarians for 25 years and a farm vet for over 20 years.
- He had worked with the Tucker family for the majority of his working life and their focus is on animal welfare and sustainable growth.
- Home Farm has now grown to the size where an onsite herd manager is essential to maintain the standards of welfare needed for the stock.
- The herd consists of about 300 Holstein dairy cows which calve all year round so important to have someone on hand to ensure the animal welfare and safety on site 365 days a year. Home Farm also has a sheep flock and 200-300 beef animals.
- The need to be within the locality to hear and assist any animals in distress or difficulty, with the proposed location for the development being perfect for this
- The new dwelling is required to maintain the welfare and management for these animals. Being up to 15 minutes away is unacceptable for the welfare of the animals.

The Committee was addressed by Cllr Mrs Janet Lloyd, Chair of Sampford Arundel

Parish Council, speaking in support of the application. Her comments included:

- Although deemed to be in open countryside Home Farm is adjacent to the centre of the village settlement of Sampford Arundel, which is a village not a hamlet as described in the officer's report.
- The site of the proposed dwelling is completely within curtilage of the farm.
- This successful business is the only remaining milking farm in the village.
- Home Farm is the second largest employer in the village employing seven staff and is a major contributor to the economy of the area.
- Home Farm has a herd of 220 milking cows and they calve all year round to produce the next generation of cows and more milk. Support and encouragement should be given to local farmers to produce food and milk and reduce food miles.
- I implore you to go against the officer's recommendation and approve this application which includes an agricultural workers dwelling at Home Farm for the reasons including the functional need to have a herd person on site constantly.

The Committee was addressed by Mr Sam Tucker, Applicant, speaking in support of the application. His comments included:

- Home Farm is 650 acres in size and has 200 plus milking cows and 500 cattle in total as well as 180 sheep.
- Work full time on the farm for 10 years, manage the dairy herd and look after the rest of the farm as well.
- The cows have to be milked twice a day, fed and bedded up and they have to be checked day and night when they are calving. On average there is a calf born every other day but sometimes there can be upwards of four born a day, and it mainly happens at night.
- If the cows require assistance, it's a two person job and have to keep checking on them so it would be impractical to travel 10-15 minutes back and forwards.
- It's vital to live on the farm to manage the herd and ensure their welfare
- Permission has been granted on other farms including one down the road which has a third less animals.

Discussion took place around:

- The need for the Committee to make decisions according to policy
- The rationale behind the criteria in policy H1a and whether it was anticipated that the farm worker would be able to afford to buy accommodation nearby or whether the farm owner would buy the property.
- Whether the farmer could live in the existing Farm House
- Phosphates – whether there was a justifiable reason to refuse on this ground at

this stage and whether phosphates mitigation could be part of the full planning application when that came forward

- Whether planning trees could be used to offset the phosphates issue
- Policy does not allow unrestricted building in the countryside – there has to be an agricultural tie to the farm.
- Having a database of properties in the local area that have an agricultural tie would be useful
- Whether advice from the Vet would count as professional advice. Officers confirmed that the Committee should certainly take account of comments made by public speakers and pay particular attention if the speaker is professionally qualified.
- Whether the application should be deferred to enable a phosphate solution to come forward.
- Whether the application is compliant with Policy H1a due to the fundamental need for the agricultural worker to be onsite for the welfare of the animals and not living 10–15 minutes away.
- The fact that every application has to be considered in accordance with the development plan. All 5 criteria have to be passed in terms of policy H1A.
- The fact that evidence shows that there is suitable and available alternative accommodation within 10-15 minute drive.
- What suitable and available actually meant. Whether the alternative accommodation is suitable for supporting the livestock business given the advice from the Vet. Whether the alternative accommodation is available given property and rentals are under pressure in the area, and the fact that it might be available online but might not be available to the farm worker.
- That Planning Policies need to be updated to reflect the challenges faced by farmers
- The functional need in respect of Policy H1a in this case is very particular and established and cannot be fulfilled living up to 15 minutes drive away from the farm. Good animal husbandry requires that you have someone on site all the time to look after the calves.
- The reduction in carbon impact of driving less if they are based on site
- Whether the Council policies would be considered as out of date as per section 11 of the National Planning Policy Framework section in favour of application unless adverse impacts.
- Whether the application should be approved with conditions including a phosphates solution.

The Committee **RESOLVED** that planning application 32/22/0004 is delegated to officers to approve the application on the grounds that the committee is satisfied that there is a functional need for an agricultural dwelling on this site in the particular circumstances of this case. Subject to a suitable phosphate mitigation

solution being secured via a S106 agreement and planning conditions to be delegated to officers in consultation with the chair/ vice chair of Planning Committee West.

Proposed by Cllr Norman Cavill; seconded by Cllr Steven Pugsley

On being put to the vote the proposal was carried by 8 votes in favour, 2 votes against and 1 abstention.

Following the vote a Councillor advised that another Local Planning Authority had included a succession farm dwelling policy within its adopted Local Plan and suggested that this should be considered when the Somerset Council Local Plan is produced.

**7 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 - Agenda Item 7**

The Officer's Report stated that this application had been referred to the Planning Committee West as Each application at the Comeytrove Garden Community, known as Orchard Grove, had been subject to Planning Committee scrutiny given the significance of the scheme and the public interest

Cllr Coles confirmed that he had asked for the application to come forward due to Members having had lots of conversations with the public in relation to the Comeytrove development. Therefore he felt that it was reasonable to bring it before the Committee so that members of the public could come along and comment if they chose to.

The Planning Officer outlined the application to the Committee with the assistance of a presentation and confirmed that this was a minor application compared to other Comeytrove applications and related only to the erection of a substation to service the Primary School at Orchard Grove, Comeytrove.

The officer recommendation was that planning permission be granted subject to conditions and to delegate approval to the Service Manager, Development Management in consultation with the Chair and Vice Chair subject to no adverse comments being received by end of 19 May 2023 (the end of the consultation period).

There were no public speakers for this application.

There was no debate on this application.

The Committee **RESOLVED** that planning application 42/23/0022 be approved in accordance with the Officer's Recommendation which was that planning permission be granted subject to conditions and to delegate approval to the Service Manager, Development Management in consultation with the Chair and Vice Chair subject to no adverse comments being received by end of 19 May 2023 (the end of the consultation period).

Proposed by Cllr Steven Pugsley; seconded by Cllr Mandy Chilcott

On being put to the vote the proposal was carried unanimously by 11 votes in favour, 0 vote against and 0 abstentions.

**8 Access to Information - Exclusion of the Press and Public - Agenda item 9 - Agenda Item 8**

The Committee **RESOLVED** that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business (Agenda Item 9 on the ground that it involved the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information).

**9 Enforcement Action - Agenda Item 9**

**(The meeting ended at 4.10 pm)**

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**CHAIR**



## **SOMERSET COUNCIL**

### **COUNCILLORS WHO ARE ALSO CITY, TOWN AND/OR PARISH COUNCILLORS**

<b>SOMERSET COUNCILLOR</b>	<b>CITY, TOWN AND/OR PARISH COUNCIL</b>
Norman Cavill	West Monkton Parish Council
Tom Deakin	Taunton Town Council
Caroline Ellis	Taunton Town Council
Ross Henley	Wellington Town Council
Marcus Kravis	Minehead Town Council

**The memberships of City, Parish or Town Councils will be taken as being declared by these Councillors to be other registerable interests in the business of the Somerset Council meeting and need not be declared verbally.**

**Monitoring Officer of Somerset Council**

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<b>Application Details</b>	
Application Reference Number:	3/39/21/028
Application Type:	Full Planning Permission
Earliest decision date:	02 <sup>nd</sup> May 2023
Expiry Date	24 <sup>th</sup> March 2022
Extension of Time Date	24 <sup>th</sup> 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 <sup>th</sup> 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: 24<sup>th</sup> December 2021

8.2 Date of revised consultation (if applicable): 18<sup>th</sup> April 2023

8.3 Press Date: 07<sup>th</sup> January 2022

8.4 Site Notice Date: 05<sup>th</sup> January 2022

8.5 Statutory Consultees the following were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
<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 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	HE have emphasised that concerns cannot be 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



	regarding the application on heritage grounds.	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 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	Addressed in Officer's report under section 10.5 but can be controlled by way of a condition.

	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 and public benefit should be considered. Recommendation that Historic England is notified of development that affects the setting of St Decumans Church. There will be less than	Addressed in Officer's report under Section 10.5.

	<p>substantial harm caused to the setting of the Transmitter station and in accordance with NPPF para 202 public benefit should be considered. 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 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</p>	<p>Addressed in the Officer’s report under Sections 10.1-10.13.</p>

	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 works be required.	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.
<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	Reconsulted Wessex Water on the 17 <sup>th</sup> April 2023 with a revised landscape proposal including the easement running across the site. No final response at the time of writing this

	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.	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 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	Addressed in the Officer's report under Sections 10.1-13.

	on the viability of farms, setting of heritage assets and ecology.	
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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 17<sup>th</sup> and 18<sup>th</sup> 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 in 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 25<sup>th</sup> 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 (25<sup>th</sup> 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 28<sup>th</sup> 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 If 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.310.15).*

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 is 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 11<sup>th</sup> 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 26<sup>th</sup> 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** - 15<sup>th</sup> 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 to 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 (11<sup>th</sup>)). 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**

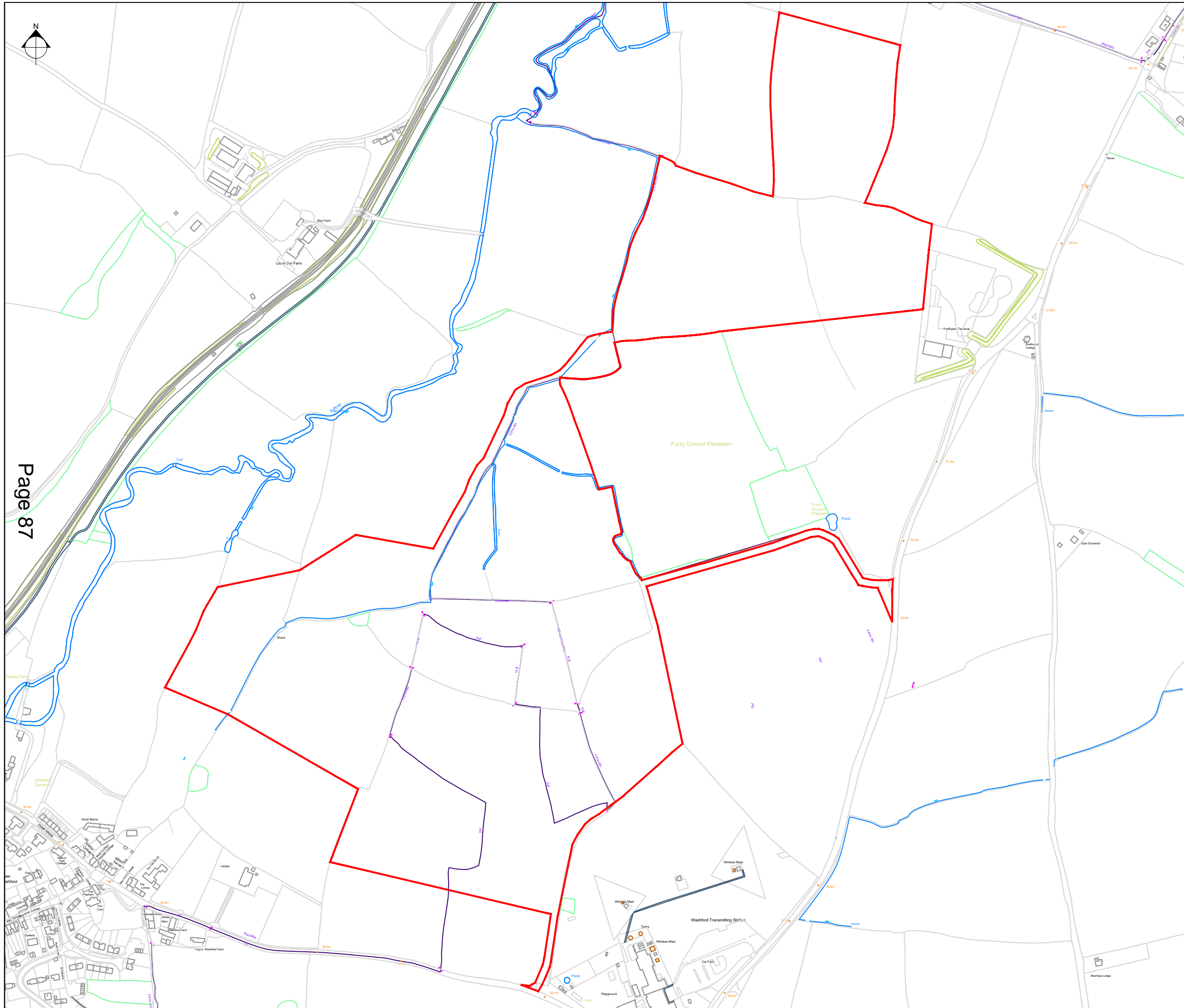
In accordance with paragraph 38 of the National Planning Policy Framework 2021 the Council has worked in a positive and creative way and has imposed planning conditions to enable the grant of planning permission.

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 (3<sup>rd</sup> 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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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**  
1:5000

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

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Application Details	
Application Reference Number:	06/22/0027
Application Type:	Full Planning Permission
Earliest decision date:	16 September 2022
Expiry Date	14 October 2022
Extension of time	N/A
Decision Level	Planning Committee
Description:	Formation of five car parking spaces on part of green space at Quantock View, Bishops Lydeard
Site Address:	QUANTOCK VIEW, BISHOPS LYDEARD, TAUNTON
Parish:	06
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment Area:	Yes
AONB:	No
Case Officer:	Anthony Pick
Agent:	N/A
Applicant:	BISHOPS LYDEARD & COTHELSTONE PARISH COUNCIL
Committee Date:	20 June 2023
Reason for reporting application to Committee	At the discretion of the director in the public interest.

## 1. Recommendation

1.1 That planning permission be REFUSED.

## 2. Executive Summary of key reasons for recommendation

2.1 It is considered that the proposed car parking area and loss of green space would adversely impact on the character and appearance of the area. The proposed development would therefore be contrary to the Council's policies, which seek to ensure that development does not unacceptably harm the character and appearance of the area and of any affected street scene. The proposed parking bays may also increase parking demand in Quantock View by enhancing the parking provision available and encourage non sustainable modes of travel.

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

Not applicable.

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

#### 4.1 Details of proposal

Planning permission is sought for the provision of a new car parking area for 5 vehicles on part of the green space at Quantock View, Bishops Lydeard. Access is proposed off Quantock View, which is an unadopted highway.

The proposed bays would be oversized, measuring 5.0m x 2.8m, in order to accommodate safe manoeuvring into the carriageway. The parking area would be constructed of permeable block paving and the bays delineated by white paving blocks. The existing grassed area would be re-profiled around the proposed kerb line. The area between the existing and proposed parking area would be identified as a clear zone, connecting with the existing footpath.

#### 4.2 Sites and surroundings

The site is under the ownership of Somerset Council and comprises a grassed area to the west of the Quantock View. There are two large mature trees on site, a Pine located in the northeast corner of the green and a Birch located in the southeast corner. The trees are the subject of a Tree Preservation Order (SWT70). There is an existing asphalt parking area to the north of the site, with vehicles parked perpendicular to the road.

There is an existing pedestrian path that traverses the west and north boundary of the green and provides access to the residential properties, whilst another path splits off and dissects the park. The green space is delineated by a shin rail fence which runs parallel to the road. The land is generally flat, and the site is located within the settlement boundary of Bishops Lydeard.

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

The site has no relevant planning history.

The green space is the subject of a Village Green application (reference VG26) which has been registered and undergone public advertising. The Village Green application is determined under a different legislative system (the Commons Act 2006 (as amended by the Growth and Infrastructure Act 2013)).

## 6. Consultation and Representations

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

6.1 Date of consultation: 22 August 2022

6.2 Site Notice Date: 31.08.2022

6.3 The following Statutory Consultees were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
BISHOPS LYDEARD & COTHELSTONE PARISH COUNCIL	The Parish Council supports the granting of permission	Noted
SCC - ECOLOGY	No comments received	N/A
SCC - TRANSPORT DEVELOPMENT GROUP	No observations	Noted
RIGHTS OF WAY OFFICER	<p>On 8 March 2022, Somerset County Council received an application to register land known as The Green in Quantock View, Bishops Lydeard as a village green.</p> <p>The proposed parking spaces are on part of the land covered by the village green application.</p> <p>Without prejudice to the assessment of the application, if the land does become registered as a village green then it will be protected by both</p>	Noted

	<p>section 12 of the Inclosure Act 1847 and section 29 of the Commons Act 1876. Amongst other things the 1847 Act makes it an offence to cause injury to the green, while it is a public nuisance under the 1876 Act to disturb or interfere with the soil of a green.</p> <p>Recommend that the Council seeks legal advice as to the consequences of independent legal advice as to the consequences of granting planning permission in this case, given that it may facilitate an offence and/or a public nuisance.</p> <p>Advice note recommended to draw attention to the applicant of the VG application.</p> <p>UPDATE 06.04.2023</p> <p>The village green application has been accepted as duly made and consultation was carried out between 19 January and 2 March 2023. In accordance with The Commons (Registration of Town and Village Greens) (Interim Arrangements) (England) Regulations 2007 the applicant is provided an opportunity to comment on the consultation responses. Those comments have now been received.</p>	
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	<p>UPDATE 12.05.2023</p> <p>The next step is for the Council to give careful consideration to all of the evidence supplied for and against registration. While we would endeavour to make a decision as soon as possible, there are many other village green cases which are currently awaiting determination. It may therefore be several years before we are in a position to take further action in relation to this case.</p>	
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6.4 The following Internal Consultees were consulted:

<b>Consultee</b>	<b>Comment</b>	<b>Officer comment</b>
SWT Arboriculture	<p>Prior to determining the application an Arboriculture Method Statement is required to ensure the location of the parking is acceptable, as well as the construction of the new footway section which is close to the pine tree.</p> <p>Initial estimate following a site visit is that there will be slight incursions into the Roof Protection Areas.</p> <p>Possible solutions could be a no-dig e.g., Cellweb or similar, or the end parking space is omitted from the parking area.</p> <p>UPDATED 2.06.2023</p>	Noted.

	<p>There are some inaccuracies with the documents provided. On the 'tree survey' and 'tree protection plans' the birch tree is shown in a different location from the 'Topo' and site plan. According to the latter two drawings and my recollection of the site, the birch is about 6 metres from the edge of the proposed parking area, whereas on the tree survey it is further south. The Arb Method Statement states that no works will be carried out within the RPAs of either tree, but the survey states that the birch has a RPA radius of 7.6 metres, so this seems incorrect. Also, the pine has a RPA radius of 7.1 metres. The footpath is to be re-laid so it does seem that there will be some works in this area of the RPA. These details need to be checked and the AMS revised to give more detail about how these works will be carried out without damaging the trees.</p>	
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## 6.5 Local representations

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

8 members of the public have made submissions (7 objections; 1 support) providing the following comments (summarised):

Material Planning Considerations	
Objections	Officer comment
Private (unadopted road) – Residents do not consent to providing access rights for the proposed development.	<p>The question of whether residents and members of the general public have the right to use Quantock View to gain access to the application site to park vehicles, is not a material planning consideration. The matter is a civil matter between the users, the owners of the parking area (Somerset Council) and the owners of the road.</p> <p>Notwithstanding, the former Council acquired the land for housing in 1962, so it is likely that residents and members of the public have used Quantock View as a highway for many decades.</p>
Loss of Green Space and impact on amenity	Considered within the report.
Damage / Loss of Trees	Were trees to be damaged (notably those now the subject to Tree Preservation Order (SWT70 - T1 - Pine; T2 - Birch)) then redress against an offender could be sought via the Town and Country Planning (Tree Preservation) (England) Regulations 2012). The applicant has submitted an Arboriculture Method Statement to demonstrate that the works would not adversely affect the protected trees subject to mitigation measures.
Increase / Encourage Traffic along narrow road	Considered in the report.
Impact on highway safety. The previous concerns of parking on the green have been addressed by the rail fence.	Noted. The shin rail fence was installed by the Council to prevent haphazard parking on the green and reduce instances of mud and debris being

	washed into and blocking the nearby gully.
Drainage (exacerbate a problem)	The development, to be finished with a permeable surface material, would not in itself result in an exacerbation of drainage issues.
Contrary to Council's declaration of a climate emergency and aim to be carbon neutral by 2030	Noted – As acknowledged in the Highway Technical Note, there is a concern that enhancing the availability of parking may increase demand rather than promoting walking / cycling.
Pending application for Village Green status	Noted. However, the material weight attributed to the VG application is considered to be limited at this juncture. See report for further commentary.
<b>Support</b>	<b>Officer comment</b>
Alleviate Parking Congestion	Noted.

## 7. 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 new unitary authority for Somerset (Somerset Council) was formed on 1 April 2023 and as part of this reorganisation a Structural Change Order was agreed.



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:

Core Strategy

SD1 - Presumption in favour of sustainable development

CP6 – Transport and Accessibility

CP8 - Environment

DM1 - General requirements

DM4 - Design

Site Allocations and Development Management Plan

ENV1 - Protection of trees, woodland, orchards and hedgerows

D7 – Design quality

A1 - Parking Requirements

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)

Neighbourhood plans:

The Bishops Lydeard and Cothelstone Neighbourhood Plan is part of the development plan and a material consideration in the assessment of the planning application.

Relevant sections include:

Policy 5.1 Housing

Policy 5.3 Transport Infrastructure

### National Planning Policy Framework

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

Relevant Chapters of the NPPF include:

2. Achieving sustainable development

12. Achieving well-designed places

## **8. Material Planning Considerations**

### 8.1 Status of Village Green application

There have been submissions made that the planning application should not be determined on the basis that there is a current Village Green (VG) application for the same piece of land. Pursuant to the Commons Act 2006 (as amended) the submission of a planning application on land is identified as a 'trigger event'. In such circumstances, were land to be subject to a 'trigger event', the right of an individual or group to make a VG application is excluded, and the relevant authority must not accept any VG application for the land in question until a corresponding terminating event has occurred.

However, in this instance, the application to register the land as a VG was made before the receipt and validation of the planning application. The VG application does not, therefore, preclude the Local Planning Authority from determining the planning application before it.

It should be noted that, if the land identified in the VG application is formally registered as such, any subsequent development could be deemed a criminal offence. If the development is implemented and completed prior to the formal registration of the land as a VG, then that may be acceptable and not a criminal offence.

Irrespective of the future possible outcomes, determination of the current planning application, in accordance with the Town and Country Planning Act 1990 (as amended) is not prohibited by the fact that there is a concurrent application to register the same piece of land as a VG. The fact of an application to register the land as a VG application would carry only limited weight at this stage in proceedings. The Rights of Way officer has advised that the application has undergone a six-week consultation period, there is a further period for responses, followed by further deliberation / determination (which is likely to include a Public Inquiry). It has been suggested the timescale for issue of a decision on the VG application may take several years.

## 8.2 Parking, Sustainability and Climate Change

The rationale provided in the application for the proposed car parking area is to alleviate perceived parking issues in Quantock View – summary below:

- parked cars along the road edge adjacent to the green particularly during school drop off and pick up causing issues.
- safety issues - particularly for school children walking to Bishops Lydeard Primary School, the back entrance for which is located on Quantock View. Visibility for children crossing the road is reduced as a result of the parked vehicles.
- restricted access for the remainder of Quantock View; larger vehicles struggle to navigate Quantock View when vehicles park alongside the green particularly refuse trucks, delivery vehicles and emergency service vehicles.
- vehicles parking wholly or partially on the grassed area along the edge of Quantock view damage the grass and deposit mud on the highway causing blockage of road gullies leading to standing water on the road surface.

The application is accompanied by a Transport Note (TN) which states that it would be disproportionate to provide new permanent parking spaces to satisfy a temporary demand. The TN also acknowledges that the provision of additional parking spaces could encourage further pick up and drop off use by creating an attractive parking area. As such, this approach could ultimately be counterproductive in easing the pressure on Quantock View by focusing on the effect rather than the cause.

The Bishops Lydeard & Cothelstone Neighbourhood Plan at section 5.3.11 provides commentary on the issue of transport concerns, including car parking. The Plan states:

‘Although there is widespread concern about parking and many individual comments suggesting a need for more parking provision in the centre of the village, there is unlikely to be much chance of change in this area as there is physically no space of a reasonable size that could be dedicated to parking. Furthermore, it could be that the more parking that is provided the more people will make use of it and thus it just increases traffic, leading to a demand for more parking, in a downward spiral.’

It is considered that the provision of an attractive parking area on the existing green space would not support the Health and Wellbeing aims of the Neighbourhood Plan which seek the promotion of walking and cycling as an alternative to car use.

The TN does identify a range of alternative drop off locations and safety measures (e.g., preventing parking near the corner of Quantock View/Hamber Lea Pedestrian Link to improve visibility). The TN recommends that consultation with the Bishops Lydeard Church School takes place to determine a range of active travel initiatives that could be implemented, as part of a School Travel Plan.

One of the reasons presented in support of the proposal is that vehicles were causing damage to the grassed area resulting in drainage issues from loose mud / debris entering the drainage network. However, the Council has subsequently constructed a shin rail fence which has prevented vehicles parking on the grassed area.

### 8.3 Character and appearance of the area

In considering the need for car parking Policy A1 – Parking Requirements, states that in order to promote sustainable travel and to make efficient use of development land, the need for car parking will be assessed against a number of criteria including (A) the impact on urban design and the historic environment.

The proposed parking bays would impact on the existing open green space, which has been identified by the local community as an important part of village life and has resulted in an application for a village green. The green space is considered to provide amenity value / informal play area and reflects the rural character of the village.

The TN also acknowledges that the provision of car parking bays would detract from the use of Quantock View Green, in terms of amenity value.

*During the site visit parents were observed to be chatting on The Green. Confirming this space, as identified on Drawing SK01 attached as Appendix A, as a meeting area with appropriate landscaping and seating could provide a valuable community space, rather than car parking to satisfy a temporary demand.'*

The proposed parking would reduce the openness of the grassed area and it is considered would harm the general character and appearance of the area.

#### 8.4 Trees

There is a mature Pine and Birch tree located on the site and the subject of a Tree Preservation Order (SWT70). The Council's Arboricultural Officer has identified inaccuracies within the accompanying reports and that it is likely there are proposed works within the Root Protection Area.

#### 8.5 Drainage

The proposed parking bays would comprise permeable paving and subject to final detailed plans, would not adversely impact on the existing drainage system.

### **9 Planning balance and conclusion**

9.1 The proposed parking area would provide a more attractive area for users to park their vehicles, which would be likely to have a detrimental effect on achieving a modal shift and the use of sustainable modes of travel. Moreover, any benefits arising from the proposal are considered to be limited, and would not outweigh the demonstrable harm to the openness of the green space and the character and appearance of the area. The green space has been identified by local residents to be of amenity value and the proposed parking would start to erode the open space and its setting.

For the reasons set out above, having regard to all the matters raised, it is 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 for refusal**

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.



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<b>Application Details</b>	
Application Reference Number:	38/19/0426
Application Type:	Full
Description	Demolition of Corfield Hall and erection of 11 no. almshouse flats with community room and ground floor offices for Taunton Heritage Trust
Site Address:	Corfield Hall, Magdalene Street, Taunton
Parish:	Taunton
Conservation Area:	Yes
Somerset Levels and Moors RAMSAR Catchment area:	Yes
AONB:	No
Case Officer:	Denise Grandfield 01823 219536  Should you wish to discuss the contents of this report item please use the contact details above by 5pm on the day before the meeting, or if no direct contact can be made contact <a href="mailto:planningwest@somerset.gov.uk">planningwest@somerset.gov.uk</a>
Agent:	Jonathan Rhind Architects
Applicant:	Taunton Heritage Trust
Reason for reporting application to Members:	Update of application originally considered by Planning Committee on 20 August 2020

## **UPDATE TO REPORT**

The application was considered at the Planning Committee of Somerset West and Taunton Council on 20 August 2020, where it was resolved to approve the application subject to the applicant entering in to a Section 106 agreement to secure the provision of affordable housing. A copy of the report is attached in Appendix 1.

However, before the S106 was completed and the decision issued, Somerset West and Taunton received an advice note from Natural England concerning the unacceptable levels of phosphates in the Somerset Levels and Moors Ramsar site. As a result of a court judgement known as Dutch N, Somerset West and Taunton Council was advised as the Competent Authority under the Conservation of Habitats and Species Regulations 2017 that the Local Planning Authority must not permit any new residential development unless it 'can be certain beyond reasonable doubt' that it would not give rise to additional phosphates within the hydrological catchment of the Somerset Levels and Moors Ramsar Site.

Given the above the application is being brought to Committee for consideration of the following matters:

1. Phosphates
2. Ecology

### Phosphates

The site is located in an area that is hydrologically connected to the Somerset Levels and Moors (SL&M) Ramsar site and as such the proposal has the potential to contribute to additional phosphates entering the Ramsar site.

As such Somerset Council as a competent authority under the Habitats and Species Regulations 2017 (the 'Habitats Regulations') but be certain beyond a reasonable scientific doubt that any new residential development will not have an adverse impact upon the Somerset Levels and Moors Ramsar site. To do this the proposed development must be 'nutrient neutral', demonstrated through an HRA, before planning permission can be granted.

At present this application does not have a NN solution. The application meets the prioritisation criteria for River Tone P credits. As agreed, the former SWT C Phosphates Planning Sub-committee on the basis that the proposed development exceeds affordable housing policy, as such this could be a viable phosphate mitigation solution for the development. However, the second round of River Tone P credit scheme is not yet open to applications and as such this is not confirmed. At present given that it has not been possible for SC to conclude a favourable HRA for the proposed development to confirm it would be phosphate neutral it is not possible to issue a grant of planning permission until a solution is found and an HRA is completed.

### Ecology

An updated Preliminary Roost assessment was submitted in July 2022. The ecologist is satisfied with the contents of the report and recommendation. An enhancement condition has been included.

### Other matters

Since the consideration of the application in August 2020, there have been no material change in circumstance on site or in planning policy. The proposal complies with the adopted policies as set out in the earlier report.

Given the matters to be considered no further public consultation has been carried out.

### Conclusion

The proposal is recommended for approval subject to conditions and the applicant entering in to a S106 agreement to secure the provision of affordable housing and a phosphate mitigation solution, including completion of an HRA in accordance with the Conservation of Habitats and Species Regulations 2017.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998.

**Contact Officer: Denise Grandfield**

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TAUNTON HERITAGE TRUST (PROPERTIES MANAGER)

**Demolition of Corfield Hall and erection of 11 No. Almshouse flats with community room and ground floor offices for Taunton Heritage Trust with external alterations at Corfield Hall, Magdalene Street, Taunton**

Location: CORFIELD HALL, MAGDALENE STREET, TAUNTON, TA1 1SG

Grid Reference: 322942.124636

Full Planning Permission

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## Recommendation

**Recommended decision: Subject to a S106 agreement to secure affordable housing, conditional approval.**

### Recommended Conditions (if applicable)

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:

DwgNo 1252/00A - Location Plan  
DwgNo 1252/01 - Existing Site Plan  
DwgNo 1252/06B - Proposed Site Plan  
DwgNo 1252/07A - Proposed Ground Floor  
DwgNo 1252/08A - Proposed First Floor  
DwgNo 1252/09A - Proposed Second Floor  
DwgNo 1252/10B - Proposed Elevations  
DwgNo 1252/11A - Proposed Sections and Street Elevation  
DwgNo 1252/12B - Landscape Plan  
DwgNo 1252/13A - Proposed Railings and Bin Store

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

3. A cluster of five Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level and away from windows

on one of the east facing gable ends. Photographs of the installed features will be submitted to Local Planning Authority prior to the completion of construction works.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 170(d) of the National Planning Policy Framework

4. Before the commencement of the development hereby permitted the applicant, or their agents or successors in title, shall have secured the implementation of a programme of archaeological work (POW) in accordance with a Written Scheme of Investigation (WSI) which has been submitted and approved in writing by the Planning Authority. The WSI shall include details of the archaeological excavation, the recording of the heritage asset, the analysis of evidence recovered from the site and publication of the results. The development hereby permitted shall be carried out in accordance with the approved scheme.

Reason: To enable the remains of archaeological interest which may exist within the site to be appropriately recorded.

Reason for pre-commencement: Any works on site have the potential to disturb archaeological interests.

5. No building shall be occupied until the site archaeological investigation has been completed and post-excavation analysis has been initiated in accordance with Written Scheme of Investigation approved under the programme of archaeological work (POW) condition and the financial provision made for analysis, dissemination of results and archive deposition has been secured.

Reason: To enable the remains of archaeological interest which may exist within the site to be appropriately recorded.

6. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed before the occupation of the building and thereafter maintained at all times.

Reason: In the interests of highway safety

7. The area allocated for parking and turning on the submitted plans shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interest of highway safety.

8. Prior to first occupation of the development hereby permitted, access to covered cycle and electric vehicle charging points will need to be available. They shall be in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety

10. The bin storage facilities shown on the submitted plan shall be constructed and fully provided prior to occupation of the dwellings hereby permitted, and shall thereafter be retained for those purposes.

Reason: To ensure that adequate facilities exist for the future residents of the site and that the proposed development does not harm the character and appearance of the area.

11. (i) A landscaping scheme shall be submitted to and approved in writing by the local Planning Authority prior to such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted.  
  
(ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development.  
  
(iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow 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.

12. Prior to the construction of the building, samples of the materials to be used in the construction of the external surfaces of the development, including surfaces for parking areas and railings details shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

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

13. Prior to the commencement of the development, a construction management plan shall be submitted to and agreed in writing with the Local Planning

Authority. All subsequent works shall accord with the agreed details.

Reason: To protect the amenity of nearby residential properties.

14. No demolition shall commence until a contract for the development of the site is in place and details of the contract submitted to and approved in writing with the Council.

Reason: To protect the visual amenity of the conservation area.

15. No development shall be commenced until details of the surface water drainage scheme, based on sustainable drainage principles, together with details of a programme of implementation and maintenance for the lifetime of the development, have been submitted to and approved in writing by the Local Planning Authority. This scheme should aim to enhance biodiversity, amenity value, water quality and provide flood risk benefit (i.e. four pillars of SuDS) to meet wider sustainability aims, as specified by The National Planning Policy Framework (July 2018) and the Flood and Water Management Act (2010). The drainage scheme shall ensure that surface water runoff post development is attenuated on site and discharged at a rate no greater than 2 l/s and agreed with Wessex Water. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- Details for provision of any temporary drainage during construction. This should include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system.
- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the sustainable methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- Any works required on and off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
- Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company



or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development

Reason: To ensure that the development is served by a satisfactory, sustainable system of surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with National Planning Policy Framework (July 2018) and the Technical Guidance to the National Planning Policy Framework.

#### Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. The applicant will be required to enter into a suitable legal agreement with the Highway Authority to secure the construction of any highway works necessary as part of this development. The developer should contact the Highway Authority to progress this agreement well in advance of commencement of development.
3. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.
4. Your attention is drawn to the agreement made under Section 106 of the Town and Country Planning Act 1990, relating to this site.

## Proposal

The application proposes the demolition of the existing Corfield Hall and the erection of a three storey building to accommodate 11 no. one bedrooomed flats (Class C3). The ground floor would contain one flat, an ancillary community space and offices to be used by the managers of the units and also include an area for mobility scooter storage and charging and a laundry. Outdoor amenity space is proposed to the north-west and south-west. The first and second floor would contain the remainder of the flats.

Three off-street car parking spaces are proposed to the front courtyard area, with access from Magdalene Street.

Railings measuring approximately 1.25 m high will be erected on top of the existing boundary wall along the south-western boundary of the site. A new pedestrian entrance is proposed in the south-western boundary wall from the churchyard. Railings are also proposed along the lower boundary walls facing the car park.

The accommodation is proposed to be for independent living for people over the age of 60. The dwellings are managed by Taunton Heritage Trust, an Almshouse charity. All the flats are to provide affordable housing.

The application is supported with the following information:

- Ecology survey
- Daylight and sunlight assessment
- Archaeological assessment
- Tree survey
- Design and Access Statement

Prior to submission of the application, the proposal was considered by the South West Design Review Panel.

## Site Description

The site lies in a central location within the town and within the St Mary and St James Conservation area. St Mary Church to the south-west is a Grade I listed building. A number of other listed buildings are located in close proximity to the site, including the Almshouses on the south-eastern side of Magdalene Street.

Magdalene Court , a three storey development of flats lies to the north-east. Cannon Street car park is located to the north.

The site lies within an area of high archaeological interest, located over the original town ditch.

## Relevant Planning History

38/19/0427/LB - Listed building associated with this application

38/10/0438 - Change of use to mixed use A1/A3/D2 - Approved 15 March 2011

38/07/0542 – Retention of part of ground floor to be used as a café, Corfield Hall. Granted conditional approval on 21<sup>st</sup> Dec 2007.

38/06/0029 – Change of use to A3 restaurant use at Corfield Hall. Refused on 27<sup>th</sup> March 2006.

38/06/0009 – Change of use of retail shop to restaurant (class A3) at Corfield Hall. Refused 3<sup>rd</sup> March 2006.

## Consultation Responses

*SCC - TRANSPORT DEVELOPMENT GROUP -  
Parking.*

The proposal would see the creation of eleven one bedroom dwellings on site, as well as dedicated office space. It is also intended that the communal area could be

used as external meeting space.

The properties proposed here are almshouse accommodation for the over 60's on a means tested arrangement. This would strongly suggest that the level of parking required, particularly in an area such as this would be minimal. There are several public car parks on the area that could be used by visitors, as well as a proposed area for three visitor spaces to the front of the property.

With regards to vehicle parking provision the Highway Authority would normally require that the parking provision reflects that of the Somerset County Council – Parking Strategy (amended September 2013) (SPS).

Additionally, as part of the Somerset County Council Parking Strategy, new residential development is required to provide cycle storage facilities and electric charging points for each property. To comply with the SPS standards there is a requirement for appropriate, accessible and secure storage for 1 bicycle per bedroom, the cycle parking should be secure, appropriate and accessible.

The submitted proposed site plan shows the provision of three parking spaces for visitors to the dwellings, electric charging points should be provided for the visitor spaces in line with the SPS.

The office use would replace existing nearby office use, at the existing location there is car parking for the members of staff, this parking provision is to be retained and used for staff at the new location.

Due to the nature of the proposed use the Highway Authority does not wish to raise an objection on parking level grounds.

#### Vehicle Movements

The average dwelling generates 6-8 vehicle movements per day. However, it is noted that in this case due to the nature of the proposed dwellings there is unlikely to be many vehicle movements associated with the residential elements of the proposal. The office use is to replace existing office use nearby and as such there would be minimal direct increase in the associated vehicle movements, however, the existing office space is likely to have a future use and as such this would lead to an increase in vehicle movements. The low number of associated staff is unlikely to lead to a large increase in vehicle movements and due to the town centre location it is unlikely to be a noticeable increase in traffic.

#### Visibility

Due to the location of the site and the high level of pedestrian activity to and from the town centre it is important that pedestrian visibility to and from the visitor parking spaces is maintained.

#### Other matters

The submitted proposed site plan, drawing No 1252.PL.06, shows an area of landscaping to the front of the site between the visitor parking spaces and the existing footway. This landscaping is on highway dedicated land and would therefore need to be removed from the proposal or the area stopped up by the appropriate mechanism.

#### Conclusions

Taking the above comments into account the Highways Authority does not object to the proposal in this application, subject to the imposition of conditions.

#### Further comments received from SCC -

Highways indicates that the land to the front of the site is not highway land.

### *COUNTY ECOLOGIST -*

An Ecology Survey and Preliminary Roost Assessment of the application site was carried out by Quantock Ecology in November 2019. This found negligible opportunity for roosting bats in the building to be demolished. An informative has been included.

The National Planning Policy Framework (170d) requires biodiversity enhancement to be provided within development. A condition is included.

### *SOUTH-WEST HERITAGE TRUST*

The site lies on the line of the medieval town's defensive ditch and bank which investigations have shown was re-used in the Civil War both as a defensive structure and to bury casualties if the siege. Therefore this proposal has the potential to impact on relatively significant archaeology.

For this reason I recommend that the developer be required to archaeologically excavate the heritage asset and provide a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 199). This should be secured by the use of the following conditions attached to any permission granted.

Further comments received 28 May 2020

The applicant has submitted documentation to address the issues raised by Historic England (HE) in response to an email from this office. The documents include, an assessment of approaches to foundation design including a piling design and a Written Scheme of Archaeological Investigation (mitigation plan).

It is clear that development on this site will have an impact on remains relating to the medieval town ditch and possibly the re-use of the ditch as a fortification in the Civil War. The piling design document details the likely impacts based on current knowledge of the archaeological deposits and describes the methodology adopted to assess the impacts.

Based on these submissions it is advised that the sufficient information has been submitted to enable the significance of the asset, and the impacts on the asset to be understood as required by the NPPF paragraph 189.

In light of the information it is advised that two conditions be placed on permission to ensure the archaeology is dealt with as described in the WSI.

### *HERITAGE -*

The proposal is for redevelopment of the Corfield Hall demolishing the existing 2 storey flat roofed hall and replacing with a residential block of 2 storeys with an additional storey part within the roof space with dormers. The accommodation would provide 11 units with community space and office. The building will be almshouses run by the Taunton Heritage Trust.

The site is located adjacent to the Church of St Mary Magdalene and within the

conservation area of St Mary and St James. Proposals will affect the setting more specifically of St Mary Magdalene, war memorial, Richard Huish homes, St Mary's vicarage and cottage adjoining; it will also affect the medieval town defences.

The current building is a flat roofed two storey building that currently is harmful to the designated assets due to its poor design and a pitched roofed building is preferable in this location as it will be more sympathetic to the design of buildings around it and fenestration and the overall design will respond better to local vernacular. Raising the roof of the two storey section will inevitably increase the mass of the building and it will be more conspicuous against the church however the higher levels of pitched roof would be preferable to the rather harsh flat roof; to incorporate the third storey is where there is greater impact.

The height overall however will blend in well with adjoining properties in Magdalene Street and the conservation area and it will have a softer appearance due to having a pitched rather than flat roof. Overall there is some harm from the greater height as identified by Historic England and this should be balanced against the public benefit of providing alms houses and community facilities. As Historic England have discussed the quantity of flats should be justified and I acknowledge there is a level of public benefit in providing community facilities and alms house flats. The following comments are more detailed comments on the design.

- The wider dormers seem heavy but unavoidable for this number of flats as they are the kitchens - particularly flat 10.
- The bin provision looks minimal for this number of flats and viewable from Magdalene Street. The detail design of these should be provided.
- Surface treatment of paving and visitors parking area should be agreed
- I question a dwarf wall, north facing onto the car park as views of the air source heat pumps and scooter store will be seen and that archway leading to the graveyard is attractive. It may need raising on the right hand side though it will make the seating area darker. The view through from the east side to scooter etc needs a bit of thought. It is questionable to have a scooter park where the elderly will be reversing opposite wall mounted air source heat pumps. What will be the material of the coping that the railings will be set into? A large scale detail/materials including railings (diam and heads) would be useful.
- The choice of brickwork and colour of pointing is crucial and should be conditioned.

I concur with Historic England recommendations on the scheduled monument.

#### *DEVELOPMENT ENABLING SPECIALIST -*

A S106 agreement would be required to secure the future tenure of the building as affordable housing.

#### *PLACEMAKING SPECIALIST-*

This has been well considered and I am largely happy with the scheme apart from the roofscape.

The oversized central dormer in the north and south elevations would appear very bulky and clumsy. This would be better treated as a stepped gable as shown below in the Design & Access Statement. This change would also visually help to

tie the design of the other elevations together, particularly the view facing the church tower.

There is little in the Design & Access Statement regarding sustainability and I do wonder whether solar slates could be incorporated.

No bike parking is shown for visitors and given this sustainable location this should be encouraged.

I would also encourage that more thought be given to the enclosure of Magdalen Street. Whilst this is shown as 'green' on the landscape plan, there may be an opportunity to have railings to the frontage.

#### *LEAD LOCAL FLOOD AUTHORITY -*

All SuDS requires maintenance, and due to the nature of the development, and we are disappointed that permeable paving could not be included within the design.

However, we are satisfied that in this instance the applicant has include further sustainable features within the design including rainwater reuse, rainwater planters and a green roof which we encourage for multi functional benefits. Therefore, we are satisfied to advise the LPA of a suitable condition to be applied to the application.

#### *HISTORIC ENGLAND -*

Following receipt of the latest amendments, we would refer you the council to our previous response provided on the 9th March 2020. The advice contained within that letter is still relevant in light of these latest revised drawings.

#### Recommendation

Historic England has concerns regarding the applications on heritage grounds.

Please see our previous letter for details of our recommendations dated the 9th March 2020 and attached to this letter for ease of reference.

In determining these applications you should bear in mind the statutory duty of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account and seek amendments,

## **Representations Received**

Thirteen representations received, including one on behalf of Magdalene Court Management Committee, raising concerns regarding the following:

- increase in shade and loss of sunlight to living room, bedroom and garden area
- noise and disturbance from the occupiers of the proposed building
- location and access to the community facilities located close to residents
- height of building would be unacceptable and result in overlooking
- noise and dust during construction

- inappropriate location of bins, plant room and laundry room

Six representations in support:

- accommodation needed for aging population
- design is in keeping with the surrounding area
- would provide surveillance of adjoining churchyard

Planning for Nature - Recommend conditions as recommended by the County Council Ecologist.

Following re consultation on amended plans a representation was received on behalf of Magdalene Court Management Committee:

Having considered the revised plans, we are pleased to see that the double doors at the rear of the community room have now been removed. This amendment is welcomed.

Notwithstanding this amendment, it is disappointing to see that no other changes are proposed to directly address the concerns of our clients. For that reason, we can confirm that the objections made on behalf of Magdalene Court Ltd (CAMP Planning Objection February 2020) in respect of the following matters are maintained:-

- The visual dominance of the three storey elements of the proposed building;
- The impacts of extraction and associated noise and smells from the plant and laundry room; now exacerbated by the addition of a door on the Magdalene Court facing elevation;
- The proposed location of the bin store;
- The need to mitigate the impacts of construction through the planning process.

In respect of the daylight and sunlight assessment, we would urge the Council to seek independent verification of the content of this report to ensure that it is an accurate representation of the likely outcome of the proposed development. Those living in the apartments of Magdalene Court facing the proposed development site are vulnerable residents who spend a significant proportion of their day in their homes. Any actual or perceived adverse impacts in respect of loss of light and/or overbearing will have a significant impact on their living conditions. For the Colliers report to state that impacts would not be material and would be de minimis is considered to be an understatement, particularly when the vulnerability of the residents and the importance of protecting their living conditions is given the appropriate weight.

We are of the opinion that the only way in which the actual and perceived impacts of the proposed development can be properly experienced is for the decision makers (planning officer and committee members) to undertake a site visit and view the application site from within the apartments of the facing elevation of Magdalene Court and from the intervening garden area. However we quite appreciate that the current circumstances mean that there is no possibility of this happening for the time-being. For that reason, we would strongly urge the Council to delay the determination of this planning application until such time that this essential site visit can be carried out.

## **Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Taunton Deane comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

ENV4 - Archaeology,  
A1 - Parking Requirements,  
D10 - Dwelling Sizes,  
D7 - Design quality,  
D12 - Amenity space,  
SP1 - Sustainable development locations,  
SB1 - Settlement Boundaries,  
CP8 - Environment,  
DM1 - General requirements,  
D8 - Safety,  
A5 - Accessibility of development,  
NPPF - National Planning Policy Framework,

## **Local finance considerations**

### **Community Infrastructure Levy**

Creation of dwellings is CIL liable.  
Proposed development measures approx. 635sqm.

The application is for residential development in Taunton where the Community Infrastructure Levy (CIL) is £70 per square metre. Based on current rates, the CIL receipt for this development is approximately £44,500.00. With index linking this increases to approximately £63,250.00.

## **Determining issues and considerations**

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

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act requires that special regard is paid to the desirability of preserving or enhancing the character



and appearance of the conservation area when deciding whether to grant planning permission.

### Principle of development

The site lies within a central location in the town centre. The principle of residential is considered acceptable.

The existing building is unoccupied and has fallen into disrepair. Its demolition would not be considered to be a loss to the character of the area.

The last approved use of the building was for A1/A3/D2, but is not located in a primary or secondary shopping frontage. The loss of the potential retail uses would be outweighed by the benefits of providing affordable housing on this town centre site.

### Residential amenity

A number of issues have been raised by the occupiers of nearby residential properties.

- Loss of daylight and sunlight

The applicants have submitted a Daylight and Sunlight study in support of the application, which concludes:

The results indicate a significantly high level of compliance overall and Colliers do not view Daylight and Sunlight as a constraint to the buildability of the proposals at Corfield Hall.

The results of the technical assessment indicate that there will be a single breach of the BRE Guidelines in respect of a Living Room on the ground floor within Magdalene Court which is identified as 'Room 6' on the technical results that can be located within Appendix C.

Although there will be a minor breach in respect of the VSC (Vertical Sky Component) and APSH (Sunlight) methodology, the overall room exceeds the target criteria when reviewing the NSL (No Sky Line) results and for this reason, along with the fact that the APSH results surpass the guidelines annually, we do not consider this to result in a material breach. Furthermore, the loss of light to the window within 'Room 6' is highly unlikely to be noticeable to the human eye.

The overshadowing assessment for the external amenity area at Magdalene Court indicates that the space will surpass the recommended target values.

In any event, it is important to consider that the BRE Guidance is designed to be applied flexibly and should be used as a guide in understanding impacts and should not be rigidly applied.

- Overlooking

The number of windows on the north-east elevation above ground floor level (facing Magdalene Court) is limited to those serving the staircase and therefore the privacy of adjoining residents would not be significantly impacted upon.

- Reuse of site for residential purposes

The reuse of the site for residential purposes would result in activity and occupation for 24 hours a day, which would result in additional surveillance of the area.

- The location of the plant room and laundry room

The applicants agent has stated that the laundry room contain three washing machines and three dryers, less than if each flat had their own. Similarly, the plant room will provide heating and hot water for all flats rather than each flat having their own. The overall impact of noise and emissions would therefore be lower.

A condition requiring the submission of a construction management plan has been included, to provide clear expectations in terms of all aspects during the construction phase.

The use of the community space will be accessed via the cloisters to the south-west. The space will be managed by the Trust and will be for the benefit of the residents. The Trust will ensure that the residents are not disturbed by users of the community space and therefore occupiers of Magdalene Court should also not be disturbed.

### Design

The design has been considered in the context of its location adjacent to listed buildings, within a conservation area and in close proximity to other residential dwellings.

The proposal was considered by the South West Design Review Panel. Their observations informed changes to the design prior to the submission of the application.

Raising the roof of the two storey section will increase the mass of the building and it will be more conspicuous against the church however the higher levels of pitched roof would be preferable to the rather harsh flat roof; to incorporate the third storey is where there is greater impact.

The height overall however will blend in well with adjoining properties in Magdalene Street and the conservation area and it will have a softer appearance due to having a pitched rather than flat roof.

Whilst the increase in height will have a visual impact on the adjoining residents in Magdalene Court, the impact would be limited to loss of views and some additional overshadowing of outside amenity areas.

A number of points raised by the Conservation Officer, Placemaking Specialist and local residents regarding the design have been taken on board and incorporated into amended plans.

The design has been amended to remove the doors to the rear (north-eastern elevation) to address the concerns of the residents of Magdalene Court. Cycle parking has been provided within the Cloisters area. The bin store, located to the front of the building, is overlooked by the offices in the proposed building and in close proximity to the pickup point on the street.

### Parking and access

Car parking for three vehicles is proposed to the front of the building using the existing vehicular access. These are to be used for visitors to the site. Cycle parking will be provided below the entrance cloister. Mobility scooter and charging will be accommodated on site. Car parking for the proposed offices will be retained at the Almshouse site.

The proposal complies with policy A1.

### Archaeology

The issues raised by Historic England regarding the protection of archaeology have been resolved. South West Heritage Trust are satisfied that sufficient information has been submitted to enable the significance of the asset, and the impacts on the asset to be understood as required by the NPPF paragraph 189. In light of the information it is advised that two conditions be placed on permission to ensure the archaeology is dealt with as described in the Written Scheme of Archaeological Investigation (WSI).

Conditions have been included accordingly.

### Affordable Housing

The applicant and future manager of the site is a Registered Affordable Housing Provider and 100% of the accommodation is proposed for that purpose. A S106 agreement is required to secure affordable housing provision on the site should the ownership change hands in the future.

### Conclusion

The proposal provides much needed affordable housing in a central location in the town, giving easy access for residents to services and facilities.

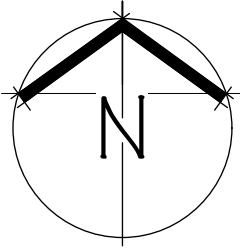
Whilst in a sensitive location, it is considered that the design and scale of the development would blend well with the existing streetscape and the conservation area.

Subject to the applicant entering into a S106 agreement to secure the future provision of affordable housing, approval is recommended.

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998.

**Contact Officer: Denise Grandfield**

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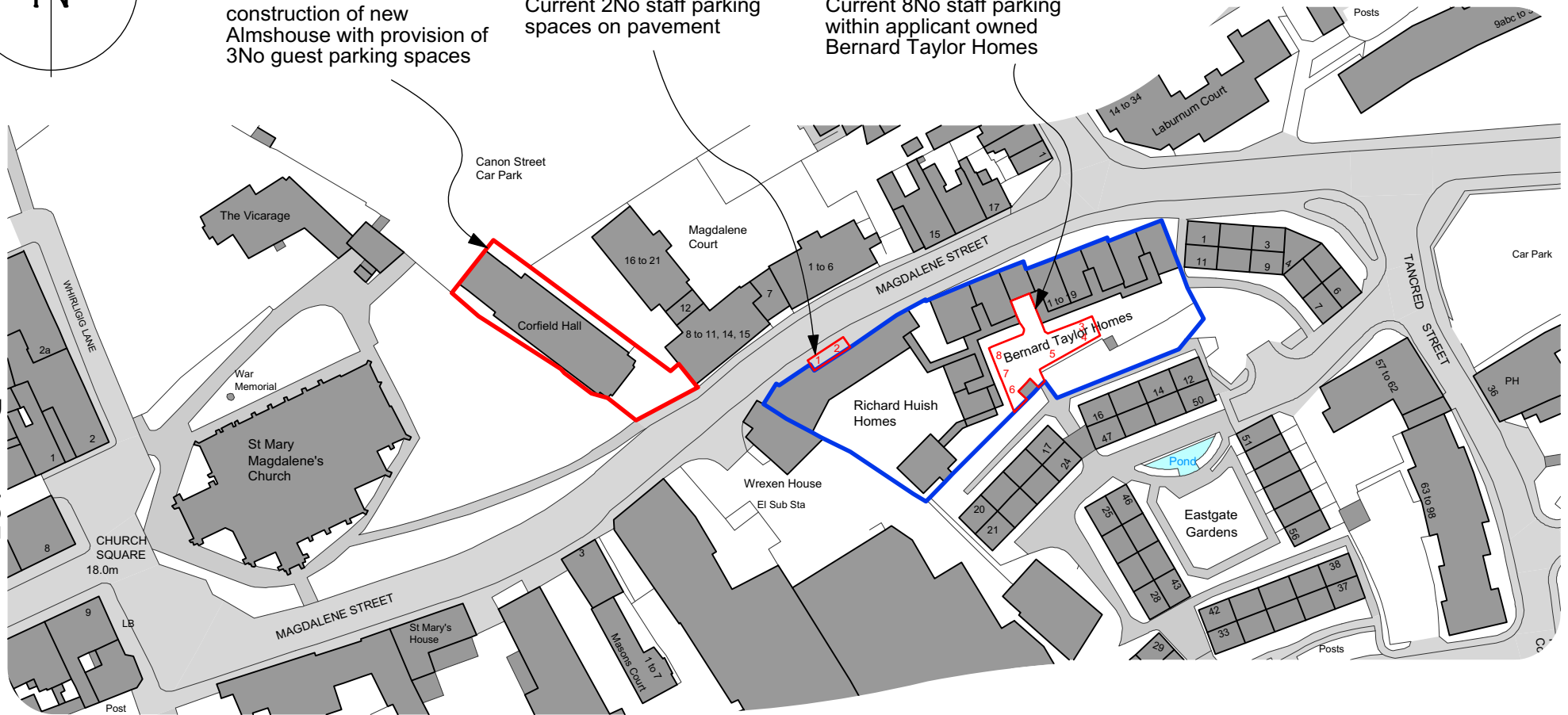


Demolition of existing Corfield Hall and construction of new Almshouse with provision of 3 No guest parking spaces

Current 2 No staff parking spaces on pavement

Current 8 No staff parking within applicant owned Bernard Taylor Homes

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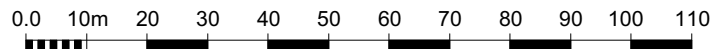


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**Key:**

Land to which application relates to outlined in **red**.

Other land owned by the applicant, close to or adjoining the application site outlined in **blue**.



Scale = 1 : 1250



The Old Rectory  
Shirwell Barnstaple  
Devon EX31 4JU  
01271 850416



Coach House  
Rumwell Hall  
Taunton TA4 1EL  
01823 462300

PLANNING

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© Do not scale from drawing. All dimensions to be checked on site. Discrepancies to be notified to the Architect.

**Corfield Hall,  
Taunton**

**LOCATION PLAN**

**Drawn: DB Scale: 1:1250 @ A4**

**Checked: MR Date: 18.12.2019**

**1252.PL.00**

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<b>Application Details</b>	
Application Reference Number:	42/22/0055
Application Type:	Approval of Reserved Matters
Expiry Date:	17 February 2023
Decision Level:	Committee
Description	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
Site Address:	Orchard Grove, Land at Comeytrove/Trull, Taunton
Parish:	Taunton Town Council
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment area:	Yes
AONB:	No
Case Officer:	Simon Fox, Major Projects Officer (Planning) 07392 316159 <a href="mailto:simon.fox@somerset.gov.uk">simon.fox@somerset.gov.uk</a>
Agent:	Boyer Planning
Applicant:	TAYLOR WIMPEY UK LTD, VISTRY WESTERN
Committee Date:	Tuesday 20 June 2023
Reason for reporting application to Members:	Each application at the Comeytrove Garden Community, known as Orchard Grove, has been subject to Planning Committee scrutiny, as required by the Chair, 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 seeks the approval of reserved matters 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.
- 2.2 After consideration of all representations and consultations, planning policy and material considerations including the planning history and the scope of the application as one for approval of reserved matters, 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 outline is accompanied by a site-wide section 106 agreement.

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

- 1) Drawing Schedule
- 2) Phasing – hard landscaping
- 3) Phasing – SUDs
- 4) Soft landscaping
- 5) Lighting Plan
- 6) Details required for approval – hard landscaping (specific areas)
- 7) Detail of power supply required to Local Square
- 8) Details required for approval – hard landscaping (Maze POS)
- 9) Scheme of ecological mitigation and enhancement
- 10) PROW obstruction prevention
- 11) Construction Environmental Management Plan (CEMP)
- 12) Construction stage drainage plan
- 13) Management responsibilities for drainage infrastructure
- 14) Future employment plot surface water drainage requirements

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

- 1) Reminder of Outline Planning Conditions
- 2) Statement of positive working
- 3) PROW obstruction
- 4) Advice from Designing Out Crime Officer



- 5) Maze POS future linkage
- 6) Extent of red line
- 7) Remit of application

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

##### Details of proposal

- 4.1 The proposal includes the site preparation and construction of an access road to open up the employment land and an area of public realm, known as the 'Local Square' in the Western Neighbourhood.
- 4.2 The outline consent, ref 42/14/0069 secured 5.25 hectares of employment land for traditional B1 (light industry/offices, B2 (general industry) and B8 (warehousing) uses. Subsequent master planning located this provision in one area of the site towards the A38, adjacent to the Park and Bus facility, to be accessed off the central spine road which itself will connect the A38 to Honiton Road in Trull village.
- 4.3 To date the 'employment land' has been used for soil storage, work compounds and crossed by a haul road. Part of the employment land was put forward for use as a Care Home, ref 42/22/0054, which was approved in January of this year.
- 4.4 In order to serve the Care Home an access road is required, and this will also serve the remainder of the 'employment land'. The Consortium has therefore brought forward this application to access the 'employment land' ready for future occupants, whilst also laying out the required infrastructure, including the road, drainage, services etc. The road links with the spine road and will be a cul-de-sac. The road will however be adjoined by grass verge with street trees and a pedestrian footway/cycle path that will continue beyond the turning head of the cul-de-sac to link to an area of public open space (POS) called The Maze Park which itself will link to the wider pedestrian/cycle and POS network.
- 4.5 Surface water drainage for the road and the future employment plots will be captured in a new attenuation basin, to be surrounded in landscaping to partly mitigate the future impacts of the employment units.
- 4.6 At the junction of the new employment land access road and the spine road a new area of public realm is proposed, and this has been coined the 'Local

Square'. The 'square' is actually rectangular and will sit in front of the consented Care Home where currently Taylor Wimpey show home car parking is provided.

- 4.7 The 'Local Square' will provide cycle and pedestrian linkages and will accommodate a bus stop, new hard and soft landscaping, street furniture and the potential for a host of community activities and functions.
- 4.8 On the other side of the junction another area of POS will be planted up and a new cycle/pedestrian link will be created to link to the Park and Bus facility, for the purposes of identification this shall be called 'the Gateway'.

#### Site and surroundings

- 4.9 Outline consent 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. 118ha and was bounded by the A38 Wellington Road to the north-west, the suburb and parish of Comeytrove to the east and the village of Trull to the south. The Blackdown Hills AONB is located approximately 2.5 miles to the south of the site.
- 4.10 Through a Masterplan process the 'employment land' was located near to the A38 adjacent to the Park and Bus Facility.
- 4.11 A Public Right of Way (T29/11) runs alongside the eastern side of the Local Square and the Employment Land area. This generally follows a retained hedge from the junction of Jeffreys Way/A38 at Stonegallows south towards Higher Comeytrove Farm. The hedgerow will be now broken in three places to allow estate roads and the central spine road to cross and the PROW has been subject to temporary diversions whilst the development activity has been concentrated in this area.
- 4.12 This part of the site is not near any Conservation Area but is partly within a landscape designation (Special Landscape Feature-Stonegallows Ridge) and is within visual proximity of two listed buildings, namely Rumwell Park (Grade 2) and its landscaped park located 350m to the north on the opposite side of the A38 and Rumwell Hall (Grade 2) and its landscaped park located 200m to the west on the other side of the boundary hedge.

4.13 The wider site is under construction, occupations commenced in April 2022 with currently circa 100 properties occupied at present. Work to construct the Care Home is pending the conclusion of this application and a procedural matter being dealt with via pending application 42/23/0016.

## 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,	Approved	22 July 2020

	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		
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 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	Approved	8 April 2021
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	Approved	8 April 2021

	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		
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 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	Approved	3 February 2022
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	<p>SCC Consultation – Erection of primary school and nursery, to include construction of sports pitches, parking area and access onto spine road incorporating landscaping and infrastructure on land at Comeytrove, Taunton</p> <p><i>For the full application file visit SCC's Planning register online, ref SCC/3938/2022</i></p>	Approved	<p>SWT Comments sent to SCC 26 May 2022, application approved by SCC in 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, Comeytrove Rise, Taunton</p>	Approved	03 February 2023
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 Comeytrove, Taunton</p>	Approved	31 January 2023
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 and drainage, associated with the delivery of infrastructure roads WR02 and WR03 at Orchard Grove Community, Comeytrove</p>	Pending	
42/22/0062	<p>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</p>	Approved	10 March 2023

	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		
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 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 Comeytrowe, Taunton	Pending	
42/22/0075/ CB	Application to determine if prior approval is required for the proposed demolition (Class B) of former industrial buildings at Comeytrowe Manor Industrial Estate, Lipe Hill Lane, Comeytrowe	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 Comeytrowe	Approved	31 March 2023
42/23/0016	Variation of a Condition No. 02 (approved Plans) of application	Pending	



	42/14/0069 for the removal of 0.58ha of land from the approved employment area on land at Comeytrove, Taunton		
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	Pending	Resolved to approve at May committee

## 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 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 The conclusions hereon are such that the Council considers the application as an application for reserved matters 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 The Council considers this application, which is merely for infrastructure and therefore does not produce waste water, does not require an HRA. An HRA is only required in connection with reserved matters applications for residential development so long as the issue with the Ramsar persists.

## **8. Consultation and Representations**

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

Date of initial Consultation: November 2022

Date of revised consultation: Limited additional consultation was undertaken with certain consultees throughout the process.

### **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.

<b>Statutory consultee</b>	<b>Comments</b>	<b>Officer comments</b>
<b>Taunton Town Council</b>	No comments received.	TTC will be asked if any comments are to be made; an oral update will be given.
<p><b>NB:</b> This application was submitted prior to 01 April 2023 but now falls within the parish area of the new Taunton Town Council.</p> <p>Taunton Town Council will also now administer an area previously part of Trull PC. This application site was previously in Trull parish.</p>		
<b>Trull Parish Council (Neighbouring Parish)</b>	<i>“Trull Parish Council wishes to object on the basis that the green infrastructure plan does not accord with the Western Neighbourhood Design Guide. We would like to see more trees and shrubs to improve the appearance of the development from the A38”.</i>	It is unclear specifically what areas the PC feel are not landscaped sufficiently and whether this is as planted or as proposed. It is clear that this application seeks to maximise planting opportunities.
<b>Former Comeytrowe Parish Council</b>	<i>“The Parish Council supports the landscaping undertaken providing it continues to address the concerns the Parish Council continues to raise relating to surface water flooding. With regard to the area in question the Parish Council still has concerns over the effectiveness of the park and bus scheme, until full details of how the scheme will operate are disclosed”.</i>	See EA/LLFA comments. The Park and Bus facility is not part of this application.
<b>Bishops Hull Parish Council (Neighbouring Parish)</b>	No comment.	No further action.
<b>Highway Authority</b>	The Highway Authority has been involved in discussions throughout the application process and the final set of amended plans should address the comments made to date.	An oral update will be given.

<b>Public Rights of Way Team</b>	Concerning PROW T29/11 – there is a concern that landscaping proposed at the Local Square will obstruct the PROW. This requires the designed obstruction to be removed or an application to divert the path to be made. A Grampian-style condition is proposed with Informative Note.	See Paragraph 12.22. Condition and Informative Note added.
<b>Natural England</b>	<i>“Designated Sites - Based on the plans submitted, and assuming that your Authority are satisfied with the further ecological information submitted in the Ecological Technical Note, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection”.</i>	Refer to comments from Ecologist.
<b>Lead Local Flood Authority (LLFA)</b>	<i>“The LLFA is satisfied with the submitted information for this application, subject to the minor labelling edit on the drainage strategy drawing as agreed in our meeting this afternoon”.</i>	Condition proposed.
<b>Environment Agency</b>	No objections as all interests are covered by the outline consent.	See LLFA comments. The outline consent contains 2 conditions (12&13) that control surface water matters. The approval of these conditions is a separate matter and will not affect the layout and so this application can be approved.
<b>National Highways</b>	Offer no objection.	No further action.

## 8.2 Non-Statutory Consultees

<b>Non-Statutory consultee</b>	<b>Comments</b>	<b>Officer comments</b>
<b>Ecologist</b>	<p>Condition 18 (Wildlife Strategy) – More information regarding badgers required.</p> <p>Condition 19 (Ecological Management Plan) – No comments.</p> <p>Condition 20 (Updated surveys) – Query regarding monitoring.</p> <p>Condition 21 (Lighting for Bats) – No further comments.</p> <p>Following the receipt of further information regarding badgers and dormouse, no further issues.</p>	<p>The outline consent contains 4 conditions (18-21) that provide a framework to further assess ecological impacts and provide mitigation and enhancement.</p> <p>The approval of these conditions is a separate matter and will not affect the layout and so this application can be approved.</p>
<b>Placemaking Officer</b>	<p>Commenting on the first set of amended plans –</p> <p><i>“Overall, the design of the Local Square is disappointing and lacks formality and a focal space. The Local Square is shown as a Key Grouping in the approved Western Neighbourhood Masterplan and Design Guide. The approved framework plan identifies the space as an entrance transition place marking the gateway between different character areas and frontages. It states that ‘The local Square will be defined by a change in public realm treatment and formal character’</i></p>	<p>See Paragraphs 12.1-12.16.</p> <p>The Park and Bus facility is not part of this application.</p>



*The square lacks any design formality as shown above in the masterplan and design guide, p.77. The above diagram gives far more of an urban square with symmetrical planting and public realm. This also picks upon the bay division and rhythm of the building.*

*The proposed layout shows more of an informal space with random planting. Orchard trees are not appropriate in this urban context. Whereas the masterplan shows a formal boulevard of trees on tree grill and a series of formal planting squares with no boundary division or shrub planting between the adjacent use. This was shown as having a distinctive key grouping separate in identity to the spine road.*

*Public realm materials, street furniture (including bike parking) and lighting are not adequately shown. The square should have a change in public realm treatment and blacktop and tegula block paving is not sufficiently different in quality – stone paving, stone setts and hoggin would be considered more appropriate and create more of a traditional urban square.*

*Regarding the park and bus, this represents a large area of unbroken*

	<p><i>carparking which would have no natural surveillance. The treatment to the A38 needs to be improved with hedge-banks and stone walls swinging into and returning within the site. Orchard planting is again not appropriate and should reflect more of a parkland setting with parkland trees including pines. This treatment also needs to be seen in the wider context of the site not in isolation. The SUD's space is not adequately shown and needs to have a detailed landscape treatment, with water being retained as a feature (what we don't want is steep over engineered edges with a need for safety fencing). Regarding the entrance feature, far more consideration needs to be given and this needs to be specific and provide full details. The placemaking preference would be to see a large piece of sculpture".</i></p>	
<p><b>Landscape Officer</b></p>	<p>Commenting on the first set of amended plans -  <u>"Landscape Comments</u></p> <ul style="list-style-type: none"> <li>• <i>The placemaking specialist and I had a chat about the proposals and agreed concerns. I note that the placemaking specialist placemaking specialist has sent comments, which I endorse, and largely repeat below, albeit with further expansion on tree species. I think that until the fundamentals are right about the approach taken, it is not work commenting too much on details. Happy to have a meeting with the design team to discuss if it will help.</i></li> </ul> <p><u>Local Square</u></p> <ul style="list-style-type: none"> <li>• <i>The design of the Local Square shown in the proposals is too</i></li> </ul>	<p>See Paragraphs 12.1-12.16.</p>



	<p><i>informal in its layout and not sufficiently “Civic” in its character and it lacks the formality that was aspired to in the Western Neighbourhood Masterplan and Design Guide, which states that, ‘The local Square will be defined by a change in public realm treatment and formal character’. There appears to be no justification for this change away from what has been agreed and expected by the community, and it is therefore recommended that the design is totally revised so that it is more formal and civic in character.</i></p> <ul style="list-style-type: none"> <li>• <i>The proposed layout shows more of an informal space with random planting. Orchard trees are not appropriate in this urban context. Whereas the masterplan shows a formal boulevard of trees on tree grill and a series of formal planting squares with no boundary division or shrub planting between the adjacent use. This was shown as having a distinctive key grouping separate in identity to the spine road.</i></li> <li>• <i>The square lacks any design formality as shown above in the masterplan and design guide, p.77. The above diagram gives far more of an urban square with symmetrical planting and public realm. This also picks upon the bay division and rhythm of the building.</i></li> <li>• <i>Public realm materials, street furniture (including bike parking) and lighting are not adequately shown. The square should have a change in public realm treatment and blacktop and tegula block paving is not</i></li> </ul>	
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	<p><i>sufficiently different in quality – stone paving, stone setts and hoggin would be considered more appropriate and create more of a traditional urban square.</i></p> <p><u><i>Tree pallet</i></u></p> <ul style="list-style-type: none"> <li>• <i>The tree pallet in particular needs fixing. The proposals include a lot of small-scale domestic character trees and fruit trees that are totally unsuitable. The species selected should re look at what was referenced in the design guide, this being a pallet that: has regard to the high status designed landscape setting informed by Rumwell, as well as being suitable at suggesting civic character and is also characteristics of the somerset landscape.</i></li> <li>• <i>Evergreen Oaks (Quercus ilex) are proposed in the design guide, which are highly suitable, and unless there are good reasons that justify doing otherwise, these should be the species chosen for the square.</i></li> <li>• <i>Other suitable species around the square would include planes, limes, parkland conifer species.</i></li> <li>• <i>Orchard and garden trees are not suitable in this part of the development.</i></li> </ul> <p><u><i>Movement</i></u></p> <ul style="list-style-type: none"> <li>• <i>This should be formal, as shown in the design guide. Non directional as shown in the design guide so as to respect the civic space and not dynamic as proposed.</i></li> <li>• <i>Materials should be high quality that get better with time, such as granite setts and hoggin.</i></li> </ul> <p><u><i>Park and ride / SUDS/ Entrance</i></u></p>	
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	<ul style="list-style-type: none"> <li>• <i>The roadside boundaries in the vicinity of the A38 should be hedge banks 1.2m high x 1.2m wide at the base.</i></li> <li>• <i>Regarding the park and bus, this represents a large area of unbroken carparking which would have no natural surveillance. The treatment to the A38 needs to be improved with hedge-banks and stone walls swinging into and returning within the site. Orchard planting is again not appropriate and should reflect more of a parkland setting with parkland trees including pines. This treatment also needs to be seen in the wider context of the site not in isolation.</i></li> <li>• <i>The SUD's space is not adequately shown and needs to have a detailed landscape treatment, with water being retained as a feature (what we don't want is steep over engineered edges with a need for safety fencing)".</i></li> </ul>	
<p><b>Green Infrastructure Officer</b></p>	<p>Commenting on the first set of amended plans -</p> <p><i>"Overall, I believe that the current design addresses some of the issues we have previously raised, with a few issues which I still think need to be considered in more depth.</i></p> <p><i>I think that the addition of a group of trees and vegetation in the attenuation area improves its overall quality and appearance and positively impacts the adjacent parking area. However, I still believe the current park and bus area is excessively dominated by hard surfaces and doesn't fully comply with the Western Design Guide recommendations. To create a more</i></p>	<p>See Paragraphs 12.1-12.16.</p> <p>The Park and Bus facility is not part of this application.</p>

	<p><i>appropriate park-like atmosphere and a more welcoming entrance to the town, I think the design should include larger tree species that would have a larger impact on short and longer views.</i></p> <p><i>I am supportive of the proposed verge and trees along the road (1083-02-GA-7101-D), as they enhance the quality of the area and create a more pleasant walking environment. However, I have concerns about the compliance of the shared footway/cycleway with LTN/20 standards, and I recommend further consideration in this regard.</i></p> <p><i>The design for the small open area (1000-04 P6 civic space cycle route) is an improvement in terms of its integration with the surrounding environment and in my opinion will create a more interesting space. To further enhance its quality and support a multifunctional approach I suggest adding some activities and other uses such as seating and an informal play area. It would be beneficial to understand a bit more about how the area support local ecology.</i></p> <p><i>Regarding the design of the Local Square, I appreciate the softer approach in contrast to the more formal approach in the Western Design Guide, as it has some advantages from a Green Infrastructure perspective. However, I still believe that the landscape qualities of the space can be further strengthened to create a more enjoyable place to be and cross. I recommend considering the incorporation of informal sitting elements in the soft spaces between the trees, and also exploring the possibility of adding</i></p>	
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	<i>shaded areas for shelter. Additionally, we have previously discussed the integration of public art at the entrance to improve the city's entrance and enhance the attractiveness of the local square. I believe this should be integrated into the design at this stage, rather than being planned as an addition after the fact".</i>	
<b>Tree Officer</b>	<p>Commenting on the first set of amended plans -</p> <p><i>"I didn't manage to comment on the original version of this application, but the latest scheme looks better with regards the proposed tree planting. I can't see details about the planting methods and management of these trees in the future? Given some of the poor planting on the scheme so far I think it needs to be overseen by their project arborists to ensure that what is shown on the drawings gets properly planted, established and cared-for, so that it can thrive to maturity".</i></p>	<p>See Condition 04.</p> <p>The landscaping condition has been enhanced to include planting details and a watering regime.</p>
<b>Designing Out Crime Officer Avon &amp; Somerset Constabulary</b>	<p>Comments made regarding the presence of good natural surveillance, lighting, cycle parking, street furniture and landscaping.</p>	<p>Some comments refer to the park and Bus facility which isn't part of this application. The comments of the DOCO will be referenced by way of an informative note for the applicants benefit.</p>
<b>Devon and Somerset Fire and rescue Service</b>	<p>No observations.</p>	<p>No further action.</p>

### 8.3 Local representation

- 8.3.1 In accordance with the Council's Adopted Statement of Community Involvement this application was publicised by 84 letters of notification to neighbouring properties on in November 2022 and again in March 2023 and a site notice was displayed on 06 December 2022.
- 8.3.2 At the time of writing no comments, of objection, or in support had been 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 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.
- 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

CP7 - Infrastructure  
CP8 - Environment  
SS7 - Comeytrowe / Trull - Broad Location for Growth  
DM1 - General requirements  
DM4 - Design

#### Site Allocations and Development Management Plan 2016

A3 - Cycle network  
ENV1 - Protection of trees, woodland, orchards and hedgerows  
ENV2 - Tree planting within new developments  
ENV3 - Special Landscape Features  
D7 - Design quality  
D8 - Safety  
D9 - A co-ordinated approach to development and highway planning  
D13 - Public Art  
Site allocation policy TAU1 - Comeytrowe / Trull

#### Other relevant policy documents

Somerset West and Taunton Design Guide  
Taunton Garden Town Public Realm 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

#### Neighbourhood Plans

The Trull Neighbourhood Plan is 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 areas of public realm, but tree planting and hedgerow protection is supported.

#### The National Planning Policy Framework

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

Relevant Chapters of the NPPF include:

2. Achieving sustainable development
8. Promoting healthy and safe communities

- 9. Promoting sustainable transport
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

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 is a relatively minor application given the context and generally the development plan seeks to ensure suitable infrastructure is delivered to support development.
- 10.3 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 types contained within this application are not CIL liable.

## **12. Material Planning Considerations**

- 12.1 As an application for Reserved Matters the application fundamentally seeks approval of layout, scale, appearance and landscaping.
- 12.2 The requirement, form, function and general layout of the Local Square was established by the Masterplan approved as part of the Western Neighbourhood Design Guide (WNDG) approved in 2020, this was informed by the Parameters relating to Land Use, Scale, Density, Access and Green Infrastructure agreed at the outline application stage.
- 12.3 The WNDG has provided a framework for detailed applications to be submitted and judged against ensuring the community has access to suitable



open spaces, including landscaped natural parks and what could be considered more urban spaces such as the 'Local Square' and 'Local Centre'. Whilst the role and function of the Local Centre is clear – a retail and commercial heart to the development providing shops, services and community facilities, the role of the Local Square was less clear and was predicated on a false premise, a matter that was discussed and assessed more recently as part of the Care Home application, ref 42/22/0054, which will present its key elevation to the Local Square.

- 12.4 As can be detected in the comments of the Placemaking Manager there was a view that the Local Square should be fronted and accessed by retail and community facilities which would spill out into the Local Square. The Local Square was to be formally laid out with mostly hardstanding and grass arranged formally around two lines of 7 trees.
- 12.5 This was discussed as part of the Care Home application, which was approved by Planning Committee, conscious of this matter regarding the identity and role of the Local Square, with the Case Officer view presented that the formal design shown in the WNDG would probably not now work with the Care Home proposal.
- 12.6 It is worth pointing out that the WNDG is just that, a guide, not immune to change should circumstances dictate. It was the view of the Case Officer when recommending approval of the Care Home proposal to the Planning Committee that the Council had misdirected the Consortium in requiring the WNDG to show retail and community facilities fronting the Local Square, because a specific quantum of retail and community facilities had been approved by the outline consent and this would not support such amenities at the Local Square AND in the proposed mixed use Local Centre, with the latter, as stated above designed to be the heart of the development. The decision to insist the Consortium show such in the WNDG may have been based on sound placemaking principles but were not supported by the planning consent or the obligations the developers were otherwise obliged to provide via the s106.
- 12.7 To be clear the outline application approved Up to 1,000sqm of shops (includes hairdressers), financial and professional services (estate agents/banks), restaurants/café, pub/bar and takeaway floorspace (gross) within an Up to 1.6ha Local Centre. To provide a comparison the recently approved Lidl in Wellington has a gross floor area of 2100sqm and so it can be seen that whilst this is a reasonable amount of floor area to provide in one Local Centre you would not want to split this over two sites as the result may

be to undermine the viability and vitality of both elements rather than just have one thriving Local Centre at the heart of the development.

- 12.8 On the community side, and aside from the Primary School, one site of 0.11ha was secured by the s106 to provide a Community Hall, so again there is no merit in the opinion of the Case Officer in splitting this over two areas.
- 12.9 Notwithstanding the comments made regarding the Local Square, if a third party wished to locate further retail, commercial and/or community facilities elsewhere on the site then this would be considered on its merits via a fresh application, the point made above is to recognise what was approved via the outline consent.
- 12.10 Looking at the design principles now the Care Home application has been approved and two other sides of the Local Square have been built (as residential) the context of the Local Square is now established, informed by detailed plans of other public open space areas so the overall offer of public spaces is better informed.
- 12.11 This has resulted in a different approach to the design of the Local Square which is less formal than the image in the WNDG but nonetheless will provide an active space, a place to dwell and a landscaped area at this key entrance area to the wider development. The space will incorporate paths for cycle and pedestrian linkages, and street furniture such as benches, cycle stand and litter bins. A bus stop has also been relocated to the Local Square where more space is available so, in time, a shelter may be added (this will depend on future management and maintenance arrangements being known as the Highway Authority will not accept responsibility for shelters on adopted highway land at this site).
- 12.12 Materials will closely align with the 'General Standard' set out in the Taunton Garden Town Public Realm Design Guide, to be secured via condition.
- 12.13 Due to the change in approach to the Local Square and with the benefit of seeing some areas already laid out there has also been a change in approach to 'the Gateway' area. The WNDG showed this is a grassed area with a large sculpture within it as a gateway feature. The proposed plans show a pedestrian/cycle linkage to and from the Park and Bus facility with tree planting and an entrance feature based on stone walling with integrated public art, the details of which are to be secured via condition. The specific detail of

the public art, to accord with Policy D13, at this position, and/or in the Local Square and/or at The Maze Park will be reserved for condition.

- 12.14 This particular space needs to act as a transition from the overtly engineered appearance of the A38 roundabout to the residential development of Orchard Grove. To this end some already installed pavement will be removed and replaced with grass verge to soften the approach and the edge of the carriageway (the Case Officer would wish to go further with softening the A38 roundabout environment, but this would not be proportionate to this specific application). Multiple attempts have been made by the Case Officer to secure a threshold within the public highway to reinforce the gateway and sense of arrival, however this has been met with persistent resistance from the Highway Authority.
- 12.15 The road serving the employment area and an existing road serving parcel H1a are both to receive LTN 1/20 compliant cycle priority crossovers akin to those being provided elsewhere along the spine road.
- 12.16 Comments from the Placemaking Officer, Landscape Officer and Green Infrastructure Officer are noted and a great deal of effort by the Case Officer and the Consortium has been expended, mindful of these comments, trying to reach a good outcome given the number of variations and options available. Given the space is for the local people it is perhaps a shame that those people who have moved into the site have not been more actively engaged by the Consortium in the design of the space, nor made comments when consulted, and there will always be a mixture of personal and professional opinions on a matter such as this but it is felt the space will provide a framework for the community to shape and mould over the years as the community and employment area grows, the Care Home is completed and the management regimes are better understood to further invest in the space over time and to reflect seasonality and a sense of community.
- 12.17 The outline application via its Environmental Statement and the Council via its granting of the outline planning permission and subsequent approval of the Masterplan has established that development of a Park and Bus facility and an employment zone is acceptable within and adjacent a Special Landscape Feature, Stonegallows Ridge. Whilst this application gives more detail the fundamental premise of regrading land to sit employment units lower in the landscape enveloped by landscaping is what is now proposed, and so accords with Policy ENV3.

- 12.18 It is evident across the majority of the Western Neighbourhood that levels have required manipulation to achieve compliant street gradients and level building plots. To that end the employment area will be no different and will require regrading to facilitate future (large floorplate) industrial buildings, service yards and car parking.
- 12.19 The employment road gives us the first indication as to the necessary degree of cut to deliver plots within the landscape height envelope established by the Environment Statement of the outline consent. The road will be cut into the rising land but in future as and when employment plots come forward they will be individual cut to achieve the floorplates required.
- 12.20 The applicant is to be 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 which show some areas being kept free of built development, except car parking. The indicative plans provided by the Consortium would seem to be in conflict with this parameter. An informative note to this effect is recommended to inform future discussions.
- 12.21 Another area of Public Open Space included in this application is that referred to as The Maze Park, a scheme for which has already been approved via application 42/19/0053. The Maze Park is a name coined from the name given to an adjacent stand of trees which was historically associated with Rumwell Hall. The plan for this area has been revised to reflect the employment area plans and shows a continuation of the cycle linkages through the POS to connect into Parcel H1D, Manor Park (which leads to the Local Centre), and the neighbouring site Higher Comeytrove Farm which is part of the allocation that is starting to emerge for development separately having not formed part of the original Orchard Grove outline consent. There were no specific conditions imposed on application 42/19/0053 relating to The Maze Park.
- 12.22 Comments made by the Public Rights of Way team raise an issue with the potential obstruction of a right of way. The reality is that the path may clip the very corner of the proposed Local Square and some proposed landscaping could potentially encroach and obstruct. Members can be reassured that the

Public Right of Way has, to date, been adequately integrated into the development by way of the creation of a hoggin path and crossing point over the spine road. The proposed condition will ensure this matter can be dealt with adequately.

12.23 The detailed chronology of phasing has been considered to ensure all elements come forward in a planned way, relative to the wider phasing plan which has already been agreed. Conditions will largely be hooked to the Care Home application which the specialist provider is ready to start. Conditions on that approval requires a road detail for access and a basin for drainage which this application provides. The proposed conditions ensure that the public spaces are delivered in tandem with the Care Home and not left unimplemented. In accordance with the s106 The Maze is currently phased to be 70% laid out prior to the completion of the last residential dwelling in that phase with the remaining 30% to be laid out in the next planting season following the completion of the final residential dwelling in that phase. The Maze POS is in the H1d phase and there appears no reason to change this.

12.24 There have been no adverse comments received yet during the public consultation period to question whether consent should be granted, albeit Members will be conscious of the comments made by the Placemaking, Landscape and Green Infrastructure Officers. It is noted the comments made by Parish Council's do not relate to the actual design, layout and approach of the public spaces and the employment land road, but to wider landscaping and surface water issues which have been addressed in this report.

12.25 As this is an application for reserved matters there are a host of conditions pursuant to the outline consent which will be dealt with separately.

12.26 Suitable conditions and informative notes will be imposed on this application relating to phasing, landscaping, materials and levels.

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

13.1. The continued delivery of the Garden Community is welcomed to provide very specific infrastructure including a public space in the form of the Local Square plus the opening up of the employment area.

13.2. There are no outstanding issues that cannot be conditioned in their own right as part of this consent or are already covered by outline conditions or the s106.

- 13.3. 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**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - (A1) DrNo 1000-L-05 P1 Site Plan
  - (A3) Employment Area Primary Infrastructure & Access Road Location Plan Drawing No. TBC (the phasing plan)
  - (A1) DrNo 1000-L-02 Rev P8 Civic Square Landscaping GA Plan
  - (A1) DrNo 1000-L-03 Rev P8 Civic Square Landscaping GA Plan Attenuation Area
  - (A1) DrNo 1000-L-04 Rev P8 Civic Square Landscaping GA Plan Park Link
  - (A1) DrNo 02-DR-7001 Rev G Employment Area Primary Infrastructure & Access Road Preliminary Drainage Layout Plan
  - (A1) DrNo 02-GA-7001 Rev E Employment Area Primary Infrastructure & Access Road Preliminary Highway Levels Plan
  - (A1) DrNo 02-GA-7101 Rev E Employment Area Primary Infrastructure & Access Road Preliminary Surfacing, Signs & Lines & Visibility Plan
  - (A1) DrNo 02-GA-7501 Rev E Employment Area Primary Infrastructure & Access Road Condition 26 Plan
  - (A1) DrNo 02-RP-7001 Rev D Employment Area Primary Infrastructure & Access Road Preliminary Road Profiles
  - (A1) DrNo 02-RP-7002 Rev D Employment Area Primary Infrastructure & Access Road Preliminary Road Profiles
  - (A2) DrNo 02-SK-7101 Rev D Employment Area Primary Infrastructure and Access Road Contour Plan
  - (A1) DrNo 02-SK-7001 Rev F Employment Area Primary Infrastructure and Access Road Boundary Plan
  - (A1) DrNo 02-ATR-7001 Rev D Employment Area Primary Infrastructure & Access Road Vehicle Tracking Plan

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

2. Pursuant to Drawing No. TBC (the phasing plan), but excluding soft landscaping

covered by Condition 04, the Local Square, the Gateway and the highway works on the road within Parcel H1a shall be laid out in accordance with the approved plans and details agreed via condition prior to the first 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.

3. The SUDs area shown on Drawing No. TBC (the phasing plan) shall be fully installed and be operational to receive surface water prior to the road reaching base course construction.

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

4. 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. TBC (the phasing plan). 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.

5. 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 02.

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

6. Prior to the first 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 02.

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.

7. 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 02.

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.

8. Prior to the first 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 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.

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.

9. Prior to the first 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.

10. 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.

11. The development shall be carried out in accordance with the submitted Construction Environment Management Plan (Construction Method Statement), AWP, dated 29/07/2022 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.

12. Prior to the commencement of works 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.

13. Prior to first occupation 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.

14. 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.

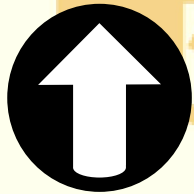
Reason: To prevent the increased risk of flooding to accord with the aims and objectives of the National Planning Policy Framework.

#### Notes to Applicant

1. Your attention is drawn to the original conditions on permission 42/14/0069 which still need to be complied with.
2. In accordance with the National Planning Policy Framework the Council has worked in a constructive and creative way with the applicant to find solutions to problems in order to reach a positive recommendation and to enable the grant of planning permission.
3. 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.
4. Your attention is drawn to comments of Avon & Somerset Constabulary's Designing Out Crime Officer dated 24/05/2023.
5. 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.
6. 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.
7. 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

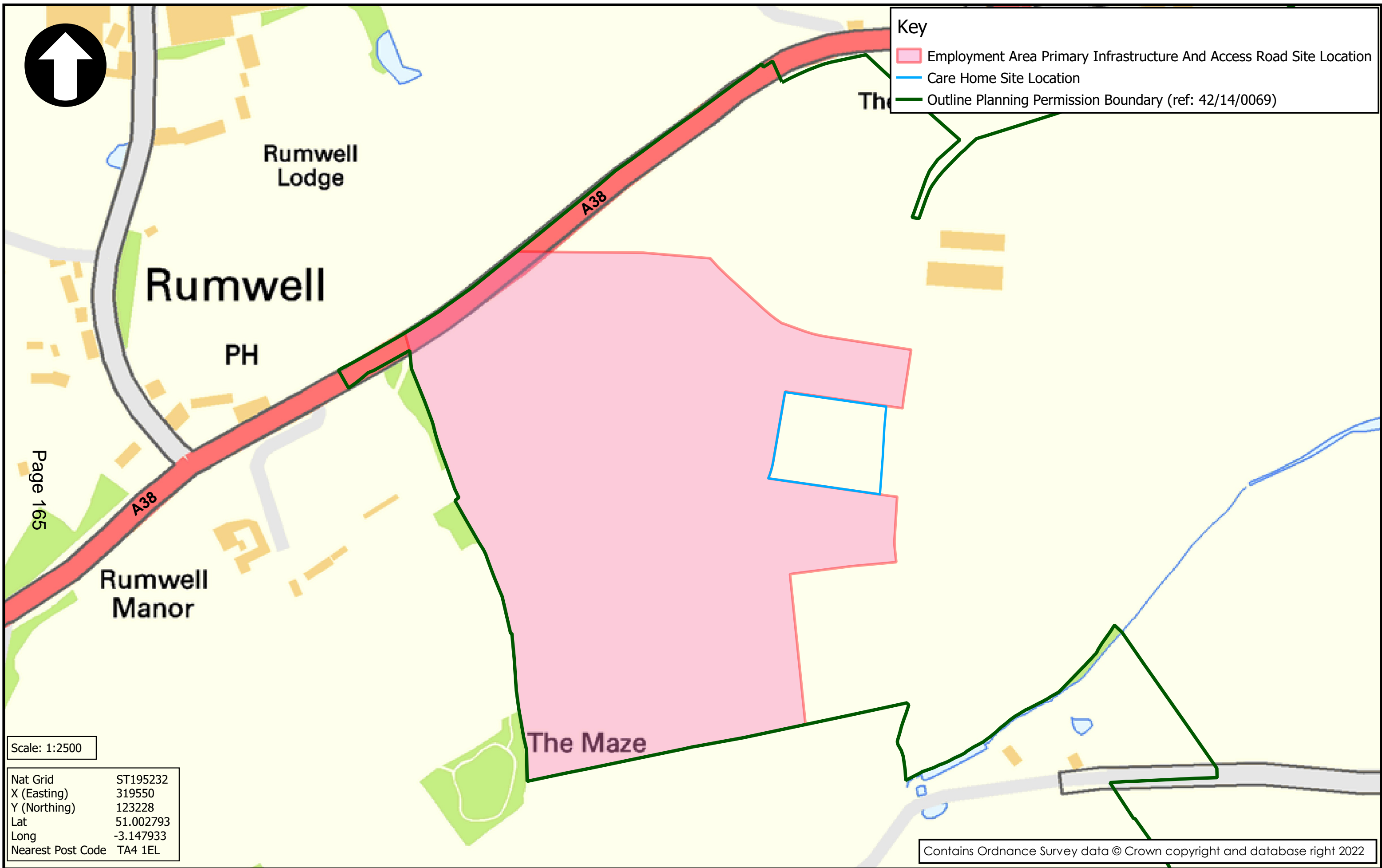
buildings when viewed from the wider Special Landscape Feature and adjacent listed buildings. Attention is also drawn to the Scale Parameter Plan with particular reference to the parameters for the employment land area.

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**Key**

- Employment Area Primary Infrastructure And Access Road Site Location
- Care Home Site Location
- Outline Planning Permission Boundary (ref: 42/14/0069)



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Scale: 1:2500

Nat Grid ST195232  
 X (Easting) 319550  
 Y (Northing) 123228  
 Lat 51.002793  
 Long -3.147933  
 Nearest Post Code TA4 1EL

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Comeytrove, Taunton  
 Employment Area Primary Infrastructure And Access Road Location Plan

Job number:	1083
Drawn:	OJT
Checked:	RJM
Approved:	PDM

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<b>Application Details</b>	
Application Reference Number:	3/32/22/010
Application Type:	Full Planning Permission
Earliest decision date:	06 June 2023
Expiry Date	20 June 2022
Extension of Time Date	30 June 2023
Decision Level	Planning Committee
Description:	Three year temporary change of use of land and siting of 3 No. non-permanent pods for year around holiday letting
Site Address:	The Babbling Brook, Shurton Road, Stogursey, TA5 1QE
Parish:	Stogursey
Conservation Area:	N/A
Somerset Levels and Moors RAMSAR Catchment Area:	N/A
AONB:	N/A
Case Officer:	Kieran Reeves
Agent:	N/A
Applicant:	Mr Cooper
Committee Date:	20 June 2023
Reason for reporting application to Committee	The Parish Council and more than four members of the public have a view contrary to the recommendation of Officers. The application was submitted to the former Somerset West and Taunton Council and the application is therefore referred to the Committee for determination under the former Council's Constitution.

## 1. Recommendation

1.1 That permission be GRANTED subject to conditions.

## 2. Executive Summary of key reasons for recommendation

2.1 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

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

#### **3.1 Conditions**

3.1.1 Temporary planning permission – 3 years

3.1.2 Standard plans condition

3.1.3 Ecological clerk of works to be appointed

3.1.4 Bird nesting condition

3.1.5 Hedgerows and trees to be protected

3.1.6 Flood resistant floor levels

3.1.7 External materials condition

3.1.8 Car parking condition

3.1.9 Measures to prevent overlooking

3.1.10 Flood Evacuation Management Plan to be approved

3.1.11 Landscaping condition

3.1.12 External lighting condition

3.1.13 Ecological enhancement measures

3.1.14 Holiday occupation of glamping pods

3.1.15 Noise Management Plan condition



## 3.2 Informatives

### 3.2.1 Proactive statement

### 3.2.2 Nesting birds informative

### 3.2.3 Environment Agency informative

## 3.3 Obligations

### 3.3.1 No planning obligations required.

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

### 4.1 Details of proposal

4.1.1 The applicant is seeking to use an area of land to the rear of the public house to site three glamping pods. The glamping pods would be erected in a line in a north - south orientation along the eastern boundary of the site, adjacent to Rose Cottage. There would be a decked area at the front of each pod that would be situated on the western elevation of the pods. Each pod would be approximately 47 square metres with an approximate height of 3.4 metres. The decking would add a further 13 square metres in footprint to each pod. The pods would have three bedrooms each and there would be two parking spaces for each pod. They would be clad in natural timber with natural timber windows and doors. The area to the front of the pods would be given over to extending the car park.

### 4.2 Sites and surroundings

4.2.1 The Babbling Brook is a public house that is situated in the village of Shurton, which is not a designated settlement and therefore the site is in the open countryside for the purposes of the adopted Local Plan. The pub offers food in a dining area, drinks in the bar area and sleeping accommodation in their four letting rooms. It faces on to the main road through Shurton with residential properties either side. There is a beer garden between the side of the pub and the neighbouring property to the west, Rose Cottage. To the rear of the pub is the car park for the business, which is accessed via a single width vehicle access along the side of the pub. The site for the proposed development is on an area of unused land to the rear of the car park. The access to the car park is within Flood Zones 2 and 3, and part of the application site is within Flood Zone 2. The site sits between the gardens of residential properties with agricultural land to the north.

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

5.1 No planning history relevant to this planning application.

## **6. Environmental Impact Assessment**

6.1 No Environmental Impact Assessment submitted in relation to this application as the proposal does not fall within criteria that requires an EIA.

## **7. Habitats Regulations Assessment**

7.1 The site is not within the catchment area for the Somerset Moors & Levels Ramsar site.

## **8. Consultation and Representations**

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

8.1 Date of consultation: 23 May 2023

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

8.3 Press Date: N/A

8.4 Site Notice Date: 13 May 2022

## 8.5 Statutory Consultees

<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
Stogursey Parish Council	<p>Stogursey Parish Council cannot support this application unless the following points are accepted.</p> <p>1) Screening of the "Pods" in the proposed position would appear to have been well considered. However, despite the thick laurel hedging on the adjoining property we would recommend that frosted glass be installed in the windows at the rear of the "pods" to ensure privacy?</p> <p>2) Occupation should be restricted to 26/32 weeks per year to avoid the potential for permanent residency in light of the need for accommodation for Hinkley Point "C" employees?</p> <p>3) For the same concerns, occupation should be restricted to 13 nights in any one month.</p> <p>4) An additional two dedicated parking spaces are provided to serve each "Pod" to avoid overburdening the current car park which, at busy periods, already causes vehicles to park on the narrow public road.</p> <p>Stogursey Parish Council would advise there is no bus service as stated. They also note in the summary mention of The Anchor Inn but there is no inn of that name in the village.</p>	<p>Neighbour impact discussed at Section 10.4 of the report and parking provision discussed at Section 10.3 of the report.</p> <p>Condition 14 includes 28 days restriction to ensure that the pods are used as holiday accommodation, but the suggested restriction on the period of time during the year that the pods can be occupied would not be reasonable.</p>

<p>Environment Agency</p>	<p>While we still have reservations about the analysis and commentary presented in the updated Flood Risk Assessment (FRA), our position considers the availability of flood modelling information, the location of the proposed development within the site and the proposed mitigation measures.</p> <p>We can therefore now WITHDRAW our earlier objection, provided the Local Planning Authority (LPA) is satisfied the requirements of the Sequential Test under the National Planning Policy Framework (NPPF) are met, and subject to the inclusion of the following condition within the Decision Notice:</p> <p>CONDITION: The finished floor levels of proposed glamping pods shall be set at least 0.6m higher than existing external ground levels.</p> <p>REASON: To reduce the risk of flooding to the proposed development and future occupants.</p> <p>The following informatives and recommendations should be included in the Decision Notice.</p> <p>The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning or visit</p>	<p>Discussed at Section 10.6 of the report</p>
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	<p><a href="https://www.gov.uk/sign-up-for-flood-warnings">https://www.gov.uk/sign-up-for-flood-warnings</a>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email, or text message. Anyone can sign up.</p> <p>At present in this area, we can only provide Flood Alerts warning of the potential for flooding in the general area in advance of forecast flood conditions. These alerts should be used to enact the procedures outlined in the submitted FRA to manage the risk of flooding to the proposed glamping pods and ensure occupants have access to refuge in the main public house building in the event flooding occurs on the site. For practical advice on preparing for a flood, visit <a href="https://www.gov.uk/prepare-for-flooding">https://www.gov.uk/prepare-for-flooding</a>.</p> <p>To get help during a flood, visit <a href="https://www.gov.uk/help-during-flood">https://www.gov.uk/help-during-flood</a>.</p> <p>For advice on what do after a flood, visit <a href="https://www.gov.uk/after-flood">https://www.gov.uk/after-flood</a>.</p> <p>The Council's Emergency Planners should be consulted in relation to flood emergency response and evacuation arrangements for the site. We strongly recommend that the applicant prepares a Flood Warning and Evacuation Plan for</p>	
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	<p>future occupants. We do not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users.</p>	
Wessex Water Authority	No objections	Discussed at Section 10.7 of the report

## 8.6 Internal Consultees

<b>Consultee</b>	<b>Comment</b>	<b>Officer Comment</b>
Highways Development Control	Standing advice applies	Discussed at Section 10.3 of the report
Environmental Health	<p>It is not possible to predict whether or not the new units will lead to unreasonable noise. A holiday let is not inherently noisy and Environmental Health have received very few complains about noise from holiday lets; any disturbance will depend on the behaviour of the people staying there and the management of the property. Therefore, Environmental Health are not in a position to object to the application.</p> <p>The Noise Management Plan does outline steps that will be taken to try and manage noise from people staying at the units, which should provide some reassurance that the noise can be controlled.</p> <p>One comment, regarding the phone number for complaints. The NMP says that it will log complaints and keep a record and that “Any guests found to be exceeding acceptable noise levels will be contacted immediately to lower the noise”. However it is not clear how the operator will know whether acceptable noise levels are being exceed (or what an “acceptable” level is) and so at</p>	Discussed at Section 10.4 of the report

	<p>what stage they will contact the guest. It is recommended that the operator should contact the guest immediately on receiving a complaint as this will be the quickest way to resolve any issues.</p> <p>The applicant should be aware that if the Council does receive complaints about noise from the holiday lets the Council can investigate these as a potential statutory noise nuisance under the Environmental Protection Act 1990. In this case the responsibility for controlling the noise could rest with the owners of the site as well as the operator of the lets.</p> <p>However, it is best if the noise can be controlled at the planning stage. Therefore, if the development does go ahead, I would recommend that conditions are used to ensure that the applicant has a Noise Management Plan in place and abides by it. I would amend the NMP to state that the operator would contact the guests immediately on receiving a complaint about noise (or other issues), rather than just recording it.</p> <p>Also, as the pods are temporary structures would it be possible to grant a temporary permission? This would give the applicant the opportunity to show that the pods</p>	
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	<p>can be managed without causing any problems. If there are issues then this would be taken into account if there was an application to extend the use in the future.</p>	
Ecologist	<p>The phase 1 habitat survey undertaken by Ecology Service (January 2022) indicates that the following is required:</p> <ol style="list-style-type: none"> <li>1. An ecological clerk of works will be appointed. The ecological clerk of works will advise contractors on the ecological enhancement proposals and will be on call to deal with any queries or unforeseen issues. The appointed ecological clerk of works will conduct a toolbox talk prior to the commencement of works. This will emphasise best practice guidelines to ensure there is no accidental damage to adjoining gardens and associated vegetation or nearby watercourses.</li> <li>2. Where external lighting is to be installed, prior to construction, a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and</li> </ol>	Discussed at Section 10.5 of the report

	<p>where external lighting will be installed. Lux levels should be below 0.5 Lux. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.</p> <p>Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with NH6 of the West Somerset Local Plan</p> <p>3. No vegetation removal works around the site shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the trees, shrubs and scrub and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local</p>	
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	<p>Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.</p> <p>Reason: Nesting birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended). Although this is a legal obligation the law does not specify a time period – some species can breed outside the time frame given.</p> <p>4. Retained hedgerows and trees shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works, groundworks and construction and to ensure materials are not stored at the base of trees, hedgerows and other sensitive habitats. Photographs of the measures shall be submitted to the Local Planning Authority prior to the commencement of any vegetative clearance or groundworks. The measures shall be maintained throughout the construction period.</p> <p>Reason: A pre-commencement condition in the interests of</p>	
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	<p>European and UK protected species and biodiversity generally and in accordance with policy NH6 of the West Somerset Local Plan</p> <p>5. As enhancement and compensation measures, and in accordance with National Planning Policy Framework (NPPF), please apply the following conditions to any planning permission granted. The following will be incorporated into the site proposal with photographs of the installed features submitted to the Local Planning Authority prior to first occupation: Native species of tree will be planted within the site. These will include oak and holly (see plans accompanying the planning application Ecology Services report Jan 2022). Three bird boxes and three bat boxes will be erected as part of the proposals. These will be erected under the guidance of the appointed ecological clerk of works and will be located on suitable trees or buildings in adjoining areas (the site itself does not support trees or buildings).</p> <p>Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National</p>	
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	<p>Planning Policy Framework</p> <p><u>Informative:</u> The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop until the young have fledged or then advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity. Building materials and machinery will be stored on existing areas of hardstanding. No materials or equipment will be stored next to boundary vegetation associated with adjoining gardens.</p>	
Economic Regeneration and Tourism	No comments received	N/A
Landscape Officer	<p>Unfortunately, there is insufficient capacity to respond to all landscape consultation requests. In this instance, it is considered that landscape considerations can be left up to the planning officer, however, please attend the design surgery or contact me again if it is considered that specialist landscape input is necessary.</p>	N/A

### 8.7 Local Representations

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

Five members of the public have objected to the application. The reasons for objecting to the application are as follows:

- The principle of the proposal conflicts with the provisions of saved Policies STR1 (Sustainable Development) and SP/4 (Development in Small Villages) and Emerging Local Plan Policy SC1(4) section 3, and Section 55 of the National Planning Policy Framework (2012);
- The site not a sustainable location as there is no shop within safe and easy walking distance and there is no bus service in Shurton;
- There would be nowhere for the occupiers of the pods to walk to go and eat breakfast;
- The proposal would lead to increased noise disturbance;
- The pods would overlook the neighbouring property, Rose Cottage;
- The proposal would result in loss of light to Rose Cottage;
- The current car park for the public house is not sufficient to accommodate the existing amount of patrons and people park on the road, reducing visibility for other properties when leaving their property. The proposal will lead to more vehicles parking on the road;
- More vehicles parking on the road will cause additional issues due to the increase in large vehicles using the road as a result of the nearby Hinkley Point C construction site;
- The proposal would result in a loss in ecological habitat;
- The owners of the site would not be able to effectively monitor the site as they do not live on site;
- There is the potential for the pods to be occupied all year round and become permanent residences; and
- The use of the proposed pods by workers at Hinkley Point C would increase noise levels and degrade rural living.

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

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former West Somerset area. The Development Plan comprises comprise the Adopted West Somerset Local Plan to 2032, Somerset Mineral Local Plan (2015), and Somerset Waste Core Strategy (2013).

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:

West Somerset Local Plan to 2032

SD1 - Presumption in favour of sustainable development  
OC1 - Open countryside development  
EC1 - Widening and strengthening the local economy  
EC9 - Tourism outside settlements  
TR2 - Reducing reliance on the private car  
CC2 - Flood risk management  
NH5 - Landscape character protection  
NH6 - Nature conservation & biodiversity protection & enhancement  
NH13 - Securing high standards of design

Retained Saved Policies of the West Somerset Local Plan (2006)

T/7 - Non-residential development car parking  
T/8 - Residential car parking

Neighbourhood Plans:

No neighbourhood plan in force in this area

Supplementary Planning Documents:

District Wide Design Guide, December 2021

Other relevant policy documents:

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

National Planning Policy Framework

## 10. Material Planning Considerations

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

### 10.1 The principle of development

10.1.1 The proposal is for the siting of three glamping pods at the rear of the existing public house. The site is within Shurton, but Shurton is not a designated settlement for further development. Therefore, the site is open countryside for the purposes of the adopted development plan. Policy OC1 sets out that *development in the open countryside (land not adjacent or in close proximity to the major settlements, primary and secondary villages) will only be permitted where it can be demonstrated that:*

- *such a location is essential for a rural worker engaged in e.g: agricultural, forestry, horticulture, equestrian or hunting employment, or;*
- *it is provided through the conversion of existing, traditionally constructed buildings in association with employment or tourism purposes as part of a work/live development, or;*
- *it is new-build to benefit existing employment activity already established in the area that could not be easily accommodated within or adjoining a nearby settlement identified in Policy SC1, or;*
- *it meets an ongoing identified local need for affordable housing in the nearby settlement which cannot be met within or closer to the settlement, or;*
- *it is an affordable housing exceptions scheme adjacent to, or in close proximity to, a settlement in the open countryside permitted in accordance with Policy SC4(5).*

10.1.2 Policy OC1 provides the scenarios where development in the open countryside would be acceptable. The proposed development in this case would not comply with any of the acceptable scenarios under Policy OC1.

10.1.3 The site is in the countryside with no easy and safe access to public transport. Therefore, the visitors to the proposed glamping pods would be reliant on their vehicles to access the site and travel around the local area. As such, the proposal conflicts with Policy TR2.

10.1.4 Policy EC9 supports new tourism development within the open countryside under certain circumstances. These are where it can be demonstrated that its



location is essential to the business and the proposal could not be located elsewhere; when the scheme does not adversely affect the vitality and viability of neighbouring settlements; and where it complements the existing tourism provision of those settlements and the surrounding area without generating new unsustainable transport patterns.

10.1.5 The proposed glamping pods would be sited on an area of scrubland within the boundaries of the public house, which is next to the pub's car park. The glamping pods would essentially be an extension of the existing tourism accommodation that is currently provided in the pub. It can therefore be concluded that the location of the glamping pods within the boundaries of the existing commercial premises rather than beyond the boundaries of the site is essential to the viability of the proposal. It would also allow the glamping pods to be managed more efficiently than if they were sited elsewhere in the district. The pods can therefore not be located elsewhere. Officers are satisfied that the proposal would not adversely affect the vitality and viability of neighbouring settlements, such as Stogursey, as there is understood to be no accommodation of this type in the neighbouring settlements. The proposal would see additional tourist come to the local area and this can help to support existing tourism provision in the local area and in the neighbouring settlements. Given that the proposed glamping pods would be sited on an existing commercial premises with its own existing level of vehicle movements to and from the premises, and their siting would extend that business's existing tourist accommodation, the quantum of development would not result in unsustainable transport patterns. Officers are satisfied that the proposal complies with Policy EC9.

10.1.6 The November 2021 appeal decision at Anstey Farm (reference APP/W3330/W/21/3280061) confirmed that the dominant policy in respect of tourist accommodation in the open countryside is Policy EC9, and the Inspector attached significant weight to Policy EC9 and attached considerably less weight to Policies OC1 and TR2. When taking this approach, it is concluded that this proposal for the temporary siting of three glamping pods is a suitable site, in principle, in relation to the Local Plan's approach to the provision of tourism development, and despite the conflict with Policies OC1 and TR2, the proposed development complies in principle with the Local Plan when read as a whole. The proposal is therefore acceptable in principle, subject to other material planning considerations being satisfied.

## 10.2 Design of the proposal & the impact on the character and appearance of the locality

10.2.1 The Babbling Brook is located in the village of Shurton, which is not a designated settlement for further development. The site itself is at the rear of the public house on an area of scrubland that is adjacent to the car park for the pub and it is understood to have been used at some point in the past as a beer garden. It is important to note that it is within the physical boundaries of the pub. To the east and west of the site are residential properties as the pub is located between existing residential properties. To the north of the site there is open countryside consisting of agricultural fields. In terms of the site's physical and visual location, from the wider landscape it is seen in relation to the existing built form of the pub and the neighbouring residential properties. There is also mature planting along the boundary with the neighbouring property, Rose Cottage, and also to the north and west of the site. This planting will help to provide notable screening of the proposed glamping pods.

10.2.2 The proposal would involve siting three glamping pods along the boundary of the site with Rose Cottage. The pods would be single storey and have rounded roofs that would be clad in natural timber. To the front of each pod would be raised decking that would also be constructed from natural timber. There would be window and doors openings in both ends of the pods and the windows in the rear would have timber screens over them to protect neighbouring residential amenity (discussed further under Section 10.4 of the report). The total length of each pod would be approximately 8.3 metres or 10.6 metres when including the decking. The design of the proposed pods are considered to be acceptable in the context of the site, which is located in the visual transition between the built form of the public house and the open countryside. The natural timber finish would weather down over time and help the pods to bed into the surrounding built form and mature planting around the site. Their scale is considered to be subservient to the built form of the public house and the proposal would not result in overdevelopment of the site as there would also be space for parking spaces in front of the pods. The design, scale and materials of the proposed pods are considered to comply with Policy NH13 of the adopted Local Plan.

10.2.3 The location of the site within the village of Shurton and the mature planting around the site that would provide notable screening should ensure that the proposed development does not stand out within the landscape and any views of the buildings from the wider landscape would see the pods as well related to the built form of the public house and the wider village. They would not appear as isolated buildings in the open countryside. In addition, the scale, design and

materials of the pods should also reduce their landscape impact and their impact on visual amenity. Overall, it is considered that there would not be material harm to the character and appearance of the landscape or visual amenity, and the proposal is compliant with Policy NH5 of the adopted Local Plan.

### 10.3 Access, highway safety and parking provision

10.3.1 The Highway Authority have referred Officers to their standing advice. The proposed development would be sited adjacent to the existing car park of the public house. The car park is located at the rear of the pub and there is a vehicular access that runs down the side of the pub from the road to the car park. The access only serves the pub car park. It is considered that there could be a small increase in vehicle movements to and from the pub and this would see a small increase in the use of the access, but it is considered that the increase would be limited due to the existing size of the car park and that people already visit the site to eat and then leave. The road carries a 30mph speed limit, but it is considered that vehicles are likely to be travelling slower than this due to the narrow nature of the road and the residential properties either side. The public house is located on the inside of a bend in the road and visibility to the east and west is somewhat compromised by the position of the access on the inside of the bend. However, it is considered that the visibility splays that are available are sufficient for the likely speed of vehicles travelling along the road. In addition, although there would be an increase in the use of the access, it would not be a significant increase. Taking all these factors into account, Officers consider that the refusal of the application on highway safety grounds would not be defensible under Paragraph 111 of the National Planning Policy Framework.

10.3.2 In terms of parking provision, sufficient levels of parking would be retained for the public house and the letting rooms in the pub. The car park would be extended in front of the three proposed glamping pods. There would be 18 parking spaces retained for the pub and its letting rooms with an extra six parking spaces provided for the three glamping pods. Parking Provision Table 3 in the adopted Local Plan requires that one parking space is provided for every four seats in the restaurant area and one parking space is provided for every five square metres in remainder of gross floor area devoted to patrons (the bar area). In addition, there should be one parking space for every letting room in the public house. The information provided by the applicant in relation to the floor area of the pub and the number of letting bedrooms (four bedrooms) requires 18 parking spaces. Given that each pod would have four to six guests staying in them, Officers have requested that each pod has two parking spaces. This is a total of 24 parking spaces and as set out above, the submitted site plan shows that this

level of parking provision would be provided with separate turning space available as well to allow vehicles to leave the site in forward gear. The proposal therefore complies with Policies T/7 and T/8 of the adopted Local Plan.

#### 10.4 The impact on neighbouring residential amenity

10.4.1 The glamping pods would be sited between residential properties and close to the boundary with the neighbouring residential property, Rose Cottage. For reference, neighbouring dwelling itself is located approximately 24 metres from the pods. There is the potential for the proposed development to impact negatively on the living conditions of the residential properties. However, it also needs to be acknowledged that the site is at the rear of an existing public house that is open six days of the week and until 11pm on five of those days. This creates a level of existing background noise for most of the week and includes noise being potentially created at anti-social hours.

10.4.2 Additionally, it is also noted that the site for the pods is within the curtilage of the public house and therefore there is the potential for the land to be used for other uses such as a beer garden without further consent being required. The applicant has confirmed that if planning permission is not forthcoming, then it is intended to use the site as a beer garden. Given that there is a real possibility that the site would be used as a beer garden, the use must form a fallback position in accordance with the judgement in *Mansell v. Tonbridge & Malling Borough Council* and the noise that would be generated by such a use should be given due regard.

10.4.3 Environmental Health have commented on the application. They have taken into account that the applicant has submitted a Noise Management Plan. The Plan seeks to minimise the noise impact from the site. Guests driving into and out of the site, and socialising are identified as the main possible sources of noise. The Plan sets out that the pods would be well insulated and guests will be told to keep windows and doors shut outside the pub's operational hours. It also refers to a code of conduct that guests would be subject to and any guests found to be causing excessive noise are liable to have their stay terminated immediately. Parties and gatherings are also forbidden in the code of conduct and a phone number is provided for the operators, which will be given to local residents and manned 24 hours a day to receive complaints.

10.4.4 Environmental Health have advised that holiday lets are not inherently noisy, and the Council has received very few complaints about noise from holiday lets. Any disturbance will depend on the behaviour of the people staying there

and the management of the property. Therefore, Environmental Health have confirmed that they are not in a position to object to the application. They do comment that the Noise Management Plan does provide some reassurance that noise levels will be controlled. However, they have suggested that the Plan is amended so that the operator contacts the guest immediately on receiving a complaint, rather than just logging the complaint and keeping a record, as this will be the quickest way to resolve any issues. Officers can confirm that this amendment has been made by the applicant and the revised Noise Management Plan is available to view on the Council's website.

10.4.5 Environmental Health have commented that the applicant should be aware that complaints about noise from the pods can be investigated by the Council under separate non-planning legislation (Environmental Protection Act 1990) as a potential statutory noise nuisance. However, in order to avoid this issue arising, Environmental Health recommend that a condition is used to ensure that the applicant abides by, and enforces, the Noise Management Plan. In addition, they have suggested that the planning permission is a temporary permission as this give the applicant the opportunity to show that the pods can be managed without causing any problems and should any issues arise during the temporary period, then this would be taken into account if there was an application to extend the use in the future.

10.4.6 The applicant has agreed that the permission shall be granted as a temporary planning permission for a period of three years. It is also taken into account that Environmental Health have raised no objections to the proposal, subject to a condition requiring the development to be operated in accordance with the Noise Management Plan, and that there is existing background noise from the existing public house and there is a potential fallback position for the site to be used as a beer garden with the noise that would be associated with such a use. Having regard to all these factors, the noise impact of the development is not considered to form a reason for refusal that can be defended at appeal.

10.4.7 Overlooking has been raised as another concern by the owner of Rose Cottage. The pods would have windows in the eastern elevation facing towards the garden of Rose Cottage. The applicant has agreed that the windows shall be obscure glazed and Officers have secured the fitting of timber slatted screens over the windows to further prevent overlooking and reduce the sense of being overlooked. In addition, it should be conditioned that the windows are non-opening to prevent the obscure glazing and screens being bypassed and intrusive views being created. It is considered that with these measures in place, materially

harmful overlooking of Rose Cottage would not occur.

10.4.8 The owner of Rose Cottage has raised the concern that the proposed pods would lead to a loss of light to their property. It is understood that the land where the pods would be sited are on a higher ground level than the neighbouring garden. The pods are not insignificant in terms of their height and massing. The height of each pod would be approximately 3.4 metres. However, it is also noted that there are mature trees along the boundary between the site and Rose Cottage that already reduce day light into the garden. There would be over one metre of separation of the pods from the boundary fence and the pod nearest Rose Cottage would be approximately 24 metres from the neighbouring dwelling with an outbuilding in between them. Officers are satisfied that the proposed pods would not lead to loss of light in the dwelling at Rose Cottage. In terms of the garden, the garden of Rose Cottage is substantial in size and the pods would be sited away from the main outdoor amenity area adjacent to the neighbouring dwelling, and in addition, there is mature planting along the boundary reducing natural light into the garden when the trees are in leaf. Overall, the loss of light to the neighbouring property would not be significant and would only impact on a small proportion of the neighbouring garden. Loss of light is not a reason to refuse the application.

#### 10.5 The impact on ecology and biodiversity

10.5.1 A Phase 1 Habitat Survey was carried out by Ecology Services on 22 September 2021. The resulting report submitted to the Local Planning Authority dated January 2022 states that *the site does not support or adjoin any statutory or non-statutory ecological designations such as Sites of Special Scientific Interest (SSSI) or Local Wildlife Sites (LWS). The closest statutory designated sites are the Severn Estuary SSSI/SPA/RAMSAR and Bridgewater Bay SSSI. These sites are well removed from the Babbling Brook and are located 1km to the northeast. They are separated from the site by open countryside and Hinkley Point C Nuclear Power Station. The closest non-statutory ecological designation is Cole Pool Field LWS that is located almost 1km to the southwest and is well removed from the Babbling Brook as it is separated by open countryside and residential settlements.* The report also states that *the site of the proposed timber holiday pods does not support protected or notable species and that protected species located in the wider area would not be impacted on by the erection of three timber holiday pods.*

10.5.2 The Council's ecologist has reviewed the report and raised no concerns with the proposal. They have recommended conditions to be attached should

permission be forthcoming. Firstly, an ecological clerk of works will need to be appointed to oversee the construction process. The construction process shall also not be carried out during the bird nesting season, unless an ecologist has checked the site prior to works commencing and confirmed to the Local Planning Authority that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. It is also recommended that a condition is attached that requires external lighting to be approved by the Local Planning Authority and another condition is attached that requires measures to be put into place to protect hedges and trees during the construction process. Ecological enhancement measures should also be secured. With the attachment of these conditions, it is concluded that the proposed development would not compromise wildlife interests on site and the application therefore complies with Policy NH6 of the adopted Local Plan.

## 10.6 Flood risk

10.6.1 The access to the site and part of the public house are within Flood Zones 2 and 3. The northern edge of the application site is within Flood Zone 2, but the proposed glamping pods themselves appear to be in Flood Zone 1. A Flood Risk Assessment (FRA) was submitted with the application papers. The Environment Agency initially objected to this application as it was not supported by an acceptable Flood Risk Assessment (FRA) and they were therefore unable to determine if the development is in accordance with the National Planning Policy Framework. They considered that the FRA has not demonstrated that the site would be safe for the lifetime of the development. In addition, to overcome their objection, they advised that applicant should submit an FRA that demonstrates that the development is safe without increasing risk elsewhere. Where possible, it should reduce flood risk overall.

10.6.2 The applicant subsequently submitted a revised FRA and the Environment Agency were re-consulted. They maintained their objection as the application was still not supported by an acceptable Flood Risk Assessment. They clarified that the reason for maintaining the objection was that as the document that was submitted did not itself constitute a revised FRA and did not address the concerns detailed in their previous response in their original objection. In order to overcome the objection, the applicant needed to submit a revised FRA that addressed all the concerns raised in their initial response.

10.6.3 The FRA document was amended again and the Environment Agency have now commented that while they still have reservations about the analysis and commentary presented in the updated document, their position considers the

availability of flood modelling information, the location of the proposed development within the site and the proposed mitigation measures. Based on this, they have now withdrawn their objection, provided the Local Planning Authority is satisfied the requirements of the Sequential Test under the National Planning Policy Framework (NPPF) are met, and subject to the inclusion of a condition relating to floor area.

10.6.4 In terms of the Sequential Test, it needs to be acknowledged that the pods themselves would be within Flood Zone 1, with small part of the northern most pod within Flood Zone 2. There may be other sites where glamping pods could be sited that are entirely outside Flood Zone 2, but they would not be subject to effective management and control by the main business that the pods would be offered in conjunction with the Babbling Brook. The pods need to be sited near to the public house so that they can be managed and controlled as part of the existing business that they would essentially extend. The applicant is not known to own other land in the local area that is outside Flood Zone 2 and can be used to site the glamping pods. The Sequential Test is considered to have been satisfied. Subject to the attachment of the condition recommended by the Environment Agency, the proposed development complies with Policy CC2 of the adopted Local 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 The report sets out that Officers consider the proposal to be compliant in principle with the adopted development plan when taking into account the 2021 Anstey Farm appeal decision (reference APP/W3330/W/21/3280061) that has steered the consideration on holiday accommodation to be around the compliance or non-compliance with the Local Plan when taken as a whole and giving particular weight to Policy EC9.



12.3 The impact on neighbouring residential amenity has been a key consideration due to the comments that have been made by neighbouring property owners. The application being amended to a proposal for temporary permission and conditions have been included that require compliance with the submitted Noise Management Plan and mitigation measures to prevent harmful overlooking. Officers have taken note that Environment Health have not objected to the application and with the measures detailed above, the impact on neighbouring residential amenity is not considered to form a reason to refuse the application.

12.4 The impact on ecology is not considered to be materially harmful, subject to the attachment of conditions that have been recommended by the Council's ecologist. Flood risk is not considered to form a reason for concern when including conditions relating to floor levels of the pods and a requirement to agree a Flood Evacuation Management Plan with the Local Planning Authority.

12.5 Officers have secured two parking spaces for each of the proposed pods without reducing the level of parking provision for the existing public house and its letting rooms. Turning space has also been retained to allow vehicles to leave the site in forward gear. Additionally, Officers conclude that the visibility splays that are available are sufficient for the likely speed of vehicles travelling along the road. In addition, although there would be an increase in the use of the access, it would be a limited increase, and therefore the refusal of the application on highway safety grounds would not be defensible under Paragraph 111 of the National Planning Policy Framework.

12.6 The proposed design, scale and materials of the glamping pods and the impact on the character and appearance of the landscape would comply with Policies NH5 and NH13 of the adopted Local Plan.

12.7 Having regard to the above, it is recommended that temporary planning permission be granted for a three year period, subject to the attachment of the conditions set out below.

12.8 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 hereby permitted use of the site for siting glamping pods shall be discontinued, the three permitted glamping pods (including the decking and cycle storage) shall be removed and the land shall be restored to its former condition on or before 30 June 2026 in accordance with a scheme of work that shall be submitted to, and approved in writing by, the Local Planning Authority prior to those approved works being carried out.

Reason: To provide the Local Planning Authority with a set period of time to consider the acceptability of the site for the siting of glamping accommodation, in particular, the impact on neighbouring residential amenity and highway safety.

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

(A2) DrNo COP-WRM-DR-A-X-002 Rev A Location Plan

(A1) DrNo BAB-WRM-DR-A-X-501 Rev A Entrance Plan

(A2) DrNo BAB-102 Rev I Site Plan

(A3) DrNo SK 100 Proposed Floor Plan and Sections

(A3) DrNo SK 101 Proposed Elevations

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

3. An ecological clerk of works shall be appointed prior to works commencing on site. The ecological clerk of works shall advise contractors on the ecological enhancement proposals and shall be on call to deal with any queries or unforeseen issues. The appointed ecological clerk of works shall conduct a toolbox talk prior to the commencement of works. This will emphasise best practice guidelines to ensure there is no accidental damage to adjoining gardens and associated vegetation or nearby watercourses.

Reason: In the interests of protecting wildlife interests on site, in accordance with Policy NH6 of the West Somerset Local Plan to 2032.

4. No vegetation removal works around the site shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the trees, shrubs and scrub and tall ruderal

vegetation to be cleared for active birds' nests immediately before works proceed and provides written confirmation to the Local Planning Authority that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances shall netting be used to exclude nesting birds.

Reason: Nesting birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended).

5. Retained hedgerows and trees shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works, groundworks and construction and materials shall not be stored at the base of trees, hedgerows and other sensitive habitats. Photographs of the measures shall be submitted to the Local Planning Authority prior to the commencement of any vegetative clearance or groundworks. The measures shall be maintained throughout the construction period.

Reason: In the interests of European and UK protected species and biodiversity generally and in accordance with Policy NH6 of the West Somerset Local Plan to 2032.

6. The finished floor levels of the glamping pods hereby permitted shall be set at least 0.6 metres higher than existing external ground levels.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

7. The glamping pods hereby permitted shall only be constructed with natural timber on the external walls and roof of the buildings and the windows and doors in the pods shall only be constructed from natural timber. The decking attached to the pods shall also only be clad with natural timber. All the natural timber shall be left to weather naturally and shall not be painted. The glamping pods shall be retained in accordance with the requirements of this condition, unless planning permission is granted by the Local Planning Authority for the use of alternative materials.

Reason: In the interests of the satisfactory appearance of the development and the conservation of the character and appearance of the landscape, in

accordance with Policies NH5 and NH13 of the West Somerset Local Plan to 2032.

8. The car parking area shall be laid out and surfaced in accordance with the details on drawing number BAB-102 Rev I prior to first use of the glamping pods hereby permitted and shall thereafter be retained for that purpose. The surface material for the car parking area shall be agreed in writing with the Local Planning Authority prior to its installation. The parking and turning areas shown on drawing number BAB-102 Rev I shall not be used for any purpose other than parking and turning of vehicles.

Reason: To ensure that there is adequate parking provision available for the approved development, in accordance with Saved Policy T/7 of the West Somerset Local Plan to 2032.

9. Prior to first occupation of the glamping pods hereby permitted, the windows in the eastern elevation (rear elevation) of the glamping pods shall be obscure glazed to Pilkington Level 5 and a natural timber screen as detailed on SK 101 shall be fitted over each of the windows. In addition, the windows in the eastern elevation shall be fixed shut and kept from opening for the life of the development. The glamping pods shall be retained as such thereafter and any subsequent replacement windows shall accord with the requirements of this condition, unless planning permission is granted by the Local Planning Authority for alternative windows.

Reason: In the interests of protecting the living conditions of the neighbouring residential property from potentially harmful overlooking.

10. Prior to first occupation of the glamping pods hereby permitted, a Flood Evacuation Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority. The Plan shall include the procedure for evacuation of persons and property (including vehicles), details of staff training, and the method and procedures for timed evacuation. The Plan shall then be adhered to at all times for the life of the development.

Reason: In the interests of securing the safety of the future occupants of the approved development.

11. Prior to first occupation of the glamping pods hereby permitted, a landscaping plan shall be submitted to, and approved in writing by, the Local Planning Authority. This shall include planting plans, schedules of plants and species,

ecological enhancements, and an implementation timetable. The approved landscaping plan shall be carried out in accordance with the approved implementation timetable. Any trees or plants which within a period of 20 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.

Reason: In the interests of conserving the character and appearance of the landscape.

12. Prior to first occupation of the glamping pods hereby permitted, a lighting design for bats, following Guidance Note 08/18 Bats and Artificial Lighting in the UK (ILP and BCT 2018), shall be submitted to, and approved in writing by, the Local Planning Authority. The design shall show how and where external lighting will be installed. Lux levels shall be below 0.5 Lux. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances shall any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with Policy NH6 of the West Somerset Local Plan 2032.

13. The following shall be incorporated into the site proposal prior to first occupation of the glamping pods hereby permitted:
  - Native species of tree shall be planted within the site. These shall include oak and holly (see plans accompanying the Ecology Services report dated January 2022).
  - Three bird boxes and three bat boxes shall be erected as part of the proposals. These shall be erected under the guidance of the appointed ecological clerk of works and shall be located on suitable trees or buildings in adjoining areas (the site itself does not support trees or buildings).

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

14. The glamping pods hereby permitted shall be used for holiday accommodation

purposes only and shall not be occupied for any other purpose other than as holiday accommodation. In particular the accommodation shall not be used as the sole or principal residence by any person or persons, and shall not be occupied by the same person or persons for a total period exceeding 28 days in any calendar year. The owner of the site shall maintain an up-to-date register of occupants for each calendar year, which shall be made available for inspection by the Local Planning Authority, at any time.

The glamping pods shall only be operated in association with the existing adjacent commercial business, the Babbling Brook, and they shall not be sold off, let out or otherwise disposed of from the Babbling Brook without permission being granted by the Local Planning Authority.

Reason: To ensure that this countryside development is not occupied as permanent residential accommodation, which would be contrary to the policies of the adopted development plan, and to prevent their separation from the Babbling Brook in the interests of protecting neighbouring residential amenity and highway safety.

15. The glamping pods hereby permitted shall only be occupied and used strictly in accordance with the Revised Noise Management Plan received by the Local Planning Authority on 15 May 2023. The Revised Noise Management Plan shall thereafter be adhered to at all times and for the life of the development.

Reason: In the interests of ensuring that noise disturbance does not occur that would materially harm the living conditions of neighbouring residential properties

### **Recommended Informatives**

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

the earliest possible opportunity.

- 3 The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning or visit <https://www.gov.uk/sign-up-for-flood-warnings>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email, or text message. Anyone can sign up.

At present in this area, the Environment Agency can only provide Flood Alerts warning of the potential for flooding in the general area in advance of forecast flood conditions. These alerts should be used to enact the procedures outlined in the submitted FRA to manage the risk of flooding to the proposed glamping pods and ensure occupants have access to refuge in the main public house building in the event flooding occurs on the site. For practical advice on preparing for a flood, visit <https://www.gov.uk/prepare-for-flooding>.

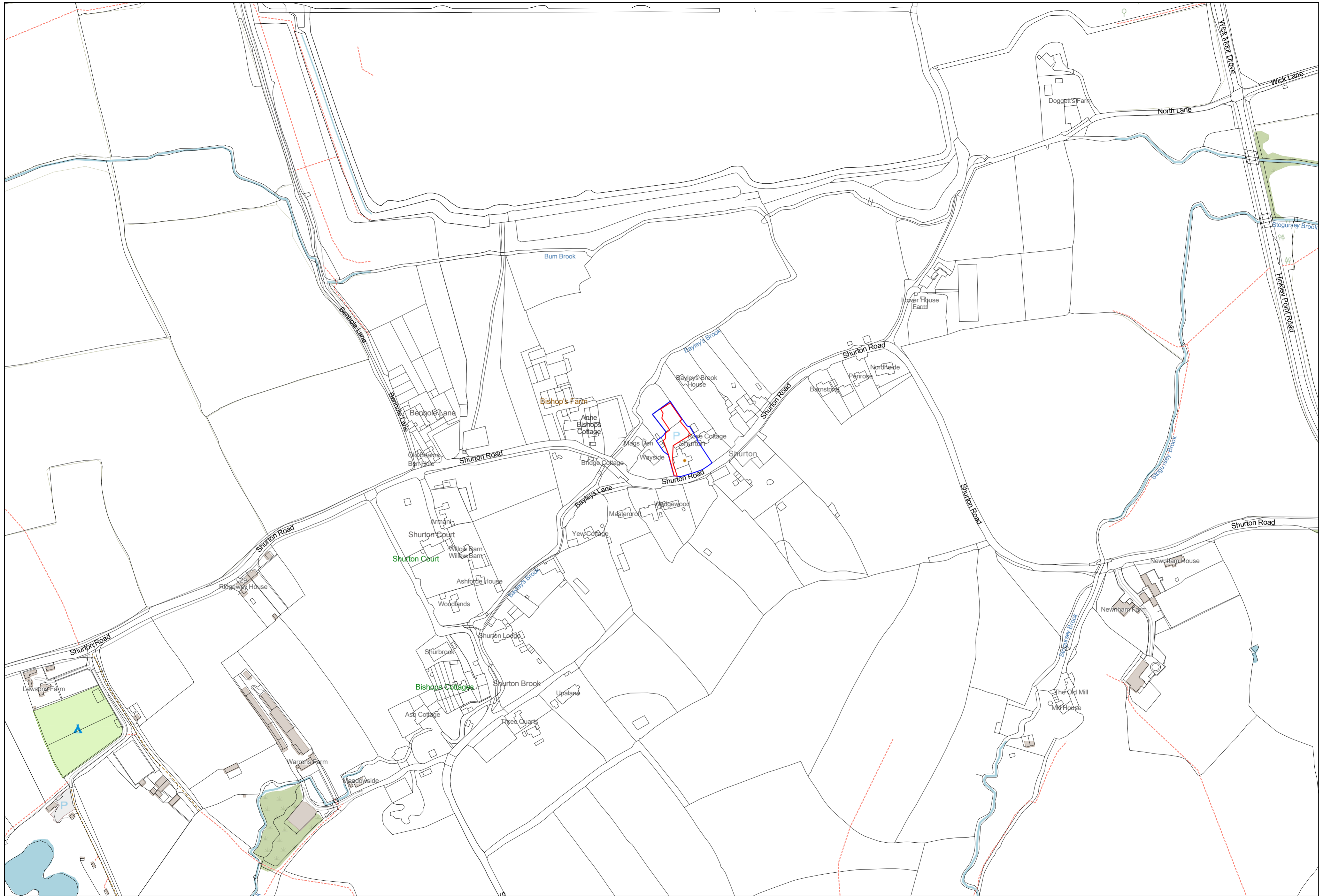
To get help during a flood, visit <https://www.gov.uk/help-during-flood>.

For advice on what do after a flood, visit <https://www.gov.uk/after-flood>.

The Council's Emergency Planners should be consulted in relation to flood emergency response and evacuation arrangements for the site. The Environment Agency strongly recommend that the applicant prepares a Flood Warning and Evacuation Plan for future occupants. The Environment Agency do not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as they do not carry out these roles during a flood. Their involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users.

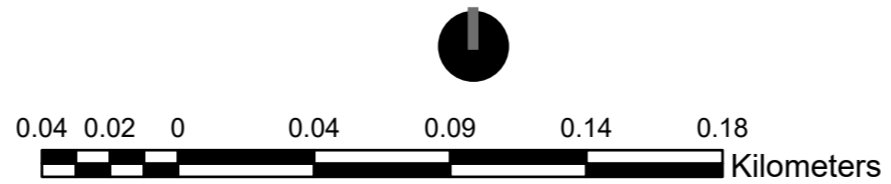
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LOCATION PLAN scale 1:2500

<p>PROJECT NUMBER</p> <p>0401</p>	<p>revisions</p>	<p>GENERAL NOTES</p> <p>1. DO NOT SCALE FROM THIS DRAWING, UNLESS FOR PLANNING PURPOSES.</p> <p>2. THE DIMENSIONS SHOWN ON THIS DRAWING ARE SHOWN IN MILLIMETRES.</p>	<p>3. ALL LEVELS AND DIMENSIONS TO BE CHECKED ON SITE AND ANY DISCREPANCIES NOTED TO THE ARCHITECTURAL DESIGNER IMMEDIATELY.</p> <p>4. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL RELEVANT CONSULTANT'S DRAWINGS AND SPECIFICATIONS.</p>	<p>5. THIS DRAWING IS COPYRIGHT AND MUST NOT BE REPRODUCED WITHOUT THE PRIOR WRITTEN AGREEMENT OF THE ARCHITECTURAL DESIGNER.</p>
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Application Details	
Application Reference Number:	38/23/0098
Application Type:	Full Planning Permission
Earliest decision date:	05 May 2023
Expiry Date	01 June 2023
Extension of time	
Decision Level	Committee
Description:	Construction of additional parking space with rearranged pedestrian access at 22 Wilton Street, Taunton
Site Address:	22 WILTON STREET, TAUNTON, TA1 3JR
Parish:	38 – Taunton Town Council
Conservation Area:	NA
Somerset Levels and Moors RAMSAR Catchment Area:	Within
AONB:	NA
Case Officer:	Briony Waterman
Agent:	Mr Chris Corrish
Applicant:	MR H FARBAHI
Committee Date:	20 June 2023
Reason for reporting application to Committee	Applicant is a local Councillor

## 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 construction of additional parking space with rearranged pedestrian access. 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.

## 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

### 3.2 Informatives (bullet point only)

#### 3.2.1 Proactive Statement

### 3.3 Obligations

NA

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

### 4.1 Details of proposal

Construction of an additional parking space with rearranged pedestrian access. The plans show a single storey extension to the rear, this is permitted development and does not form part of this application.

### 4.2 Sites and surroundings

The site is within a residential area with properties set back and above the highway. An access runs to the side of the property leading to the rear and garaging of several other properties. There are a number of other properties within the vicinity that have created off street parking to the front. The site does not lie within any areas of special designations.

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

No relevant history.

## **6. Environmental Impact Assessment**

NA

## **7. Habitats Regulations Assessment**

The site lies within the catchment area for the Somerset Moors and Levels Ramsar site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that as the proposed development is an extension to an existing dwelling it does not increase nutrient loadings at the catchment's waste water treatment works. The Council is satisfied that there will be no additional impact on the Ramsar site (either alone or in combination with other

plans or projects) pursuant to Regulation 63(1) of the Habitats Regulations 2017.

## 8. Consultation and Representations

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

8.1 Date of consultation: 06 April 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 out to the applicant on the 6th April 2023, however the LPA has not had confirmation that it was displayed. However, the statutory duty to advertise has still been met as the application went into the local paper and neighbour letters were sent out.

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

Consultee	Comment	Officer Comment
SCC - TRANSPORT DEVELOPMENT GROUP	Standing advice	See para 10.1.2.
Taunton Town Council	No comment	Noted

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

Consultee	Comment	Officer comment
NA		

## 8.7 Local representations

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

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

Objections	Officer comment
Greater vehicular access will be followed by unsympathetic development	Each case is determined on its own merits and this application cannot be influenced by what may or may not happen in the future.

Increased vehicular access will cause loss of enjoyment of garden	See para 10.1.4
No reason to increase vehicular access	The access is being widened which would not necessarily increase vehicle movements.
Remove the last traces of what was once a wildlife area	The land to be used to widen is garden land with no special environmental protection.
Widening of the drive will cause disruption	Noted. See para 10.1.4
No planning notice outside the property	See 8.4
Visibility is poor and parked cars restrict it further	See para 10.1.2
Cars scrape the bottom because of the steep gradient	The gradient of the drive is not changing.
Widening only the bottom half will not solve the problem	Noted
Potential increases the traffic from any development would result in more loss of parking	The current application is for the widening of a drive with no further development proposed.
Cars regularly exceed the speed limit	Noted
Since 2011 the street has lost 4 parking spaces making parking more difficult	Whilst spaces have been lost on street they have been created as "off street"
Loss of disabled space	If a disabled space is required these can be requested through the Highway Authority
Widening of the drive will cause disruption	Noted.
Potentially resulting in damage to property and boundary retaining wall of neighbouring properties	Applicant is reminded that any works should not cause any damage to neighbouring properties and measures should be in place to protect people and property.
Right of access to the garages to the rear would not be possible during the works	The applicant is reminded of the rights of way of those who use and access the site.
Square meterage of no 22 will be reduced as would the access down the side	Noted, however the land is within the applicants ownership.
Removed many trees	Trees weren't subject to any protection orders
An officer should visit the site	Site visit was done on the 4th May 2023
Land rises sharply to the door	noted

Path to attached property would be shortened and the incline increased	Applicant is reminded of the rights of way of neighbours and with any other landowners
Path to the front is the only access to number 20	Applicant is reminded to maintain the rights of access to other properties.
Be a steep drop down to the parking	Applicant is reminded of the need to ensure the area is safe
Access could be treacherous in icy weather	Noted, not a material consideration
New retaining wall needed in front of number 20	Applicant is reminded that the development should not have a detrimental impact upon the stability of neighbouring properties.
Garage and parking space to the rear, could make this bigger to accommodate more parking	Can only determine the application which has been submitted.
Extension at the rear no details of height	see para 10.1.5
Concerns over extension blocking light	see para 10.1.5
Concerns over house prices	not a material consideration
Visibility spays - submitted plans show 2.4m x 14m to the south and 2.4mx 25m to the north. the recommendation is 43m in both directions, therefore the distances available in this case are significantly below the recommended	See para 10.1.2
The proposal involves the alteration of a driveway so 4.1.1 and 4.1.2 of the Highways Standing Advice applies, serves more than 2 dwellings and visibility splays are not in accordance with the Manual for Streets,	see para 10.1.2
No evidence has been submitted by the applicant to demonstrate that the existing splays are acceptable.	See para 10.1.2
Proposed access road widening is proposed to be 4.5m for the first 6.8m, however the relevant Standing Advice guidance states that for a driveway that serves more than one dwelling should be 5m wide	See para 10.1.2
No swept path analysis has been submitted demonstrating how a vehicle	See para 10.1.2

<p>would enter and exit the proposed parking bay given that the proposed width of the widened private access road would only be 4,5m wide normally a 6m aisle width is required to the rear of a 4.8m x 2.4m car parking space to be able to turn in and out of that space.</p>	
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## 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 new unitary authority for Somerset (Somerset Council) was formed on 1 April 2023 and as part of this reorganisation a Structural Change Order was agreed. 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:

DM1 - General requirements,  
DM4 - Design,  
D5 - Extensions to dwellings,

### Supplementary Planning Documents

Public Realm Design Guide for the Garden Town, December 2021

District Wide Design Guide, December 2021

Other relevant policy documents:



Neighbourhood plans:

NA

9.1 National Planning Policy Framework

The proposal is considered to accord with the general principles of the NPPF.

**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 proposal is to widen an existing access and to create an additional parking space for an existing residential property within the built up area of Taunton. Policy DM1(d) of the Taunton Deane Core Strategy states that “the appearance and character of any affected landscape, settlement, building or street scene would not be unacceptably harmed by the development”. The proposal is not considered to have a significant impact upon the street scene and therefore the proposal is considered to meet the requirements of DM1 of the Taunton Deane Core Strategy and is considered acceptable in principle.

A single storey rear extension is shown on the plans. Further information on the extension was sought from the agent who has provided further information clarifying that the proposed extension projects 3m from the rear. This is permitted development under Schedule 2, Part 1, Class A of the General Permitted Development Order which allows for modest extensions to residential properties without needing planning permission.

10.1.2 Highways

There have been several comments relating to the proposals not meeting the requirements of the Highways Standing Advice Guidance document. It is noted that this would be the case if a new driveway were to be created, however the proposal is for the alteration of an existing driveway which would result in the widening of a substandard access. The proposals are considered an improvement on the existing and whilst the visibility splays cannot be met, the proposal increases the limited visibility currently available.

There have been a number of comments relating to the loss of off street-parking

however the proposal is parallel to the kerb and the proposed plans shows the retention of the disabled parking space.

In conclusion whilst it is noted that the proposals do not meet the required standards of the Highways Standing Advice document it offers a betterment to the existing situation.

#### 10.1.3 Visual amenity

Several properties along Wilton Street have already created off street parking to the front of their properties. It is considered the addition of a parking space, new retaining walls and the widening of the access would not form an incongruous feature within the streetscene and therefore not have a detrimental impact upon the visual amenity of the area.

#### 10.1.4 Residential amenity

There have been several comments raised about the impact this would have on the neighbouring properties, however it is considered that the addition of a parking space to the front of number 22 and the widening of the access would not have a detrimental impact upon the residential amenity of the neighbouring properties. Comments received from a neighbour mention that the drive would increase vehicle movements which would impact on the enjoyment of the garden, however the widening of the access does not create any further parking spaces to the rear of the properties and is not considered to increase vehicle movements.

In conclusion the proposal is not considered to be detrimental to the amenity of the neighbouring properties although it is recognised that there may be some disruption during the construction phase and the applicant is reminded to maintain, as far as possible, any rights of way during the construction phase.

#### 10.1.5 Additional comments

Comments have been raised relating to the possibility that permitting the current application would allow for further development to the rear of the plot in the future. , However, this application is only to widen the existing access lane and to create one off road parking space and any future proposals would be considered on their merits at that time.

### **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. In this case the LPA has confirmed there a 5YHLS.

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

In preparing this report the planning officer has considered fully the implications and requirements of the Human Rights Act 1998 and the Equality Act 2010.

## Appendix 1 – Planning Conditions and Informatives

### Conditions

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

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

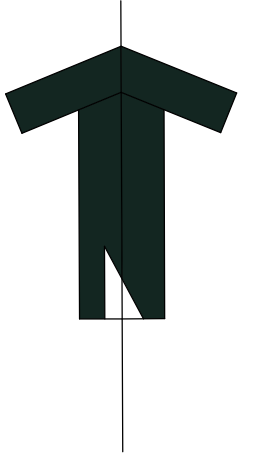
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(A3) DrNo LOC01 Location & Block Plans  
(A3) DrNo PL01 Planning Layout  
(A3) DrNo DS01 Drive Section and Elevation  
(A3) DrNo ST01 Street Elevation  
(A3) DrNo 04 Proposed Elevation  
(A3) DrNo 03 Proposed Floor Plans

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

### Notes to applicant.

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



BLOCK  
PLAN scale 1/500



LOCATION  
PLAN scale 1/1250

NOTE:  
Scale drawing via grid lines

22 WILTON STREET  
TAUNTON  
SOMERSET  
TA1 3JR

PROJECT NO.  
22:022

DRAWING: LOC01

REVISION : -

SCALE : 1:1250 and  
1/500 @ A3

LOCATION  
and BLOCK  
PLANS

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**APPEAL DECISIONS** (for information)

**PLANNING COMMITTEE - WEST**

**TUESDAY 20 JUNE 2023**

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**Application No:** 31/21/0002/T

**Address:** 40 NEWLANDS ROAD, RUISHTON, TAUNTON, TA3 5JZ

**Description:** Application to fell one Oak tree included in Taunton Deane Borough (Ruishton No.1) Tree Preservation Order 2008 at 40 Newlands Road, Ruishton (TD1051)

**Application Decision:** Committee

**Appeal Decision:** Dismissed

## Appeal Decision

Site visit made on 19 April 2023 by **Nick Davies BSc(Hons) BTP MRTPI**

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

**Decision date: 9 May 2023**

### **Appeal Ref: APP/TPO/W3330/9037 40 Newlands Road, Ruishton, Taunton TA3 5JZ**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
- The appeal is made by Ruth James against the decision of Somerset West and Taunton Council.
- The application Ref: 31/21/0022/T, dated 3 December 2021, was refused by notice dated 8 February 2022.
- The work proposed is T1 Oak - Fell.
- The relevant Tree Preservation Order (TPO) is the Somerset West and Taunton (Ruishton No.1) Tree Preservation Order 2022 (SWT54), which was confirmed on 15 September 2022.

### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The decision to refuse consent was made by Somerset West and Taunton Council, which ceased to exist on 1 April 2023, following a merger with Mendip, Sedgemoor, and South Somerset District Councils, and Somerset County Council, to form the new Somerset Council.
3. The relevant TPO at the time the Council made its decision was the Taunton Deane Borough (Ruishton No. 1) Tree Preservation Order (2008) (PD22/870/TD1051). A new Order was made and confirmed during the appeal, and as this is the one that applies at the time of my decision, I have included it in the banner heading.

### **Main Issues**

4. The main issues are the effect of the proposed felling of the tree on the character and appearance of the area; and whether sufficient justification has been demonstrated for the proposed felling.



## Reasons

5. The appeal tree lies between the rear garden boundary fences of 34-40 Newlands Road and 17-20 Coronation Close. It is a large, mature oak tree, growing in an area that is predominantly residential, although there is a primary school on the opposite side of Newlands Road. The proposal is to fell the tree to ground level.
6. The site lies in a large area of houses, which are largely terraced or semidetached. They are set back from the road behind partially enclosed front gardens that are mainly given over to car-parking. Consequently, there is little in the way of mature planting in the front gardens. There are some large trees at the entrance to the school opposite, and along its roadside boundary. However, this is not an area that benefits from a significant degree of mature tree cover, so it is the rather unremarkable buildings that are visually predominant.
7. Although the tree is set behind houses on all four sides, its impressive scale means that it is widely visible from public viewpoints. I saw that it was clearly visible from the bend in the road at Newlands Grove, approximately 230 metres to the north. It is seen in the gaps between houses at various points around Newlands Road and Crescent, including between 10d and 11 Newlands Crescent, where its large, symmetrical rounded canopy is a notable feature in the street scene, softening the form of the buildings in front. From the stretch of Newlands Road to the east, it provides a green backdrop above the rooftops of the terraced houses. It is also prominent from the footpath running along the edge of the field to the south, where its entire crown can be appreciated.
8. The tree is also an important feature from the junction of Bushy Cross Lane and Coronation Close to the west. From here, it is seen almost in its entirety between the houses at the end of the cul de sac. It makes a striking focal point that terminates the views down this long straight road. It is, therefore, visible from a wide area, and from all directions, and it makes a significant contribution to the visual amenity of the locality. Its removal would result in the loss of a notable feature in the street scene, along with its softening impact on the built environment, and its role as a visual focal point.
9. The appellant has indicated a willingness to plant several smaller trees along the boundary. However, these would take many years to reach maturity, and until then would be largely concealed behind the frontage buildings, so would not make the same contribution to the visual amenity of the wider area as the existing tree. In a locality which already has relatively sparse tree cover, the felling of the oak would, therefore, result in substantial harm to the character and appearance of the area. Thus, any reasons given to justify its removal need to be compelling. It is to those reasons which I now turn.
10. The tree has recently shed a large limb, which was still loosely attached to the trunk at the time of my visit. As the tree overhangs the rear gardens of several houses, this has, understandably led to concerns regarding its stability and the potential for similar occurrences in the future. However, following the loss of the limb, an inspection, including Resistograph measurements, revealed no significant decay in the wound, or at the base of the tree. A potential crack was found in a low limb that overhung the garden of 40 Newlands Road, and I saw that this branch has been shortened to remove the risk. Although I have not been provided with a copy of the report, the evidence before me indicates that the failure of the limb was likely to be a result of "summer branch drop", rather than any inherent structural instability or weakness in the tree.

11. There is conflicting evidence regarding the consultant's advice at the time of inspection. The appellant contends that the advice was that the tree is outgrowing its structural integrity. However, the Council states it was advised that removal of the tree was unnecessary, and that careful crown reduction

would be appropriate to manage the risk. As, in both cases, the advice was only given verbally and not committed in writing, I am unable to give it any weight. Consequently, there is no expert advice before me to indicate that there is any foreseeable risk of future failure of the tree, or the shedding of any more branches. Furthermore, I saw no obvious defects at the time of my visit, and little signs of any dead wood in the crown, which appears to be in good health and vigour.

12. I am mindful of the appellant's suggestion that the only way to completely remove the risk would be to fell the tree. However, such drastic action would not be justified in the absence of any evidence of the likelihood of failure. The same argument could be made for any mature tree in a residential environment, resulting in a gradual erosion of tree cover that would be harmful to visual amenity. The evidence indicates that the Council would be sympathetic to the reduction of the crown by 3-4 metres to reduce the sail area of the tree and the end weight of the branches. Such lesser works would result in substantially less harm to the character and appearance of the area. Consequently, there appears to be a reasonable alternative to felling the tree that would reduce any risk that it poses.

13. It is contended that the tree is disproportionate to its residential setting and that it impacts on the reasonable enjoyment of the surrounding properties. However, while it is undoubtedly a large specimen, the houses on either side have long rear gardens. Consequently, the canopy of the tree is a significant distance away from any of the dwellings, so it does not result in an unacceptable loss of light or outlook from any windows. Furthermore, all of the surrounding gardens have large areas that are outside the canopy spread of the tree, where normal outdoor activities would not be compromised by its presence. I saw that all of the adjacent gardens had grass and plant growth right up to their rear boundary fences, indicating that, even under the canopy, there is not continual dense shade. Overall, I do not find that the reasonable enjoyment of neighbouring properties is affected by the tree to such a degree that its felling would be justified.

14. It is likely that the surrounding houses pre-date the original TPO. However, it would appear that the layout was a response to the presence of the tree and has enabled its retention to date. The Council's evidence that, under current guidance<sup>1</sup>, the houses were constructed far enough away from the trees has not been challenged. Consequently, and in view of my findings regarding the impact of the tree on the reasonable enjoyment of the surrounding properties, I conclude that the houses were not built too close to the tree, and sufficient space was provided to allow for the successful retention of the tree in the longterm.

15. The tree is growing in an area outside the enclosed rear gardens of the adjacent houses, on a strip of land that allows rear access to Nos 36-40 Newlands Road. The relative locations of the tree and the boundary fences means that there is less than a metre access width to the rear gardens of Nos 36 and 38. Bearing in mind the slow rate at which the girth of a mature tree increases, the narrowness of the access will not have altered appreciably in recent years. Indeed, the location of the tree was known when these boundary features were installed in the relatively recent past. The limitation on access width is not therefore a new phenomenon, and

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<sup>1</sup> BS5837:2012 Trees in relation to design, demolition and construction - Recommendations

it could readily be remedied by a minor realignment of the rear boundary fences. Consequently, the currently limited width of the rear access is not an issue that would justify the felling of the tree.

16. With any application to fell a protected tree, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the felling of the tree would result in substantial harm to the character and appearance of the area, and, in my judgement, insufficient justification has been demonstrated for its proposed felling.

### **Conclusion**

17. For the reasons given above, I conclude that the appeal should be dismissed.

*Nick Davies* INSPECTOR

**Application No:** 24/21/0059

**Address:** THE NEW HOUSE, NEWPORT MILLS FARM, NEWPORT MILLS LANE, NORTH CURRY, TAUNTON, TA3 6DJ

**Description:** Removal of Condition No. 03 (agricultural occupancy) of application 24/87/0010 at New House, Mill Farm, Wrantage

**Application Decision:** Delegated Decision

**Appeal Decision:** Dismissed



## Appeal Decision

Site visit made on 23 May 2023 by **Jonathan Edwards BSc(Hons) DipTP**

### MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 June 2023

### Appeal Ref: APP/W3330/W/22/3296806 New House, Newport Mills Farm, Newport, Wrantage, Taunton, Somerset TA3 6DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Sarah Jones against the decision of Somerset West and Taunton Council.
- The application Ref 24/21/0059, dated 2 December 2021, was refused by notice dated 28 January 2022.
- The application sought planning permission for erection of agricultural worker's chalet bungalow without complying with a condition attached to planning permission Ref 24/87/010, stated on the application form as being dated 2 July 1987.
- The condition in dispute is No 03 which states that: The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry or a dependent of such a person residing with him or her or a widow or widower of such a person.
- The reason given for the condition is: The site is in an area where the Local Planning Authority's policy is to restrict new residential development to that required to meet the needs of agriculture or forestry.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application leading to this appeal was submitted by Mr Thomas Watson. He has since died. Evidence has been submitted that indicates the legal authority to proceed with the appeal has been passed to Sarah Jones. I have used this name in the banner heading.
3. The appellant has submitted a grounds of appeal document dated April 2022 (hereafter referred to as the appellant's original statement). An updated version of this document dated February 2023 as well as a marketing report have also

been submitted. These have since been publicised and the Council and interested parties have had an opportunity to provide comments. I am satisfied no injustice would be caused by having regard to the latest documents.

4. I have been provided with a copy of a certificate of lawful use or development issued by the Council under reference number 24/15/0017/LE (hereafter referred to as the certificate of lawfulness). This is a material factor in my assessment.

## **Background and Main Issue**

5. The disputed condition limits the occupancy of New House. In effect, this appeal seeks to remove the condition to allow unrestricted occupancy. The main issues are whether the condition is necessary, reasonable and enforceable in light of the policies of the Taunton Deane Borough Council Core Strategy 2012 (CS) and the Taunton Deane Site Allocations and Development Management Plan 2016 (SADMP) as well as the certificate of lawfulness.

## **Reasons**

6. The appeal property is a 3 bedroom dwelling with outbuildings in its garden. It lies in a cluster of development including agricultural buildings as well as a small number of dwellings. Fields lie in the surrounding area and so there is a strong agricultural feel to the locality.
7. CS Policy SP1 looks to direct development to the most accessible locations. Proposals outside of identified settlements are to be treated as being in the open countryside. Under CS policy CP1, development should be located to reduce the need to travel. New House is not in a settlement defined in the CS and it is away from facilities to serve the day to day needs of its occupants. As such, it is in a location that normally would be deemed unsuitable for housing.
8. The original planning permission was granted on the basis the dwelling would accommodate an agricultural worker employed in the locality. Under the terms of SADMP policy H1a, housing is permissible to support rural activities subject to various criteria. This policy states that occupancy conditions will be applied to new dwellings. The disputed condition serves a purpose in ensuring that New House complies with this stipulation.
9. SADMP policy H1a sets out the circumstances when the removal of occupancy conditions will be permitted. There is no agricultural land associated with New House and so the dwelling is not needed to accommodate workers employed at the appeal property. Even so, the disputed condition refers to a person working in the locality, not just at the appeal site. Also, policy H1a requires there to be no demand for residences to accommodate agricultural workers from the local area before an occupancy condition is removed. Evidence is required that shows the dwelling cannot be sold or let at a price which reflects the occupancy restriction.
10. A marketing campaign for New House started in March 2022 with a £450,000 guide sale price. The updated statement claims that this price reflects the

agricultural tie and so, in line with typical devaluation effects associated with occupancy conditions, it is 30% lower than the full market value. However, this contradicts the comment at paragraph 7 of the appellant's original statement that the £450,000 sale price reflects the full market value of the dwelling. Moreover, the appellant's evidence fails to explain how the guide price has been established and how it compares with the sale price of similar properties in the area. The Council claims there are other nearby dwellings for sale and of a similar size to New House with a lower asking price, despite not being subject to an agricultural tie. There is no evidence on local property values and sale prices that contradicts this claim.

11. In December 2022 the guide price for New House was reduced to £425,000. I am advised that there have been several enquiries but these have not resulted in any firm offers for the property. Nonetheless, there is no convincing evidence that demonstrates £425,000 is an appropriate guide price, particularly when considering the devaluation effect of the agricultural occupancy condition. Also, there is no evidence to indicate the property has been made available for let with rent levels that reflect the occupancy restriction. As such, the provisions of SADMP policy H1a on applications to remove occupancy conditions have not been complied with.
12. Furthermore, the appeal property lies in an area where I would envisage people are employed in agriculture. Therefore, it is reasonable to expect a local demand for agricultural workers dwellings, especially in the absence of an appropriate marketing campaign that shows otherwise. Accordingly, the disputed condition is necessary to ensure the appeal property continues to meet a local need for agricultural workers accommodation.
13. The certificate of lawfulness determines that a breach of the disputed condition was lawful on 17 June 2015. However, this determination only relates to the situation on the specified date. Since then, New House has been left empty from the time the former occupier died until the current day. The appellant accepts that this period of vacancy may constitute a cessation of the breach of the disputed condition. If so, any new breach of the condition would now be unlawful and so it is unlikely that non-compliant occupation would occur.
14. In light of the particular circumstances of this case and the appellant's comments, any fallback position in terms of occupation of New House that relies on the presence of the certificate of lawfulness attracts limited weight in my considerations. As such, I consider the disputed condition is enforceable, despite the certificate of lawfulness. The specific circumstances with this current appeal are not replicated in any of the other appeal decisions referred to by the appellant. Therefore, they fail to influence my overall conclusion.

## **Conclusion**

15. The disputed condition is necessary as New House is in a location that is normally inappropriate for residences and to ensure it accords with development plan policies on rural workers dwellings. Also, insufficient evidence has been provided to show the dwelling is no longer needed to serve the needs of

agricultural or forestry workers employed in the locality. In these regards, I conclude the development without the disputed condition would be contrary to CS policies SP1 and CP1 and SADMP policy H1a. The certificate of lawfulness does not result in the disputed condition being unenforceable. The condition is therefore necessary, reasonable and enforceable. As such, I conclude the appeal should fail.

*Jonathan Edwards*

INSPECTOR



**Application No:** 12/22/0001

**Address:** THE NEW HOUSE, NEWPORT MILLS FARM, NEWPORT MILLS LANE, NORTH CURRY, TAUNTON, TA3 6DJ

**Description:** Removal of Condition No. 03 (agricultural occupancy) of application 24/87/0010 at New House, Mill Farm, Wrantage

**Application Decision:** Delegated Decision

**Appeal Decision:** Dismissed



## Appeal Decision

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an Inspector appointed by the Secretary of State

Decision date: 06 June 2023

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- The appeal is made by Sarah Jones against the decision of Somerset West and Taunton Council.
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- The application sought planning permission for erection of agricultural worker's chalet bungalow without complying with a condition attached to planning permission Ref 24/87/010, stated on the application form as being dated 2 July 1987.
- The condition in dispute is No 03 which states that: The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 290(1) of the Town and Country Planning Act 1971, or in forestry or a dependent of such a person residing with him or her or a widow or widower of such a person.
- The reason given for the condition is: The site is in an area where the Local Planning Authority's policy is to restrict new residential development to that required to meet the needs of agriculture or forestry.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application leading to this appeal was submitted by Mr Thomas Watson. He has since died. Evidence has been submitted that indicates the legal authority to proceed with the appeal has been passed to Sarah Jones. I have used this name in the banner heading.
3. The appellant has submitted a grounds of appeal document dated April 2022 (hereafter referred to as the appellant's original statement). An updated version of this document dated February 2023 as well as a marketing report have also been submitted. These have since been publicised and the Council and

interested parties have had an opportunity to provide comments. I am satisfied no injustice would be caused by having regard to the latest documents.

4. I have been provided with a copy of a certificate of lawful use or development issued by the Council under reference number 24/15/0017/LE (hereafter referred to as the certificate of lawfulness). This is a material factor in my assessment.

## **Background and Main Issue**

5. The disputed condition limits the occupancy of New House. In effect, this appeal seeks to remove the condition to allow unrestricted occupancy. The main issues are whether the condition is necessary, reasonable and enforceable in light of the policies of the Taunton Deane Borough Council Core Strategy 2012 (CS) and the Taunton Deane Site Allocations and Development Management Plan 2016 (SADMP) as well as the certificate of lawfulness.

## **Reasons**

6. The appeal property is a 3 bedroom dwelling with outbuildings in its garden. It lies in a cluster of development including agricultural buildings as well as a small number of dwellings. Fields lie in the surrounding area and so there is a strong agricultural feel to the locality.
7. CS Policy SP1 looks to direct development to the most accessible locations. Proposals outside of identified settlements are to be treated as being in the open countryside. Under CS policy CP1, development should be located to reduce the need to travel. New House is not in a settlement defined in the CS and it is away from facilities to serve the day to day needs of its occupants. As such, it is in a location that normally would be deemed unsuitable for housing.
8. The original planning permission was granted on the basis the dwelling would accommodate an agricultural worker employed in the locality. Under the terms of SADMP policy H1a, housing is permissible to support rural activities subject to various criteria. This policy states that occupancy conditions will be applied to new dwellings. The disputed condition serves a purpose in ensuring that New House complies with this stipulation.
9. SADMP policy H1a sets out the circumstances when the removal of occupancy conditions will be permitted. There is no agricultural land associated with New House and so the dwelling is not needed to accommodate workers employed at the appeal property. Even so, the disputed condition refers to a person working in the locality, not just at the appeal site. Also, policy H1a requires there to be no demand for residences to accommodate agricultural workers from the local area before an occupancy condition is removed. Evidence is required that shows the dwelling cannot be sold or let at a price which reflects the occupancy restriction.
10. A marketing campaign for New House started in March 2022 with a £450,000 guide sale price. The updated statement claims that this price reflects the agricultural tie and so, in line with typical devaluation effects associated with

occupancy conditions, it is 30% lower than the full market value. However, this contradicts the comment at paragraph 7 of the appellant's original statement that the £450,000 sale price reflects the full market value of the dwelling. Moreover, the appellant's evidence fails to explain how the guide price has been established and how it compares with the sale price of similar properties in the area. The Council claims there are other nearby dwellings for sale and of a similar size to New House with a lower asking price, despite not being subject to an agricultural tie. There is no evidence on local property values and sale prices that contradicts this claim.

11. In December 2022 the guide price for New House was reduced to £425,000. I am advised that there have been several enquiries but these have not resulted in any firm offers for the property. Nonetheless, there is no convincing evidence that demonstrates £425,000 is an appropriate guide price, particularly when considering the devaluation effect of the agricultural occupancy condition. Also, there is no evidence to indicate the property has been made available for let with rent levels that reflect the occupancy restriction. As such, the provisions of SADMP policy H1a on applications to remove occupancy conditions have not been complied with.
12. Furthermore, the appeal property lies in an area where I would envisage people are employed in agriculture. Therefore, it is reasonable to expect a local demand for agricultural workers dwellings, especially in the absence of an appropriate marketing campaign that shows otherwise. Accordingly, the disputed condition is necessary to ensure the appeal property continues to meet a local need for agricultural workers accommodation.
13. The certificate of lawfulness determines that a breach of the disputed condition was lawful on 17 June 2015. However, this determination only relates to the situation on the specified date. Since then, New House has been left empty from the time the former occupier died until the current day. The appellant accepts that this period of vacancy may constitute a cessation of the breach of the disputed condition. If so, any new breach of the condition would now be unlawful and so it is unlikely that non-compliant occupation would occur.
14. In light of the particular circumstances of this case and the appellant's comments, any fallback position in terms of occupation of New House that relies on the presence of the certificate of lawfulness attracts limited weight in my considerations. As such, I consider the disputed condition is enforceable, despite the certificate of lawfulness. The specific circumstances with this current appeal are not replicated in any of the other appeal decisions referred to by the appellant. Therefore, they fail to influence my overall conclusion.

## **Conclusion**

15. The disputed condition is necessary as New House is in a location that is normally inappropriate for residences and to ensure it accords with development plan policies on rural workers dwellings. Also, insufficient evidence has been provided to show the dwelling is no longer needed to serve the needs of agricultural or forestry workers employed in the locality. In these regards, I

conclude the development without the disputed condition would be contrary to CS policies SP1 and CP1 and SADMP policy H1a. The certificate of lawfulness does not result in the disputed condition being unenforceable. The condition is therefore necessary, reasonable and enforceable. As such, I conclude the appeal should fail.

*Jonathan Edwards*

INSPECTOR

**Application No:** 45/22/0005

**Address:** LOWER TOOLLANDS, NEW ROAD, WEST BAGBOROUGH,  
TAUNTON, TA4 3EP

**Description:** Variation of Condition No. 06 (agricultural occupancy), to  
widen the scope of occupation, of application 45/93/0006  
at Lower Toollands, West Bagborough

**Application Decision:** Delegated Decision

**Appeal Decision:** Dismissed



## Appeal Decision

Site visit made on 12 April 2023 by **David Nicholson** RIBA IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 May 2023

### Appeal Ref: APP/W3330/W/22/3308523 Lower Toollands, New Road, West Bagborough, Taunton TA4 3EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (T&CPA) against a refusal to grant planning permission under section 73 of the T&CPA for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs Ayre against the decision of Somerset West and Taunton Council<sup>1</sup>.
- The application Ref. 45/22/0005, dated 6 April 2022, was refused by notice dated 27 June 2022.
- The application sought planning permission for: *Erection of Agricultural Workers [sic] Dwelling* without complying with a condition attached to planning permission Ref 45/93/0006, dated 4 November 1993.
- The condition in dispute is No. 6 which states that: *The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture, as defined in Section 336(1) of the Town and Country Planning Act, 1990, or forestry or a dependant of such a person residing with him or her or a widow or widower of such a person.*
- The reason given for the condition is that: *The site is in an area where the Local Planning Authority's policy is to restrict new residential development to that required to meet the needs of agriculture or forestry.*

### Decision

1. The appeal is dismissed.

### Procedural matters

2. The Appellants consider that the agricultural occupancy condition has outlived its usefulness as it currently stands and, while they would prefer the condition to be removed entirely, consider it appropriate to seek a variation to widen the scope of occupation, to ensure future occupiers can remain compliant.
3. The variation seeks to widen the scope of occupation by adding, after *forestry*, the words: *... or involved in the tourism business operated on the holding, ....*  
The application was refused for 3 reasons:
  - a. it would introduce unnecessary wording;

- b. insufficient information to justify the proposed amendment;
  - c. no evidence of appropriate marketing as an Occupancy Tied property;
- and that all of these would be contrary to Policy H1a of the Development Plan.

<sup>1</sup> On 1 April 2023, the Council was abolished and replaced by SomersetCouncil

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## Main Issues

4. I consider that the main issues are whether:
- a. the condition is justified<sup>2</sup>;
  - b. the evidence justifies a broader exemption to include tourism in the definition of a rural worker;
  - c. the property has been appropriately marketed with the occupancy restriction.

In each case I have considered removing the condition or substituting it with the revised wording.

## Reasons

5. The appeal site comprises the house and outbuildings. It is surrounded by land in the Appellants' ownership which is in use as a holiday park with static caravans, lodges and pitches. This use has been permitted in a series of approvals since 2014.
6. The original permission was granted, as an exception, to support a horticultural use. Condition 6 was added to secure the occupancy in line with the exceptional permission. I am told that there has been no agricultural income from the holding for over 10 years. I am not aware that the Council has taken any enforcement action or that the Appellant has applied for a Lawful Development Certificate, and these matters are not before me.
7. Policy for *New permanent housing for rural workers* is detailed in Local Plan Policy H1a. This provides no detail on the amendment of existing conditions, but it does comment on the removal of occupancy conditions and states:

*Applications to remove these or other related conditions will not be permitted unless:*

- i. The dwelling is no longer needed on that unit for the purposes of agriculture or rural based enterprises;*
- ii. There is no current demand for dwellings for agriculture or other rural based industries in the locality; and*

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<sup>2</sup> In line with the requirements of the National Planning Policy Framework, paragraph 56, that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.



iii. *The dwelling cannot be sold or let at a price which reflects its occupancy condition for a reasonable period to be agreed with the local planning authority.*

8. Planning Policy Guidance, which supports the National Planning Policy Framework (NPPF), considers: *How can the need for isolated homes in the countryside for essential rural workers be assessed?* It finds that: *Considerations that it may be relevant to take into account when applying paragraph 79a<sup>3</sup> of the NPPF could include:*

- *evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise ...;*

Appeal Decision APP/W3330/W/22/3308523

9. I saw that the site is no longer in horticultural use. Nevertheless, as allowed by the wording of the condition, the dwelling might well be suitable for someone who was *last employed, in the locality in agriculture*. It is therefore a part of the Council's stock of housing for rural workers. Consequently, I find that the condition does still serve a purpose and meets the requirements for conditions in the NPPF.
10. To my mind, a tourism business such as holiday lodges and/or caravans does not fall within the definition of a land based rural enterprise. I have studied the 2015 Decision<sup>4</sup>, for a mobile home to support a holiday lodge business in Dorset, where the Inspector found that there was *an essential need for a rural worker to live permanently at the site* and that it would meet *a functional requirement for a residential on-site presence*. There are many differences between the two cases. Nevertheless, even if I accepted that the Appellant's business justified a permanent presence, as I do not accept that the enterprise would satisfy the definition of a *rural worker*, I find that this is of limited relevance. On this issue, I conclude that the evidence does not justify a broader, exemption to include tourism in the definition of a rural worker.
11. The Appellants have put forward limited evidence of demand for dwellings for agricultural workers, or of marketing which reflects the agricultural occupancy condition. Rather, they have argued that the policy requirements to market the property to reflect the condition, and to test the need over a minimum 12-month period, are onerous and unreasonable. Instead, the property, including the surrounding holiday park, was placed on the open market with a guide

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<sup>3</sup> Now paragraph 80a

<sup>4</sup>

price of £1.45 million, with only one viewing. The estate agent attributed the lack of interest to the agricultural occupancy condition putting people off.

12. To my mind, the lack of interest is hardly surprising when the price did not reflect the agricultural occupancy condition. I consider that there is nothing unreasonable about requiring a substantial discount when the original permission was granted as an exception to planning policy to avoid the development of isolated homes in the countryside. I find that the evidence does not show that there is no demand for *dwellingings for agriculture* or that the *dwelling cannot be sold or let at a price which reflects its occupancy condition* and that lifting the condition would not comply with Policy H1a.
13. For all the above reasons, I conclude that there is justification for the condition as currently worded and that the appeal should be dismissed.

*David Nicholson*

INSPECTOR

**Application No:** 43/22/0047/A

**Address:** LAND IMMEDIATELY TO THE NORTH WEST OF THE NYNEHEAD ROAD/TAUNTON ROAD/TORRES VEDRAS DRIVE ROUNDABOUT, WELLINGTON

**Description:** Display of 1 No. internally illuminated flagpole, 2 No. internally illuminated fascia signs, 3 No. externally illuminated large wall mounted billboards, 2 No. externally illuminated small wall mounted, 1 No. non-illuminated trolley bay sign and 1 No. internally illuminated freestanding poster display unit on land immediately to the north west of the Nynehead Road/Taunton Road/Torres Vedras Roundabout, Wellington

**Application Decision:** Parish Delegation

**Appeal Decision:** Approved

## Appeal Decision

Site visit made on 26 March 2023 by **Rebecca McAndrew, BA Hons, MSc,**

### MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18<sup>th</sup> May 2023

### Appeal Ref: APP/W3330/Z/22/3310390 Land immediately to the north-west of the Nynehead Road/Taunton Road/Torres Vedras Roundabout, Wellington

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Miss Victoria George-Taylor, Lidl Great Britain Ltd, against the decision of Somerset West and Taunton Council.
- The application Ref 43/22/0047/A, dated 7 April 2022, was refused by notice dated 13 September 2022.
- The advertisement proposed is a 1 x 6m flagpole style sign.

### Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:

- i. The intensity of the illumination of the flagpole style sign permitted by this consent shall be no greater than 440 candela per square metre.
- ii. Notwithstanding submitted information, the sign permitted by this consent shall only be illuminated during the opening hours of the premises to which it relates.

### Procedural Matters

2. The appeal arises from the Council's refusal of a flagpole style sign as part of a split decision in which the Council also granted advertisement consent for other signs at the recently developed and now open Lidl store. I have therefore used the description of proposed development in relation to the single sign included on the Council's Decision Notice, rather than the application form, as this defines the part of the proposal refused consent.

3. I have used the appeal site address included on both the Council's Decision Notice and the Appeal Form in considering this appeal as it is more comprehensive than that included on the planning application form.
4. The position of the proposed flagpole style sign was amended during the course of the planning application. Plans have been submitted as part of the appeal which show both the original and amended locations of the proposed sign. As such, I have considered the appeal on the basis of amended Drawing AD50 Rev C.

### **Main Issue**

5. The Council raised no objection in relation to public safety, subject to conditions. From the information before me, I have no reason to disagree with those findings. Consequently, the main issue is the effect of the proposed flagpole style sign on the visual amenities of the area.

### **Reasons**

6. The proposed internally illuminated flagpole sign is a standard type of advertisement and is similar in design and scale to advertisements which can be found at many supermarkets across the country. It would provide a useful way marker for visitors to the supermarket and improve the legibility of the site.
7. The proposed internally illuminated flagpole sign would sit in a logical position in a landscaped area within the Lidl store site boundary, but adjacent to the entrance route to the supermarket off the roundabout/B3187. Whilst the sign would be visible on this main route into and out of Wellington, it would be set back from the highway and would be viewed in the context of the supermarket site. Moreover, this would be the only freestanding sign located away from the main building so would not give rise to visual clutter.
8. In view of the above, the flagpole sign would not appear overly intrusive or excessive in the streetscene. Consequently, it would not unduly harm the visual amenities of the appeal site or the area, including this main route into Wellington.
9. The proposal therefore meets the requirements of Paragraph 136 of the National Planning Policy Framework and Policies D2 and D3 of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016. Taken together, these seek to protect the character and appearance of the area, including this route into Wellington, from poorly sited and designed advertisements.

### **Other matters**

10. I note concerns regarding potential for anti-social behaviour in the supermarket car park. However, the application before me relates solely to the proposed flagpole style sign which would be unlikely to promote such a problem. Therefore, I attach limited weight to this matter in considering this appeal.

## **Conditions**

11. I impose two conditions in addition to the five standard conditions. Conditions to limit the intensity of the illumination and to restrict the times when the sign is illuminated will safeguard the amenities of the area, including the living conditions of nearby residents.

## **Conclusion**

12. For the reasons given above, and having regard to all other matters raised, the appeal is allowed.

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*Rebecca McAndrew*

INSPECTOR

**Application No:** 3/21/21/025

**Address:** Land at Beacon Road, Minehead

**Description:** Application for Outline Planning Permission, with all matters reserved, for the erection of up to 12 No. dwellings

**Application Decision:** Chair

**Appeal Decision:** Dismissed



## Appeal Decision

Site visit made on 28 March 2023 **by J J**

**Evans BA (Hons) MA MRTPI**

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

**Decision date: 25 May 2023**

**Appeal Ref: APP/W3330/W/22/3295972**

**Land at Beacon Road, Minehead, Somerset TA24 5SE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr J Way against the decision of Somerset West and Taunton Council.
- The application Ref 3/21/21/025, dated 24 February 2021, was refused by notice dated 26 November 2021.
- The development proposed is the erection of up to 12 new houses on land south of Beacon Road, Minehead.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted as an outline, with all matters reserved for future consideration. However, the drawings submitted with the application show details of access and layout. The Council have considered these matters as being illustrative, albeit no such annotation was indicated on the drawings. The appellant has confirmed that all matters are reserved, with access details shown to demonstrate that they could be provided.
3. Clevelands and St Michael's Church are listed buildings (grade II and II\* respectively), within the Higher Town Conservation Area. As required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of the conservation area.
4. The listing description for Clevelands refers to the property name as Cleveland, and this is the property name given on the ordnance survey plans that have



been provided by the parties for the appeal. However, within the evidence of the parties the property is known as Clevelands, and this was consistent with what I saw at my site visit. I am satisfied that the two properties are the same, and have referred to the name Clevelands in the appeal decision.

5. The appeal site is within 0.5km of the Exmoor Heaths Special Area of Conservation. The Conservation of Habitats and Species Regulations (2017)(the Regulations) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects, both directly and indirectly, from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority. I shall return to this matter below.

### **Main Issues**

6. The main issues in this case are:

- firstly, the effect of the proposal upon the character and appearance of the area, having particular regard to the effect upon the settings of nearby listed buildings, upon the Higher Town Conservation Area, and upon protected trees;
- secondly, the impact of the proposal upon protected species within the area;
- thirdly, whether the proposal would make adequate provision for surface water drainage; and
- fourthly, whether the proposal would make adequate provision for securing any additional need arising from the development, having particular regard to affordable housing.

### **Reasons**

#### *Character and Appearance*

7. The appeal site comprises an area of land upon a steeply sloping hillside. Beacon Road bounds the northern edge of the site, beyond which is a loose-knit row of detached houses positioned within generous gardens. The site is within the Higher Town Conservation Area, a designation which acknowledges the importance of the relationship between the town and the surrounding landscape. North Hill forms an impressive green backdrop to the town, and given its steep sides and proximity to the coast, it forms an imposing landscape feature that can be seen from many miles away. The presence of numerous tall trees, many of which are evergreen, creates a green top to the hill. Tree cover extends down the hillside, including within residential gardens. As such the verdant nature of the hill is a distinct feature of the conservation area, particularly as it makes a striking contrast with the dense urban grain found upon the lower slopes of the hill.

8. There are a variety of tall trees in the appeal site, as well as young trees and saplings, including self-seeded specimens. The long row of mostly evergreen trees that delineates Beacon Road, are a distinctive linear group within the landscape. Not only do they contribute to the verdant appearance of the hill, but they also serve to screen the houses to the northern side of the road. The variety of species and the wide age

ranges of trees within the site is an integral element of the green continuity of the hillside, and they make a positive contribution to the conservation area.

9. Large, detached houses are another feature of the area, many of which derive from the extension of the town during the Victorian and Edwardian periods. The high quality forms of the houses with their rich period detailing reflects the historic development of the town as a coastal resort. As many of these houses are positioned within generous plots, there are mature trees growing amongst them, thereby maintaining the verdant nature of the upper section of the hillside. These features are all part of the significance of the conservation area.
10. Clevelands is one of the large houses that positively contributes towards the character and appearance of the conservation area. Positioned within generous gardens, this villa has an attractive decorative domestic revival style, which is part of the special interest of this listed building. This, and its large size, hipped roofs and mock timber framing make it a distinctive building, and one that can be seen from long distances away. The generous gardens to the property set it apart from the other buildings, and as it is just below the treed hilltop, given its size and position this listed building is a landmark within the town. Not only does the house reflect the historic development of the town over time, but its dominating prominence is part of the significance of this listed building.
11. In addition to Clevelands, another focal point on the hillside is the church. This parish church has a commanding presence within the town, reflecting its social and historic importance. The elevated position of the church, and its large size makes it visible throughout the town, including from the A39 and from along the Esplanade. This, when combined with the imposing height of the tower makes it the focal building within the area, and this is part of the special interest of this listed building. The prominence of the church is enhanced by it being experienced against the treed hilltop. Given its position and its social importance within the town, the church is a landmark building, and this importance is part of the significance of this listed building.
12. Although the proposed houses would be higher up the hill than either Clevelands or the church, they would nevertheless be a harmfully intrusive group within the settings of these listed buildings, and the dwellings would draw the eye. Part of the prominence of the listed buildings is that they are set against a largely uninterrupted verdant backdrop. Whilst acknowledging that all matters are reserved, the provision of twelve dwellings in such a location would be conspicuously noticeable given their position high up the hillside.
13. It might be the case that the houses could be arranged in groups and be designed to minimise their visual impact, such as being two storey, having green

roofs, and timber walling. From some views lower down the hillside and from the old harbour area the houses would not be

visible. Notwithstanding this, the site is plainly visible from a number of other views within and beyond the town, and the hill is such a prominent feature in the area that such measures would not mitigate the essential change in the appearance of the site. The undeveloped verdant nature of the appeal site and the contribution it makes to the continuous green appearance of the hillside would be lost through the provision of not only the dwellings, but through the associated ancillary domestic uses, such as garages, multiple gardens, service roads and accesses.

14. The steep nature of the hillside and the narrow linear shape of the site would constrain any development. Even if the houses were grouped together to reduce their footprints, a characteristic of the area is the individual, detached nature of most of the dwellings, and any grouping of similar styled and sized houses in such a prominent location would be an incongruous addition in such a context. The provision of up to twelve homes on such a steep hillside in an elevated position would be a conspicuous and distracting addition that would erode the landmark dominance of the listed buildings. Furthermore, the houses would harmfully interrupt the verdant continuity and dominance of the hillside and the contribution it makes to the conservation area.
15. The intrusive nature of the development would be exaggerated by the need to undertake ground and levelling works. Even if the dwellings could be designed to accommodate the steep slope, the provision of service roads and multiple accesses would result in ground works that would necessitate the removal of both trees and understorey vegetation. It is the size of the trees and their abundance that gives a sylvan, cohesive identity to the hilltop. The trees within the appeal site as well as those on the site boundaries are integral to the character and appearance of the conservation area, as well as maintaining the green backdrop that sets off the importance of the church and Cleveland's.
16. The National Planning Policy Framework (the Framework) emphasises the importance of trees and the contribution they make to an area, and BS5837 – Trees in Relation to Design, Demolition and Construction makes some allowance for disturbance to the roots and crowns of trees during construction works. Trees self-optimize with regard to their location, and in this instance the proposed protection measures have been tightly drawn around the trees. The Monterey Pines and Holm Oaks along Beacon Road are imposing trees with broad canopies. The provision of vehicular accesses would impact both upon the roots and crowns of these trees, but little information has been provided to demonstrate that such works would not be detrimental to their health and wellbeing. The size and age of these trees is such that they would have extensive root spreads, and neither this nor the impact of the slope upon these trees has been assessed with regard to root protection areas.
17. The presence of protected trees, including those protected through being within a conservation area, should inform development. This would be particularly pertinent in this case due to the number of trees, and the positive contribution

they make to the conservation area, and to the biodiversity value of the locality. Even self-seeded trees and those of less than perfect form contribute. A survey of the trees along Beacon Road has been provided, but the tree protection plan does not accurately portray the position of the trees nor their canopy spreads, and little detail has been provided regarding the impact of the development upon either the surveyed trees or any of the others within or near the site. Whilst acknowledging that all matters are reserved, the lack of information before me relating to the direct and indirect impact of the development upon the trees is such that I am not convinced conditions would be sufficient to protect the trees during construction, nor that the development would ensure their long-term health and vitality, and thereby the contribution they make to biodiversity and the character and appearance of the conservation area. Additional planting is proposed to compensate for those trees that would be felled, but the impact of any replacement trees would take many years to make a similar contribution to the area, if ever.

18. Those trees that would be retained would impact on the living conditions of future occupiers, as they would dominate the homes and their gardens, particularly so as several are evergreens. It may be the case that some people would wish to live in a woodland setting, but this cannot be guaranteed for the lifetime of the development. The trees would impact on outlook and light levels, as well as create a sense of enclosure. The close proximity of the trees to any homes, gardens and access roads would require regular and ongoing management and maintenance, and in the case of the Monterey Pines this would include regular cone removal. Having regard to this and the attractive panoramic views that would be available to future occupiers, there would be pressure to remove trees, with the consequential harm to the conservation area.
19. The appellant has drawn my attention to the permission for two dwellings at Beacon Road that are within the conservation area, pointing out that the development was considered acceptable in terms of policy issues. However, these houses are set well back from the road behind generous front gardens, and are away from the steep slope of the hillside on a levelled area. This separation retains the verdant nature of the hillside, and thereby significantly reduces the impact these houses have. Given these differences, these houses do not form a binding precedent for allowing the appeal.
20. The Framework requires 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. In this case the proposal would lead to less than substantial harm given the size of the development when compared to that of the conservation area and that of the settings of the listed buildings. Nevertheless, these harms carry considerable weight, and the Framework requires that these harms must be weighed against the public benefits of the proposal.
21. The provision of five affordable homes would be a significant public benefit, and such housing would assist in meeting the needs of the local community. Future occupiers would make a small contribution to the local economy, including supporting local services, and there would be a time-limited economic benefit

arising from the construction of the housing. Balanced against this is that the affordable housing has not been secured and this significantly tempers the weight attributable to this public benefit. Given this, the public benefit arising from the scheme would not outweigh the significant harm that would arise to the conservation area and to the settings of the listed buildings.

22. For these reasons the proposal would have a significant and unacceptable impact upon the character and appearance of the area, and the suggested conditions would not mitigate this harm. The harms to the conservation area and to the settings of nearby listed buildings would not be outweighed by public benefits, and consequently the scheme would fail to accord with the Framework and the Act. The proposal would be contrary to Policies NH1, NH2 and NH6, of the West Somerset Local Plan (2016) (LP). These policies require, amongst other things, that development should sustain and/or enhance historic heritage, particularly those elements that contribute to an area's distinctive character and sense of place, that development in a conservation area should preserve or enhance its character and appearance, and that biodiversity and ecological networks are protected and enhanced.

#### *Protected Species and Habitats*

23. The site is approximately 0.5km away from the Exmoor Heaths Special Area of Conservation (SAC), and the appellant's Preliminary Ecological Survey and Protected Species Survey Report (dated September 2021) (PEA), refers to the ecological potential of the site for a variety of species, including breeding and feeding opportunities for birds and mammals. Local residents and the Council have referred to the presence of protected species in the area, including bats. In addition, the proximity of the appeal site to the SAC is such that future occupiers would be likely to impact upon the site, both directly and indirectly, including through increased recreational pressures. Having regard to this, an assessment of the impact of the development upon the integrity of the SAC and upon any protected species in the area would be necessary. I shall return to the matter of the impact of the proposal upon the integrity of the SAC later.

24. The impact of the proposal on protected species and habitats has not been assessed in any detail. The scheme would require the felling of trees and the removal of understorey vegetation, all of which could impact upon any protected species living within, near or using the site

for breeding and foraging, including bats. The survey for the PEA was restricted to the accessible parts of the site, and consequently it could be the case that protected species are on the site or use it. A bat survey has been undertaken, but it occurred in February, which is a time of year when bat activity would be very limited. Having regard to these limitations, including that the PEA recommends a further bat survey, the impact of the proposal on protected species cannot be assessed with any certainty.

25. The presence, use or absence of protected species is a matter that should be assessed so as to inform the nature of any scheme. Circular 06/2005 –

Biodiversity and Geological Conservation (the Circular) makes it clear that the presence of a protected species is a material consideration when development is being considered. Consequently, it is essential that the presence or otherwise of protected species and the extent that they may be affected by the development is established before planning permission is granted so as to ensure that all relevant material considerations have been addressed. The Circular requires that surveys should only be conditioned in exceptional circumstances. Having regard to the evidence before me, including the proximity of the appeal site to protected habitat sites, a condition requiring a survey would not be acceptable. Furthermore, any measures to increase the biodiversity value of the site would also need to be informed by an up-to-date ecology survey.

26. I have noted the comments of the previous Inspector (appeal ref: APP/W3330/W/20/3257876) and the precautionary actions and work recommendations within the PEA. However, the requirements of the Framework are that the planning system should contribute to and enhance the natural environment, and minimise impacts upon biodiversity. This should be integral to informing the nature of any proposal. In this case the scheme has failed to demonstrate whether the development would have an impact upon protected species and habitats, nor has it been demonstrated that any impacts could be minimised and successfully mitigated. The proposal would be contrary to the requirements of LP Policy NH6, which requires amongst other things, that development should not generate an adverse impact on biodiversity, with measures being taken to protect or mitigate adverse impacts, and to ensure a gain in biodiversity where possible, thereby reflecting objectives of the Framework.

### *Drainage*

27. The scheme proposes a variety of drainage measures, including keeping hard surfaces to a minimum, green roofs, and rainwater harvesting. The appellant considers that suitable sustainable water drainage systems can be provided within the site, including through a proposed infiltration basin.
28. Wessex Water have referred to surface water drainage being rectified as the site progresses. However, the circumstances of this case are such that the matter of drainage would need to be addressed rather than left as a conditional requirement so as to ensure that development could take place without water discharging from the site into other land. This would be particularly necessary given the steep nature of the hillside, and I note that local residents have referred to there already being an existing runoff problem into adjoining land. The removal of trees and vegetation within the site would impact upon infiltration levels, and the concern in this situation would be flooding and ground instability. This is an issue identified in the appellant's Sustainable Drainage Assessment (June 2021) as it is recommended that infiltration capacity needs to be investigated, as well as advising that discharging to a nearby water feature would require the relevant owner(s) consent. In the absence of such detail, and having regard to the nature of the site and the consequential risk to people and property, requiring such detail through conditions provides no certainty that these matters could be satisfactorily resolved.

29. In addition, the Council have also identified other outstanding issues regarding the capacity to accommodate event-specific discharge rates, and that the alterations to the climate change allowances need to be considered. Furthermore, the response of Wessex Water to the appellant refers to a requirement for connection to sewers to occur where infiltration is not possible and that any alternatives have the agreement of all the relevant stakeholders.
30. There are a number of infiltration and drainage uncertainties arising from the proposal and it remains unclear as to whether they could be satisfactorily addressed. In light of these unresolved issues, conditions would not be reasonable. Nor would this uncertainty accord with the requirements of LP Policy CC6, which requires amongst other things, that development will only be permitted if adequate and environmentally acceptable measures are incorporated that provide suitable protection and mitigation both on-site and through displacement to adjoining land.

### *Affordable Housing*

31. Minehead is an area of high demand for affordable housing. The provision of five affordable homes would help to meet some of this need, and would accord with the objectives of LP Policy SC4, which requires on-site provision for affordable housing on all sites of eleven or more dwellings. The appellant has agreed to enter into a legal agreement and would accept a condition in relation to this.
32. The appeal has not been supported by any completed and agreed legal agreement. Consequently, there is no mechanism to ensure that the affordable housing could be provided and maintained as such, including to ensure that occupancy criteria is defined and enforced, and that it remains affordable to first and subsequent occupiers.
33. As regards a condition, the Planning Practice Guidance advises that a negatively worded condition limiting the development that can occur until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. No exceptional circumstances have been put before me explaining why an obligation has not been provided, nor for the necessity of imposing such a condition.
34. As it stands, the scheme would not secure the required on-site affordable housing provision, and would fail to accord with the requirements of the above referenced LP Policy. It follows that any benefits accruing from the provision of these affordable homes is significantly tempered.

### **Other Matters**

35. The Exmoor Heaths SAC are an extensive network of upland heaths, maritime cliffs and slopes that are nationally and internationally recognised and protected. These host priority habitats and species, including trees, plants, grasses, birds, and butterflies as well as other typical species of heaths, and sea cliffs. The close proximity of the site to protected habitat sites is such that the development and future occupiers would be likely to impact upon the SAC having a significant

effect upon its integrity, both directly and indirectly. The Regulations require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority. Had I reached a different conclusion on the main issues, it would have been necessary for me to undertake an Appropriate Assessment and give further consideration to the likely effectiveness of mitigation and avoidance measures. However, as I am dismissing the appeal for other reasons this has not been necessary.

36. The appellant has referred to the Council's identification of the site within the Strategic Housing Land Availability Assessment (SHLAA) for ten dwellings, and that pre-application advice encouraged the appellant to submit an application. Whilst noting the identification of the site within the SHLAA, I am obliged to consider the scheme on the basis of the issues that it raises. Given the harms raised by the proposal, including the significant harms arising to designated heritage assets, the identification of the site within the SHLAA would not override these.

37. The appellant's concerns regarding the Council's handling of the application and pre-application, are procedural matters that fall to be pursued by other means separate from the appeal process and are not for me to consider.

38. Local residents have raised a number of matters, including loss of privacy, highway safety and construction traffic concerns, use of the site as a public space, the creation of a precedent, and that there have been numerous applications for development on the site. As regards the

latter points, each application and appeal has to be considered on its merits, and the future or any alternative use of the site is not a matter for consideration at the appeal. Of the planning considerations raised, following my findings on the main issues, I have no need to consider them further.

## **Conclusion**

39. For the above reasons the adverse impacts arising from the proposal would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these substantial harms. The proposal would conflict with the development plan and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

*J J Evans*

INSPECTOR