

# Public Agenda Pack



Notice of Meeting of

## **PLANNING COMMITTEE - SOUTH**

**Tuesday, 9 January 2024 at 2.00 pm**

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

To: The members of the Planning Committee - South

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

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

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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, 8 January 2024** by email to [democraticservicessouth@somerset.gov.uk](mailto:democraticservicessouth@somerset.gov.uk). Further information on the public speaking arrangements at Planning Committee is provided in the Public Guidance Notes near the front of this agenda pack.

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

Members of the public are welcome to attend the meeting.

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

Issued by David Clark, Monitoring Officer (the Proper Officer) on Thursday, 21 December 2023.

# **AGENDA**

**Planning Committee - South - 2.00 pm Tuesday, 9 January 2024**

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

**Councillor Reminder for Declaring Interests (Agenda Annexe) (Pages 11 - 14)**

**Click here to join the online meeting (Pages 15 - 16)**

## **1 Apologies for Absence**

To receive any apologies for absence and notification of substitutions.

## **2 Minutes from the Previous Meeting**

Members will be asked to agree the minutes of the previous meeting held on 19 December 2023 at the next meeting of Planning South Committee – scheduled for 30 January 2024.

## **3 Declarations of Interest**

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

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

## **4 Public Question Time**

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

For those members of the public who have submitted any questions or statements, please note, a three minute time limit applies to each speaker.

Requests to speak at the meeting at Public Question Time must be made to the Monitoring Officer in writing or by email to [democraticserviceteam@somerset.gov.uk](mailto:democraticserviceteam@somerset.gov.uk) by 5pm on Wednesday 3 January 2024.

**5 Planning Application 16/05500/OUT - Land South West of Canal Way, Ilminster, Somerset (Pages 17 - 112)**

To consider an outline application for residential development for up to 400 dwellings with associated access.

**6 Planning Application 23/02163/COU - 196 Sherborne Road, Yeovil BA21 4HL (Pages 113 - 122)**

To consider an application for Change of Use from C3 residential to C4 HMO (no external changes).

**7 Planning Application 23/01939/FUL - Ilford Farm, Ilford Lane, Ilton TA19 9EB (Pages 123 - 134)**

To consider an application for change of use of adjoining land to residential, erection of extensions and alterations to property in order to create a multi-generational dwellinghouse, erection of a detached garage.

**8 Appeal Decisions (for information) (Pages 135 - 152)**

## **Other Information:**

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

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

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

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

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

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

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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 [democraticservicessouth@somerset.gov.uk](mailto:democraticservicessouth@somerset.gov.uk) . For those speaking to object or support the proposal, the speaking slots will be allocated on a first come first served basis. If there are numerous members of the public wishing to speak in one slot it is advisable to make arrangements for one person to make a statement on behalf of all. The meetings are hybrid and you can speak either in person at the meeting or virtually. If you wish to speak at the meeting virtually please inform Democratic Services so that they can advise you of the details. If you have registered to speak, the Chairman will invite you to speak at the appropriate time during the meeting.



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

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

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

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

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

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

### **Presentation of planning applications**

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

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

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

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

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

### **Recording of the Meeting**

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

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



## Councillor reminder for declaring interests

The [Members' Code of Conduct](#) deals with declaration of interests and participation at meetings.

### **Non participation in case of Disclosable Pecuniary Interest**

Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests\*, you **must** disclose the interest, **must not** participate in any discussion or vote on the matter and **must not** remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest,' you do not have to disclose the nature of the interest, just that you have an interest. A dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

### **Disclosure of Other Registerable Interests**

Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests\*\*, you **must** disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise **must not** take part in any discussion or vote on the matter and **must not** remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

If your Other Registrable Interest relates to -

- (1) an unpaid directorship on a company owned by your authority or
- (2) another local authority of which you are a member,

subject to your declaring that interest, you are able to take part in any discussion and vote on the matter.

### **Disclosure of Non-Registerable Interests 'directly relating' to financial interest or well-being**

Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you **must** disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you **must not**

take part in any discussion or vote on the matter and **must not** remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Disclosure of Non-Registerable Interests 'affecting' financial interests or well-being**

Where a matter arises at a meeting which affects –

- a) your own financial interest or well-being;
- b) a financial interest or well-being of a relative or close associate; or
- c) a financial interest or wellbeing of a body included under Other Registrable Interests

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

Where a matter affects the financial interest or well-being:

- a) to a greater extent than it affects the financial interests of the majority of inhabitants of the division affected by the decision and;
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you **must not** take part in any discussion or vote on the matter and **must not** remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Disclosable Pecuniary Interests\***

1. **Employment:** any employment or office held, or trade, profession or vocation carried on, by you or your partner for profit or gain.
2. **Sponsorship:** any payment or financial benefit towards your election expenses or expenses as a member received within the last 12 months, excluding any from your council.
3. **Contracts:** any current contract between your council and you, or your partner, or any body in which you or your partner are a partner, director, or shareholder.
4. **Land:** any land which is in your Council's area which you or your partner own, have a right to occupy, or receive the income from (excluding a licence to occupy land for less than a month).

5. **Corporate tenancies:** any tenancy between your council and a body in which you or your partner are a partner, director, or shareholder.
6. **Securities:** any beneficial interest in any shares or other securities of any description in a body held by you or your or your partner if the body has a place of business or land in your council's area, and: the total value of the securities held is over £25,000, or you or your partner hold more than one hundredth of the total issued share capital of the body, or if the body has more than one class of shares you or your partner hold more one hundredth of the issued share capital of that class.

### **Other Registerable Interests\*\***

\*\*a) any unpaid directorships b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority c) any body exercising functions of a public nature directed to charitable purposes or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union, of which you are a member or in a position of general control or management.

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Planning Committee – South – 9 January 2024

## Microsoft Teams meeting

**Join on your computer, mobile app or room device**

[Click here to join the meeting](#)

Meeting ID: 326 680 765 636

Passcode: TAJKCV

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[+44 1823 772277,,111416080#](#) United Kingdom, Taunton

Phone Conference ID: 111 416 080#

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## **Officer Report On Planning Application: 16/05500/OUT**

<b>Proposal:</b>	Outline application for residential development for up to 400 dwellings with associated access.
<b>Site Address:</b>	Land South West Of, Canal Way, Ilminster, Somerset,
<b>Parish:</b>	Ilminster
<b>ILMINSTER Division</b>	Cllr Val Keitch, Cllr Sue Osborne
<b>Recommending Case Officer:</b>	Rachel Tadman (Specialist)
<b>Target date:</b>	10th April 2017
<b>Applicant:</b>	Persimmon Homes SW & Somerset County Council
<b>Agent: (no agent if blank)</b>	Persimmon Homes SW
<b>Application Type:</b>	Major Dwlg 10 or more or site 0.5ha+

### **Background Information, Application Update and Revisions**

This application was originally considered by the former South Somerset Area West Committee on 16 August 2017 where it was resolved to recommend refusal of the application contrary to the Officer's recommendation for the following reason:

The applicant has failed to demonstrate that the proposed scale of growth which significantly exceeds the Local Plan targets will not have an adverse impact upon local infrastructure and amenity.

The agenda and minutes for SSDC Area West Committee of 16 August 2017 can be viewed online at:

<https://modgov.southsomerset.gov.uk/ieListDocuments.aspx?CId=131&MId=2089&Ver=4>

The application was then referred to the former South Somerset Council Regulation Committee on 21 November 2017 where it was resolved to permit the proposal subject to a S106 legal agreement and conditions.

The Regulation Committee report and minutes are provided at Appendix A1 and Appendix A2 for information. (The Regulation Committee report updated the Area West Committee report to include the outcome of the Area West Committee but was in all other respects the same body report).

Unfortunately, following the decision of the Regulation Committee and before the decision was formally issued, South Somerset Council received the 'phosphates letter'

from Natural England in August 2020 stating that planning permission could not be granted until a Habitats Regulations Assessment (HRA) had been carried out confirming that the proposal was nutrient neutral.

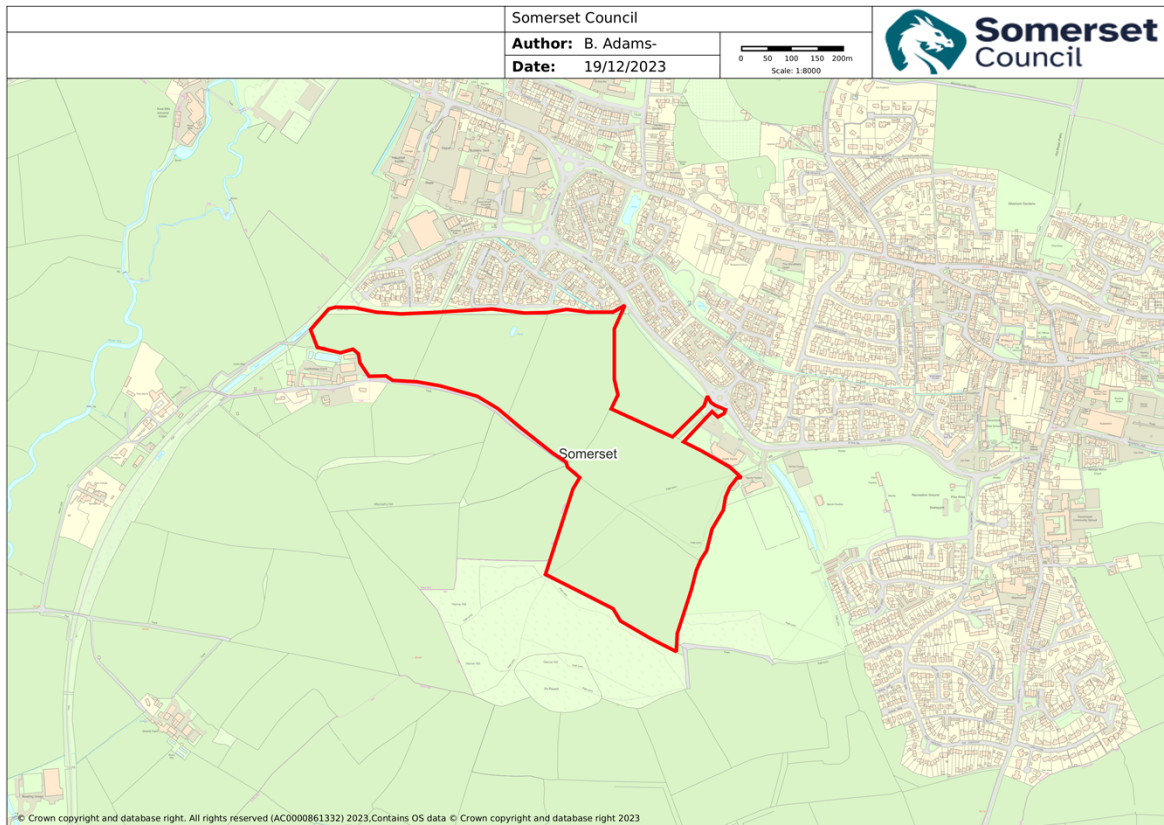
The application has therefore been on hold until a phosphate solution could be found, however in the meantime the Applicant has taken the opportunity to revisit the proposals and has revised them accordingly. The report below comprises an assessment of the proposal based on the revised submission whilst also incorporating previous comments from Consultees and local representations.

**REASON FOR REFERRAL TO COMMITTEE:**

This application is automatically referred to South Area Planning Committee as the application was previously considered by the former South Somerset Council Regulation Committee.

**SITE DESCRIPTION AND PROPOSAL**





The application site is located towards the south west side of Ilminster, on the southern side of Canal Way, and sits to the west of the medical centre with residential properties to the north. Ilminster Town Football Club with the Ilminster recreation Ground form the eastern boundary of the site. The A303 is approximately 2km to the West. Coldharbour Farm is located to the west with further agricultural land/fields to the south. The fields are bound by hedgerows with a number of mature trees located sporadically throughout the site.

The site is 21.17 ha in size, comprising five field parcels of agricultural land with mature hedgerows and mature trees located throughout. The site is gently sloping, rising from the north towards Herne Hill to the south and includes a small pond on the northern boundary.

The site includes a number of individual trees subject to Tree Preservation Orders in hedgerows within the northern boundary and centrally located within the site. The site is in Flood Zone 1 and is not subject to any environmental designations.

There are no designated heritage assets within the site however there are numerous, mostly Grade II listed buildings, within the wider setting of the site along with Ilminster Conservation Area and Donyatt Conservation Area.

The site is within the River Parrett water catchment area of the Somerset Levels and Moors Ramsar Site.

A public footpath runs from Coldharbour Farm to the west heading eastwards along a track. Part of the parish boundary between Ilminster and Donyatt runs along this boundary. The right of way then dissects the field to the south of the proposed school field leading to the pedestrian and vehicular access from Canal Way. A section of the right of way also heads northwards towards Adams Meadow.

Originally the application was for 450 dwellings however, taking on board concerns raised during the initial consultation process, a new site location plan was submitted removing two fields in the south west and adding a new field in the south east. The description was also amended to 'up to 400 dwellings'.

It should be noted that the original scheme, and the submitted development framework plans, indicatively showed the provision of a primary school on a 2.1 ha parcel of land located on the north eastern boundary of the site, owned by Somerset Council. Reference to the school has now been removed as it is understood it is no longer proposed, this is explained in more detail within the assessment of the application below. The previous revised scheme also included a football pitch just below Herne Hill however this was removed from the scheme due to impact it would have on the landscape.

The application, as revised, now seeks outline permission for the erection of up to 400 dwellings with associated vehicular and pedestrian access on land at Canal Way, Ilminster. Access only is sought for approval at this stage with detailed matters in respect of layout, scale, appearance and landscaping forming reserved matters.

Due to the length of time that has passed since the application was considered by South Somerset Council's Regulation Committee in November 2017, planning circumstances have changed. The Applicant has stated the following regarding changes to the application.

- Persimmon Homes South West has developed fresh core values which underpin a strong commitment to great placemaking and social and community value and this has driven a project team approach to planning and delivery, including the evolution of a completely new masterplan.
- Some of the submitted surveys and assessments, for example ecology, are now out of date.
- Technical standards, policies, procedures and good practice have changed.

The scheme proposes 1 point of vehicular access from Canal Way utilising the existing spur off the roundabout serving the medical centre. The existing access to the medical centre will be realigned and relocated further south along the access road. A vehicular access for emergency vehicles only, will be provided further to the west along the northern boundary into Adams Meadow.

Numerous cycle and pedestrian routes are shown within the site, establishing new routes around the site and also linking up with existing cycle routes, bridleways and footpaths.

The highway scheme includes the provision of two zebra crossings; one to be located on the access road adjacent to the medical centre and a second to be provided to the north west of the roundabout on Canal Way. Technical changes will be made to the access road to accommodate the proposed development.

The scheme also proposes on site play and youth facilities. Existing hedgerows will largely be retained with small sections removed within the site to accommodate the internal access road.

The latest submission of revision, in August and October 2023, includes the following updated, or newly submitted, supporting documents:

- Planning Statement
- Design and Access Statement
- Affordable Housing Statement
- Transport Assessment
- Travel Plan
- Ecological Impact Assessment
- Biodiversity Net Gain Metric
- Landscape Appraisal Addendum
- Arboricultural Impact Assessment
- Nutrient Neutrality and Mitigation Statement
- Landscape Appraisal
- Noise Assessment (labelled ProGP Stage 1 - Risk Assessment)
- Flood Risk Assessment and Drainage Strategy

The following reports from the original submission are still relevant:

- Archaeological Report
- Geotechnical and Contamination Assessment Report

- Landscape Appraisal
- Heritage Statement

The revisions also include a suite of plans including:

- Illustrative Masterplan
- Opportunities and Constraints
- Parameter Plans including density, land use, access and movement, scale and height
- Proposed Access from Canal Way
- Proposed Emergency Access from Adams Meadow

## **RELEVANT PLANNING HISTORY**

18/00082/FUL - Erection of 144 No. dwellinghouses with open space, landscaping and other associated works. Formation of access. Pending consideration.

16/01095/EIASS - Residential Development of up to 465 dwellings, new school, public open space, formal sports area, landscaping and access. EIA not required.

There is no other relevant planning history for this site.

## **PLANNING POLICY AND GUIDANCE**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2 and 47 of the NPPF, state that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

The National Planning Policy Framework was revised on 19<sup>th</sup> December 2023.

Key issues that would inform the determination of this application include:

Paragraph 11 which applies the presumption in favour of sustainable development remains although footnote 8 introduces the opportunity to apply a 4 year housing supply position where the authority has an emerging local plan that has been submitted for examination or has reached Regulation 18/19 stage which is not applicable to Somerset Council.

For decision making the test remains:

“approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

Chapter 5 deals with delivering a sufficient supply of homes and confirms that the standard methodology is an advisory starting point for establishing a housing requirement and notes:

*There may be exceptional circumstances , including relating to the particular demographic characteristics of an area<sup>25</sup> which justify an alternative approach which to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals.*

The 5% buffer that Area South previously applied to its housing supply reflecting recent higher levels of housing delivery is no longer applicable.

Chapter 12 is now titled “Achieving well-designed and beautiful places” and develops the use of design codes. The applicability of this chapter is reflected in the consideration of this application by the South West Design Review Panel discussed later in the report.

The Council's Development Plan comprises:

- South Somerset Local Plan 2006-2028 (adopted March 2015)
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

The following policies of the South Somerset Local Plan are relevant to the determination of this application:

- PMT3 - Direction of Growth for Ilminster

- SD1 - Sustainable Development
- SS1 - Settlement Strategy
- SS4 - District Wide housing Provision
- SS5 - Delivering New Housing Growth
- SS6 - Infrastructure Delivery.
- HG3 - Provision of affordable Housing.
- HG5- Achieving a mix of Market Housing
- TA1 - Low Carbon Travel
- TA4 - Travel Plans
- TA5 - Transport Impact of New Development
- TA6 - Parking Standards
- HW1 - Provision of Open Space, Outdoor Playing Space, Sports, Cultural and Community Facilities in new Development
- EQ1 - Addressing Climate Change in South Somerset
- EQ2 - General Development
- EQ3 - Historic Environment
- EQ4 - Biodiversity
- EQ5 - Green Infrastructure
- EQ7 - Pollution Control

### **Ilminster Neighbourhood Plan**

The Ilminster Neighbourhood Plan (NP) has completed its Examination in Public and it is understood that the document is currently being amended to address the Examiners comments. The NP will then need to be subject to a referendum before it can be 'made'. The weight that can be afforded to the NP at this present time has been assessed against paragraph 48 of the National Planning Policy Framework (NPPF) and it is considered that the NP cannot be given significant or full weight until it has completed the referendum and/or been made. Therefore the NP can be given 'some' ie more than limited but less than substantial weight. Notwithstanding this, the following policies are most relevant in determining this planning application:

- Policy ILM1: Conserve and enhance Ilminster's historic landscape setting
- Policy ILM2: Conserve and enhance Ilminster's ecology, species and habitats.
- Policy ILM3: Enhance and connect our local green open spaces with a "Green Corridor".
- Policy ILM4: Enhance recreational facilities for our growing community.
- Policy ILM7: Promote high quality design.
- Policy ILM9: Safe, interesting walking and cycling routes.
- Policy ILM10: Types of new homes.



- Policy ILM12: Design and layout of strategic sites.
- Appendix A - The Character of Ilminster
- Appendix C - The Design Guide

Other possible Relevant Considerations (without limitation)

- National Planning Policy Framework (NPPF)
- Somerset County Council Highways Development Control Standing Advice
- Somerset County Council Parking Strategy

**SUMMARY OF WARD COUNCILLOR COMMENTS, TOWN/PARISH COUNCIL COMMENTS, REPRESENTATIONS AND CONSULTEE COMMENTS:**

**Ilminster Town Council:** Object for the following reasons:

- There is a high density of homes with one entrance/exit road
- Loss of prime agricultural land
- There are trees within the development that are subject to a TPO
- One of the roads leading onto the access roundabout hasn't been adopted and therefore there are no give way/stop signs
- Query whether the roundabout can support the increased volume of traffic
- Point of access is a key issue, no other development of this size within the town only has one point of entry.
- The impact on existing services and amenities within the town eg Doctors
- Query whether the current drainage system in Ilminster support the new housing
- The balance ponds are not adequate
- Potential for increased flooding risk within the town
- Ilminster has flooded 5 times in the last 20 years
- Further clarification is needed on phosphates credit scheme and offset mitigation rights
- No provision to build a new school and no consideration for children with disabilities
- Lack of upkeep on existing developments within the town have led to areas not being adopted.

Original comments October 2017: Recommend refusal

It was RESOLVED to recommend refusal on the grounds of

- The impact of additional vehicular movements that would be generated by the development without enhancement of the existing transport infrastructure
- Lack of robust travel information especially walking distances
- Lack of information about the Appearance and Character of the proposed dwellings
- Lack of infrastructure to support the development
- Impact on the environment
- Impact on existing rights of way
- Impractical emergency vehicle access
- Over development of the site

A full transcript of the minutes is available to view on the Town Council's website.

Comments August 2017: Do not support

- This is an outline application but until there is a full plan - need to keep an eye on everything
- School plans are not definite
- Land used by Greenfylde - but owned by the IEF and committed to having it for educational purposes
- Local plan says it is the direction of growth
- Concern about the number of proposed dwellings and lack of infrastructure
- Still only 1 access to and from the estate - medical centre and possibly the school
- Revised application still not addressed issues e.g. walk to town centre and car dependency, impact on highway network especially Canal Way
- Proposed crossing will impede the traffic flow and will not allay safety fears at a very busy junction
- Proposed green squares are unlikely to be traffic calming
- How high will the 2.5 storey dwellings be - visual impact
- Need to attract companies to set up business and provide employment
- Canal Way is a flood plain - what impact will there be on surface water drainage
- Possible conflict of interest between landowner and highways responsibilities / advice
- Concerns from Somerset Drainage Board about flooding - doesn't seem to be addressed in the revised plans
- Amended traffic flow figures seem optimistic
- Scheme to encourage use of public transport by the contractors and their employees but what about residents
- Emergency access - still inadequate for emergency services

Recommended that these amended plans are not accepted on grounds that they do not alleviate the previously raised concerns and are inadequate on e.g. Numbers of dwellings, emergency access, flooding especially location and provision of balancing pond, increased traffic, safety concerns and traffic flow if pedestrian crossings implemented as on the revised plans.

**Donyatt Parish Council:** Recommends refusal of the application for the following reasons:

- The current population of Ilminster is around 5,800, at an average of 2.5 people per household, the development will add a minimum of around 1,000 extra people to Ilminster's population, an increase of over 17%. This does not take into account further developments planned for Ilminster, for example off Shudrick Lane.
- If all of these developments go ahead this could increase the population of Ilminster by 20-25%!
- This will completely change the character of Ilminster, which is currently a relatively unspoilt local market town.
- Infrastructure:
- The average number of vehicle visits per household per day in the UK is somewhere between 3 and 4, an extra 1,000 houses will mean an increase in traffic along Canal Way in the order of 3,000 to 4,000 vehicles per day (residents and delivery vehicles).
- This will undoubtedly increase over time as more 'on-line' purchasing takes place and public transport availability worsens.
- The current road infrastructure was never designed for this, towards Ilminster town centre there is already congestion caused by parked cars on the road opposite the park, hampering access for emergency vehicles attending fire/medical events along Canal Way.
- The already congested, dangerous and overcrowded Southfields roundabout will not be able to cope with the extra traffic volumes as new residents head out of town to their places of work, as Ilminster will never be able to employ all these extra people.
- From a Donyatt Parish perspective, the local (rural) road network will have more vehicles using it, outlying parts of the Parish, such as Sea and Peasmarsh, which currently have no speed limits below the national 60mph limit, will become rat-runs as Ilminster roads become more congested.
- There is already a significant 'speeding' issue through Donyatt, despite the current 30 mph limit. This, combined with current vehicle volumes through the village approaching 14,000 per day, will only get worse if you add more vehicles into the mix.

- Doctors' and Dentists' surgeries are already working to capacity with many not able to take on any more patients, those that remain are virtually impossible to book an appointment with, a population increase of over 17% will only exacerbate this already unacceptable situation.
- It's not just IIminster residents that use these and other facilities in the town, many outlying villages depend on them too and will also be adversely affected as the residents of the new development swamp local services in large numbers. Local schools will be faced with up to several hundred extra pupils to accommodate, in reality this potential increase in pupil numbers should warrant a new school being built in IIminster.
- There is only one supermarket of any size in IIminster (Tesco), the car park is invariably full or nearly full.
- Street parking in the town is already severely limited, 400 new houses could mean up to any extra 400 vehicles travelling into the town centre to do their shopping.
- The current water supply, wastewater and sewage systems will not cope without substantial improvements to the current infrastructure. There is already local talk of sewage, from other recent developments along Canal Way, seeping onto the very site where Persimmons plan to build yet more houses.
- The site is currently agricultural land, this absorbs surface water which is dissipated over many acres, the development will replace this with several acres of tarmac and concrete with the potential for localised flooding with the increasing heavy rainfall we are experiencing. Have any provisions been made for this within Persimmon's plans for the site?
- Overspill into neighbouring communities:
- The South-Western boundary of the proposed development borders the northern boundary of the Parish of Donyatt at the communities of Coldharbour and Park Lane. There is no space in the proposal, in the form of open land, between the development and the parish of Donyatt.
- The local section of the National Cycleway, which runs from Chard to Canal Way at IIminster is already very popular with walkers, cyclists, families with prams and horse-riders as it is a Bridleway as well. On a fine day, the Cycleway can have several hundred people using it, I know this as I am also the local Ranger for Sustrans.
- The current mix of numbers and user types can be accommodated, but if 400 new houses produce several hundred extra people wanting to use the Cycleway then it will be stretched beyond capacity, increasing the likelihood of accidents involving cyclists, horses, walkers and Mums with small children and prams.
- Add into this mix several hundred new dogs from the development and horse-riders trying to negotiate even more people, dogs and cyclists, what is currently a peaceful place to be would become very busy.

- The National Cycleway is used (illegally) by motorcyclists as a rat-run from Ilminster to Chard, to avoid the very busy Southfields roundabout or simply because they are often neither insured or taxed, this will only worsen if this development takes place, more motorcyclists will mean more accidents involving walkers, cyclists and horse-riders.
- Apart from the Cycleway, the increase in population and the movement of people in larger numbers will particularly affect the residents of Park Lane and Church Street in Donyatt and the small community of Coldharbour which will be right up against the new development.
- In our view, there should be a substantial buffer-zone between any new development off Canal Way and these neighbouring communities, in order to retain the separate identities of those communities.
- This won't however stop people getting onto the Cycleway in increasing numbers, increasing the potential for anti- social behaviour affecting parts of Donyatt, which currently is relatively free of this menace.
- Finally, there will be a negative impact on the nature reserve at Herne Hill which is relatively unspoilt and enjoyed by local walkers in relatively small numbers.
- As Herne Hill is very close to the proposed development, the potential for a huge increase in footfall through the woods at Herne Hill will be great, with the resulting negative impact on the site and the wildlife within.
- loss of Agricultural land - we need to be more self-sufficient in the production of food and energy.
- What possible justification is there in selling off twenty one hectares of perfectly good productive agricultural land for housing development, once the land has been built on it can never be re-claimed for agriculture, if future generations find it necessary to do so.
- Notwithstanding all of the other points I have outlined above, this issue alone should be the subject of serious debate as to whether this development, on this site, should go ahead at all.

In summary, it is our view, as a local parish, for whom this development could have some potentially serious impacts, with absolutely no perceived benefits, that this development should not take place at all and should never be granted permission to go ahead.

Original comments February 2017: Do not support

The Council did not support this application on the following grounds:

- The Council is extremely concerned that the sprawl of the urban development of Ilminster town is encroaching into Donyatt which is a small village

- It is essential that a clear demarcation is maintained between the boundaries of Ilminster and Donyatt to retain separate identities with a separation zone between the two communities.
- The two amenity fields should be excluded from the plan as they are within Donyatt plus there are no plans to maintain them
- Adverse impact on Herne Hill
- There are four Public Rights of Way that go across the site but only two are mentioned on the plans.
- Trees with TPO's have not been shown
- The Council consider that 450 more dwellings is over development for Ilminster with its present amenities. This could seriously affect Donyatt residents as Ilminster is the nearest town for essential facilities. (Schools, Health Care, Supermarkets etc)
- The Council know that it is difficult to get a timely doctor's appointment now.
- The Council understand that the proposed new school, which will replace the current school, will not have the capacity to cope with the children living in 450 additional dwellings
- Attenuation pond is sited next to the proposed school with the obvious risk of health and safety problems

**Highways England (HE): 30 August 2023 - No objection**

HE operates and maintains motorways and major A roads. Accordingly, in this case, they have advised on the impact of development upon the A303.

Revised comments March 2017: No objection

Further highway modelling work and assessments have been undertaken by the applicant. HE have assessed this and are now content with the analysis. Their holding objection has now been withdrawn and no objection raised.

Original Comments February 2017:

HE originally recommended that planning permission was not granted for a period of 3 months in order to provide the Applicant sufficient time to address outstanding HE concerns and to protect the operation and safety of the A303. HE agreed with most of the analysis outlined in the Transport Assessment undertaken by the applicant's consultant, however, further work was required in regard to the impact of the development on both the Southfields and Hayes End Roundabouts.

Highway Authority (HA): Revised comments 18.10.23 - No objections

The following points are relevant:

- Appropriate crossing points are still to be provided
- No access direct to Adams Meadow other than in emergency
- A Travel Plan is provided and will be secured via a s106 Agreement
- The previously requested conditions are still appropriate
- The s106 Agreement should also cite s278 to secure the details of all works either on or directly adjacent to land covered by highway rights

The full details of the internal arrangement can be clarified during the Reserved Matters application.

Revised comments June 2017: Objection withdrawn

Details had been provided in respect of 2 zebra crossings on Canal Way and along the access road between the entrance to the medical centre and proposed entrance to the school site. The Highway Authority requested that these zebra crossings are in place before the first occupation of 25 dwellings or the school is first brought into use. A crossing point is also provided across the right of way. The secondary access is only proposed for emergency vehicles, rather than as a secondary access for all users. The Highway Authority have accepted this position, given that the internal layout avoids a single spine road running the whole length of the development. Advice is given on the specification of the internal roads. This would be dealt with at any reserved matters stage.

Revised comments April 2017: Objection

The HA formally objected to the scheme for 2 reasons, namely

- 1) safety concerns in regard to the formation of the second access together with conflicting traffic movements onto and from Adams Meadow, and in regard to the cycleway/bridleway and the public right of way; and
- 2) The restricted width, alignment and current layout of Adams Meadow is not considered suitable to serve as a means of access to the proposed development.

The HA also sought changes to the alignment, width and visibility into the doctor's surgery and controlled crossings across Canal Way as well as the access road into the site. A crossing point is also required along the spine road where the public rights of ways cuts through the estate. Comments were also made in regard to the design of the internal estate road, in particular to the relationship with the secondary access road into Adams Meadow.

Original comments February 2017:

The HA raised concerns about the scheme in regard to trip generation and the

absence of any junction modelling outputs. It was concluded that the trip generation modelling would give an under estimate of traffic on the road network; this would affect the volume of traffic on the network and cause a detriment to the operation of junctions. The HA also advised that the proposed Shudrick Valley proposal should be included in the assessment. The HA also raised safety concerns in regard to the proposed access and interaction with the doctors surgery. If the above concerns are not satisfactorily addressed, the HA would recommend refusal of the application.

### **Landscape officer:**

The site has already been appraised as being an area suitable for residential growth by the local plan, and the approved 'direction of growth' was in part informed by the findings of the peripheral landscape study (PLS) of Ilminster, undertaken during November 2007. For the detailed evaluation I would refer to;  
<http://www.southsomerset.gov.uk/planning-and-building-control/planning-policy/evidence-base/district-wide-documents/peripheral-landscape-studies/>

The outcome of the PLS is represented by 'figure 5 - landscape capacity', which is a graphic summary of the preceding evaluation. Fig 5 indicates that the fields that are the subject of this application, are evaluated as having both a high and moderate-high capacity to accommodate built development. Consequently the principle of development in this location is considered to be acceptable from a landscape standpoint, and there is no issue with the main point of access. Whether or not the land has the capacity to accommodate 450 houses however, is a moot point.

A landscape appraisal (LA) and masterplan, the LA proposes that development be limited to the lower area of the site, to be contiguous with other modern development to the north of the site, whilst the rising land to the southwest is allocated as open space, to limit visual effects. It concludes that the development-impact upon both the character and visual amenity of the site and its immediate surrounds, is then capable of reduction through such landscape mitigation, over time.

Clearly, placement of the housing on land of lower elevation and alongside the existing residential edge is logical, as is the proposed approach to landscape mitigation. I am not persuaded however, that this is borne out by the landscape masterplan, not only because the level of landscape provision appears limited, but also because the schematic residential layout does not appear to have been informed by the landscape appraisal. Neither do I see a landscape plan that relates to the ecology report's mitigation proposals, to suggest that there is further work to be done.

In summary, the prime expression of this current layout is akin to a singular large



housing estate, which does not encourage the perception that this could be a development that is rich and varied in its offer of housing and public space, and there is more fundamental work that needs to be done if this proposal is to match the projected quality of the appeal proposal to the east of the town (for 220 houses).

**Education Services:**

A proposal of 400 dwellings in this location will generate the following number of pupils for each education type:

- Early years - 36 pupils
- Primary - 128 pupils
- Secondary -  $400 \times 0.14 = 56$  pupils
- SEND -  $400 \times 0.0092 = 3.68$  pupils (based on new evidence in Somerset)

The current cost to build for the education contributions, based on an expansion cost to build (which is a lower cost) rather than a new build cost is required at this time due to the likely projects required to ensure there will be the capacity in the local schools for the children from this development are as follows:

- Early years - £21,188.00 per pupil
- Secondary - £29,419.50 per pupil
- SEND - £101,215.72 per pupil

Education contributions will be required for Early years expansion, Secondary expansion and improvement and SEND expansion projects which have been carried out in advance of the need. For this application the education cost to build will be as follows:

- $36 \times £21,188.00 = £762,768.00$  for early years
- $56 \times £29,419.00 = £1,647,464.00$  for secondary
- $3.68 \times £101,215.72 = £372,473.85$  for SEND

This is an overall reduction in the education contribution which was drafted in the S106 in 2019 for this application. The previous ask was in the region of £2,282,200.00 for all required school types. So due to the changes in the school system and the reduction in the need for school places at this time the education contribution is reduced by £1,146,959.00.

For the purpose of the S106 as this is an outline application the contributions will be based on a per dwelling cost as follows;

$\pounds 762,768.00/400 = \pounds 1,906.92$  per dwelling for early years expansion in Ilminster  
 $\pounds 1,647,464.00/400 = \pounds 4,118.66$  per dwelling for Secondary expansions and improvement in Ilminster  
 $\pounds 372,473.85/400 = \pounds 931.18$  per dwellings for SEND capacity increases

Original comments January 2017: No objections

The Greenfylde First school is located on a constrained site and cannot sustain any further expansion. The accumulative effect of developments coming forward in the area will necessitate the need to expand Greenfylde and this is not achievable in its current location so relocation of Greenfylde is very likely. This development will also bring forward the need for an additional 52 middle school places.

The proposed development is within the catchment Swanmead Middle School. This school will need to be expanded to accommodate these additional numbers. Therefore the Authority will be seeking education contributions towards provision of the additional school places that will be required should this development be approved.

- 16 pre-school places at @  $\pounds 14,175^*$  per place =  $\pounds 226,800$
- 65 first school places @  $\pounds 14,175^*$  per place =  $\pounds 921,375$
- 52 middle school @  $\pounds 17,766^*$  per place =  $\pounds 923,832$

\*These figures have been reviewed using June 2016 confirmed BCIS General Building Cost Index figure.

**Lead Local Flood Authority:** No objections subject to amendments and S106 obligations/conditions

We have reviewed the information provided, subject to the calculations being updated to showing the outfall on Tank 4 and shown as suitable, we would recommend that the following condition is applied and that the SuDS maintenance and management is secured under the S106 agreement include a named maintenance/management company or adopting authority, and details on replacement and remediation of underground attenuation beneath LEAPS/landscaped areas. Please note that at the next stage we would expect a hydraulic model to address our comments on basins 3A and 3B and details on the receiving culverts.

Original comments January 2017: No objections subject to surface water drainage scheme condition.

**County Archaeologist:** No objections

The results of the archaeological trial trench evaluation have proved negative with no evidence for any settlement type archaeological activity in the trenches and no finds recovered. The findings are satisfactory and no further archaeological work is required.

**Environmental Health Officer:** No objection subject to conditions relating to unexpected finding of contaminated land.

**Natural England:** Final comments awaited

9 September 2023: Further information needed

We note that the applicant for 16/05500/OUT proposes to achieve nutrient neutrality to avoid harm to the Somerset Levels and Moors Ramsar Site through the purchase of credits. Please reconsult Natural England when those credits have been confirmed and an Appropriate Assessment has been completed.

The planning statement suggests that the mitigation strategy will cover 361 homes. Mitigation should correspond to the quantum of housing that may be permitted.

Original comments February 2017 and on revisions October 2017: No objections. Natural England are satisfied with the proposed great crested newt mitigation which follows pre-application advice. This does not however guarantee a license will be issued as this is subject to a separate process and considered in its own right. Provide advice on protected species and green infrastructure/biodiversity enhancements.

**Ecologist:** No objections subject to conditions and S106 obligations

The Nutrient Neutrality Assessment and Mitigation Strategy provided by Stantec in November 2023 shows that the development will lead to an increase of 227.67kgTP/yr. Once the WwTW is upgraded (AMP7) this will drop to 38.04kgTP/yr.

The proposed mitigation strategy for development is to fallow 110.32ha of agricultural land within the Donyatt County Farm Estate currently under the control of Somerset County Council. A Following Assessment of the Donyatt County Farm Estate land has been undertaken and is provided in Appendix E of the Stantec report. The assessment indicated the land is currently comprised on Cereals and Improved grass. Through application of the Somerset Phosphate Budget Calculator (V3.1), the nutrient removal benefit of converting the land to greenspace has been calculated as

38.72kgTP/yr. Therefore, following of this land will allow the development to achieve nutrient neutrality in the post-AMP7 scenario (Ilminster WwTW). If no alternative strategy comes forward by 2030 then it is proposed the land within the Donyatt County Farm Estate will undergo a permanent land use change to woodland, which would provide a nutrient removal benefit of 51.96kgTP/yr.

The sHRA provided by GE Consulting in November 2023 is acceptable and demonstrates that no likely impacts to the Somerset Levels and Moors will occur provided the mitigation is secured.

Natural England should be consulted to ensure that they consider that these proposals will result in no Likely Significant Effect on the Somerset Levels and Moors Ramsar and Special Area of Conservation based on the Shadow Habitats Regulations Assessment.

Based on the above, SES conclude that these proposals will result in no Likely Significant Effect on the Somerset Levels and Moors Ramsar and Special Area of Conservation (confirmed by Somerset Ecology Services adoption letter as attached) subject to the following Section 106's & Conditions being secured:

Comments dated 30 August 2023 - Objection pending further phosphate information (see above)

The Ecological Impact Assessment (GE consulting) has identified populations of Hazel Dormouse, GCN, birds, reptiles, bats, and badgers on site. Several protected species licences will be required for the works including: a NE licence for dormice, a District Level Licence (DLL) for GCN, and a licence for badgers (unless the pre-works surveys confirm otherwise). All matters raised can be resolved by condition.

Updated comments May 2017:

The potential presence of polecats on the site has been raised however the loss of farmland and polecat habitat is very unlikely to be sufficient to have. Significant impact on the conservation and continued recovery of the local polecat population. With the majority of the hedges are being retained, the risk of direct harm to a polecat den is very small.

Original comments February 2017:

The Ecological Appraisal (Green Ecology, Nov 16) has been noted and the following concerns have been raised:

1. Site layout and insufficient dormouse mitigation along the southern boundary

Evidence of dormouse was recorded in the East boundary hedge, therefore, any planning proposal/approval must:

- a) be able to demonstrate maintenance of favourable conservation status to satisfy obligations under the Habitats Regulations 2010, and
- b) satisfy NPPF and Local Plan Policy EQ4.

One of the potential impacts upon dormice could be cat predation, with a greater risk closer to houses. Fragmentation of habitat (by estate roads passing through hedges) is likely to be another significant impact that will likely leave many of the retained hedges, particularly in the northern half of the site, no longer suitable for use by dormice. I therefore consider the habitat loss for dormice could effectively be significantly greater than the 100m stated in the Ecological Appraisal (Table 9), and advise compensation habitat for such loss should be provided.

The current layout, particularly the proximity of housing to the south boundary hedge in the second field from the east, is considered detrimental to establishing a strong east-west dormouse habitat corridor, and could represent grounds for refusal.

The Eastern boundary hedge is not shown as retained which is a cause of concern as this is the hedge where evidence of dormouse was recorded. Removal of this hedge would increase the amount of dormouse habitat loss and hence increase the amount of dormouse compensation habitat that will need to be provided.

2. Wildlife mitigation and compensation areas aren't shown on the Landscape Masterplan. Confirmation of compensation areas for European Protected Species (dormouse and great crested newt), and identification of such on development plans (e.g. landscape masterplan), should be provided to help demonstrate that sufficient compensation is feasible and not in conflict with other open space uses. This will be necessary to help demonstrate meeting of the Habitats Regulations test of maintaining favourable conservation status (necessary before planning permission can be granted).

**Somerset Wildlife Trust:** No objections

In general, support the findings of the submitted ecology report, in particular the recommended mitigation and compensation measures. Also, seek that the design of internal boundaries between properties are designed to allow passage of small animals.

**Tree Officer:** Objection

Objects to the application due to the proximity of proposed dwellings to the root protection areas of retained trees. Also, outlines practical concerns about the proximity of trees to houses.

**Climate Change Officer:** Comments only

The majority of dwellings in this proposal have reasonably well orientated uncluttered roof space that would enable installation of photovoltaic arrays, either at the time of construction or at a later date. However, the layout could be improved within the constraints of the site to provide a greater number of dwellings with south facing roof space. It is very likely that future residents will want to install photovoltaic arrays roof space in the near future (if the developer does not install them during construction). Prices as of January 2017, when leveled over 20 years, provide electricity at less than 2p/kWh without subsidy. Prices are expected to fall still further, making PV a very attractive proposition, especially when combined with battery storage to time shift PV generated electricity to the evening.

I note that the building fabric will be particularly energy efficient and this is welcomed. However, prevention of sterilisation of roof areas from PV installation is an equally important aspect of sustainability and conversations with the developer at this outline stage to consider this issue during the reserved matters stage would be worthwhile.

**Affordable Housing Officer:** September 2023 - No objections

Policy requires 35% affordable housing as this site would be a major application which would be split 75:25 Social Rent : First Homes. This would equate to 140 units based on a development of 400 dwellings. The split should be as follows: 100 dwellings for social rent, 35 dwellings for First Homes and 5 dwellings for other affordable home ownership such as shared ownership (this is a higher number of intermediate as the NPPF requires 10% of the site overall to be provided for affordable home ownership).

The mix, based on the new South Somerset Local Housing Needs Assessment 2021 (LHNA) which also considers the expressed demand on Homefinder Somerset would be as follows: 16 x 1 bedroom house, 56 x 2 bedroom house, 53 x 3 bedroom house, 12 x 4 bedroom house, 3 x 5 bedroom house (social rent).

Original comments February 2017: (based on 400 dwellings.)

Seek 35% affordable houses which equates to 140 dwellings. The tenure split will be 112 for social rent and 28 other intermediate solutions. A mix of dwelling sizes has been sought - 32 x 1 bed flats/houses, 58 x 2 bed flats/houses, 46 x 3 bed, 2x 4 bed and 2 x 4 bed parlour house. Appropriate trigger points for the delivery of the affordable homes will need to be agreed along with minimum space standards. It is also requested that the units are pepper potted throughout the site. The numbers of 1, 2 and 3 beds can be varied once the final house numbers are confirmed, but I will insist the number of 4 beds are preserved.

**Horticulture Officer:** No Objections

Overall, the developer seeks to provide a significant amount of Informal Open space throughout the scope of the development. Using our standard calculation system, we anticipate the amount of usable Open Space that is to be provided is approximately 12.2 hectares, which is in excess of the 2.4 hectares that is actually required for the 400 dwellings.

Original comments: Based on a scheme of 450 homes, the amount of informal open space sought is 1.75 hectares. The indicative layout shows provision of open space in excess of that required. Whilst no objection is raised to the amount of open space, improvements are sought to the design and siting of the open space to establish better links throughout the whole development and to provide smaller pockets of open space with a central green area in each of the different areas of the development. The LEAP and NEAP on opposite sides of the road should be avoided.

**NHS:** No objections

The GP surgeries within the catchment area that this application would affect, currently have sufficient infrastructure capacity to absorb the population increase that this potential development would generate.

However, please be advised that this response from NHS Somerset is a snapshot of capacity assessment at the date of this letter and should there be any change to this position as a result of any current planning applications that may or may not affect the capacity at Milborne Summervale Surgery, The Meadows Surgery and/or Church View Medical Centre being approved prior to a final decision on this particular development, then the NHS position could change.

**Leisure Policy Officer:** No objections subject to S106 legal obligations covering:

- Provision on site of a NEAP and a MUGA

- Contributions of £288,473 for off site provision of changing rooms plus maintenance charge of £23,207
- Contributions of £255,769 for off site provision of sports facilities in Ilminster plus maintenance charge of £95,789
- Plus 1% locality service administration fee

Original comments August 2017: No objections subject to contributions secured by S106 legal agreement. Based on a scheme of up to 450 dwellings, total contributions have been sought totalling £1,424,672. This is split as follows:

- Equipped play space - £229,176 + £132,376 (commuted sum) - on site NEAP.
- Equipped play space - £152,784 + £88,250 (commuted sum) - off site contribution towards enhancing the equipped play area at the recreation ground.
- Youth facilities - £74,999 + £27,729 (commuted sum) - on site provision of floodlit multi-use games area.
- Playing pitches - £207,128 + £125,723 (commuted sum) - 1 on site pitch.
- Changing rooms - £357,729 + £28,778 (commuted sum) - towards new/refurbished cricket changing rooms at the recreation ground.

Community halls, theatres/art centres, swimming pools, indoor tennis centres and sports hall all to be funded through the Community Infrastructure Levy. No contribution sought towards artificial grass pitches.

**Sport England:** No objections

Following confirmation that contributions towards sports facilities in Ilminster were to be secured in lieu of the on site football pitch the objection was withdrawn.

Comments dated 27 August 2023: Object

The planning statement and the S106 Heads of Terms only provides for a single football pitch and a MUGA. They do not address the wider needs of sport. Also In recent years we have found a single pitch is not really sustainable or cost effective.

The population of the proposed development is estimated to be between 1,125 to 1,575 based on between 2.5 - 3.5 residents per dwelling. This additional population will generate additional demand for sports facilities. If this demand is not adequately met then it may place additional pressure on existing sports facilities, thereby creating deficiencies in facility provision. In accordance with the NPPF, Sport



England seeks to ensure that the development meets any new sports facility needs arising as a result of the development.

The proposed sports package of a single MUGA and single football pitch is insufficient to create a sustainable development. We would urge Somerset Council's planning committee to seek an appropriate level of contributions towards built sports facilities and playing pitches.

In light of the above, and therefore Sport England wishes to object to this application as submitted.

Original comments February 2017: No objection.

Advise that the development will create a demand for sporting provision and that the developer should make a contribution towards meeting this demand through the provision of on site and/or where required off site facilities. The level and nature of such facilities should be informed by up to date sports facilities and playing pitch strategies and other relevant needs assessments. They provide advice on playing pitches and associated infrastructure along with making people more active.

**Wessex Water:** Original comments February 2017:

As identified within the FRA submitted with the application (WYG, August 2015) hydraulic modelling will be required to confirm the capacity of the existing foul network to accept foul flows and to identify any required improvement works. As such, a planning condition should be attached to ensure that a drainage strategy for the site is agreed. This is necessary to ensure that the proposals do not increase the risk of downstream flooding and pollution.

**Somerset Drainage Boards Consortium:** No objection subject to a condition in respect of surface water drainage works.

*Crime Prevention Design Advisor:* No objection subject to comments

The following concerns are raised in relation to the layout:

- Rear courtyard parking -
- They introduce access to the vulnerable rear elevations of dwellings where the majority of burglary is perpetrated.
- In private developments such areas are often left unlit and therefore increase the fear of crime. Certainly having accommodation over access to these areas, creating a tunnel effect, will not be beneficial.

- Ungated courtyards provide areas of concealment which can encourage anti-social behaviour.
- There is also a risk that cars will park to the front of the dwellings rather than use the rear courtyards, blighting the development
- Side and rear boundaries - in areas they are easily accessible from public highway or parking areas, recommend that mitigation is used through defensible space and boundary types used.
- Landscaping - care needs to be taken to maintain sight lines and maximise natural surveillance opportunities, ensuring landscaping does not block these.

Original comments:

Consideration should be given to gating the many alleyways that are shown on the masterplan. The gating should be as close to the entrance of the alleyway and where it accesses more than one property then access control will be required

The issue of garden gates has been discussed previously with Persimmon and they should be included on all properties as a basic protection to the property boundary to prevent unauthorised access to the garden and house.

**Public Rights of Way Officer:** No objections subject to informative Original comments February 2017:

There are public rights of way (PROW) recorded on the Definitive Map which run through or adjacent to this proposed development.

- Public footpath CH 11/3 will be obstructed by the development and thus will require a diversion, or a revision of the current proposed layout. An informative note should be added to any permission that may be granted in relation to the need for a diversion.
- Public footpath CH 11/4 runs through the site adjacent to two hammerheads, and may be affected by the proposal. However, any diversion proposal for CH 11/3 may present an opportunity to regularise the definitive line of CH 11/4 to that which is walked on the ground, as the two appear to vary, (subject to a site visit).
- Public footpath CH 11/2 would appear to have been catered for within the layout, albeit this will need closer checking at the REM stage in terms of ensuring that the width is not being encroached upon. The spine road will cut across footpath CH 11/2 and will, one assumes, be subject to later technical approval and potential adoption, which should address any concerns regarding visibility and dropped kerbs etc, for those using the footpath.

- Public bridleway CH 32/25 also appears to be affected by a road linking to Adams Meadow. It is not clear what the intention is for this link, but whatever the intention there will need to be consideration for the use of public bridleway in terms of the detailed design.

Throughout the site there are several links/ open space running North - South which are beneficial to local residents. If there is any intention for the ownership of these areas to be transferred to a private company, then there may be some value in terms of seeking linking paths, albeit, as Highway Authority, we would want to be involved in any such discussions. To facilitate connectivity it is requested that some breaks in the hedgeline between the residential areas and public footpath CH 11/3 are provided. I have discussed school access with colleagues and the intention is to have only one site entrance to the school, which is the one as indicated on the site plans.

**CPRE:** Original Comments February 2017: Object

Object due to the harmful cumulative impact of development in Ilminster, particularly when taking into account the Shudrick Valley scheme. This should also be taken into account in an EIA assessment. Raised concern that cumulative impact not taken into account. Also suggest waiting for the outcome of the Shudrick case before determining this application.

**Sustrans:** Comments as follows:

In our role as the custodians of the National Cycle Network, Sustrans would like Somerset Council to consider a request for Section 106 developer contributions linked to this planning application, for improvements to nearby sections of National Cycle Network (NCN) 33.

The following points are pertinent to this request: The National Cycle Network (NCN) will be directly impacted by this proposed development. The current alignment of NCN33 south of Ilminster runs along the northern and north-western boundaries of the proposed site. The development proposes multiple new cycle and pedestrian accesses to/across NCN33.

The costs vary for the improvement works depending on the scope. Costs for different levels of path improvement along this 2.5km section of NCN33 are set out below. We can confirm that the selection of cost estimates for different elements of work is based on our most up to date DfT T7 cost estimation spreadsheet which we use for our DfT Tranche funded programme, a programme of path upgrade works which we

have been delivering on behalf of the DfT, and more recently Active Travel England, over several years.

A full upgrade of surfacing to meet current LTN1/20 guidance, including path widening to 3m where required and access improvements - £1.3million.

Resurfacing within existing path widths and access improvements - £1.15million

A new crossing at Watery Lane - £400,000

Any alternative sum may enable work on shorter section improvements and/or a feasibility study for an improved crossing at Watery Lane. We are happy to have further discussions on these costs if it would help your planning team identify an appropriate contribution to enable these works.

Active England: No comments

Active Travel England (ATE) has no comment to make as its statutory consultee remit applies only to qualifying consultations that were made valid by the local planning authority (LPA) on or after 1st June 2023. However, we have produced a standing advice note that may assist the LPA in assessing the application.

## **Representations**

A total of 23 Objections were received based on the revised scheme submitted between August 2023 and December 2023.

A total of 147 Objections were received based on the scheme presented to Regulation Committee in November 2017 which were reported either verbally at the meeting or were recorded in the previous Committee report.

The objections received raise the following concerns:

- Accept town needs to grow but this is not the most suitable site.
- Should use existing redundant sites first - Pwrmatic and Horlicks.
- Persimmon have a monopoly on new development in the town. Why have they been chosen?
- Too many houses proposed - too large for the town
- If allowed, the number of houses would far exceed local plan requirement of 496, development is too high density
- One access and emergency access will create safety issues - should create a new access onto Swanmead Drive
- Where are people going to work - not enough jobs in the area

- Increase in traffic on local roads - improvements to A303/A358 have not taken place
- Local service and facilities would not be able to cope
- Local GP services struggling
- Local schools will not be able to cope with the additional children- would Persimmon build a new school?
- Wrong to build on agricultural land, loss of green fields and green belt
- Officer note - the site is not in the Green Belt
- Lack of parking spaces in the town
- Character of Herne Hill would be harmed
- Loss of views of the countryside
- The setting of the well used cycle path will be harmed
- Don't agree that 30% of people would walk into town
- Lack of parking/visitor spaces
- Impact on wildlife
- New homes would be out of character with traditional homes in Ilminster
- Drainage and flooding issues on the site plus problems experienced on persimmon housing site opposite.
- Will drainage proposal be adequate for this development?
- Too many 2/3 bed homes- need larger 4 bed homes
- Congestion along Canal Way
- Impact of construction traffic on local residents and how long the Council keep plans.
- Poor bus services and that if these were better, less car use would occur. Figures for the 30 service is not correct and may change again.
- Development would mean a huge amount of traffic travelling through the Adams Meadow housing area.
- Road would cut through the cyclepath, thus raising safety issues for users - agree with connecting paths but not the road. Other options for the road should be considered.
- Lack of separation between Ilminster and Donyatt
- Harm to viability of Coldharbour Farm
- Support the proposed development in general, welcome retention of trees, wildlife corridors, amenity space and space for a new school.
- Raised the issue of providing additional off road parking spaces due to numbers of cars parked on roads in the local area.
- Suggested relocating second access further along Canal Way.

## **CONSIDERATIONS**

### **Principle of development**

Ilminster is classified as a Primary Market Town in the adopted South Somerset Local Plan, one of 4 such towns in the district. These 4 towns sit below Yeovil in the settlement hierarchy. Therefore, as one of the largest settlements in the district and, in accordance with its important housing, employment, retail and community role, and close proximity to major road links, the Local Plan has allocated 496 dwellings in Ilminster over the plan period (2006-2028). To accommodate this level of housing growth, a Direction of Growth has been identified to the south west of the town, on the southern side of Canal Way.

The application site is located within this Direction of Growth and, therefore, is in principle an area of land that the Council has identified as being acceptable to meet identified housing needs over the plan period. On this basis, there is no objection to the principle of housing on this site. This site along with another option at Shudrick Valley was subject to a Local Plan Examination; the outcome of which was that the Local Plan Inspector clearly found the Canal Way site to be the preferred option.

Notwithstanding the above, an assessment also has to be made as to whether the proposed number of units are acceptable taking into account the local plan strategy and the wider impact of the development on the town's infrastructure, service and facilities. It is also important to have regard to appeal decisions elsewhere in the district where the numbers of houses and scale of growth have been one of the key issues.

It is important to note that the local plan figure of 496 is not a maximum housing figure for Ilminster. However, proposed housing developments that would take the town's housing numbers significantly over that number have to be carefully assessed. In this case, the application has been assessed by a range of different consultees and service/infrastructure providers. Importantly, none of the service/infrastructure providers have either raised an objection to the development or have maintained an objection following submission of further information.

In light of this the proposal is considered acceptable in principle and in accordance with Policies SS1 and PMT3 of the South Somerset Local Plan.

However, notwithstanding the above, the Council's recently published Five Year Housing Land Supply Paper for Area South (October 2023) confirms that the Council cannot currently demonstrate a five-year supply of housing sites and can only

demonstrate a housing land supply equivalent to 3.29 years (rounded). Since then, as part of an appeal, it has been agreed that the 5 year housing supply has reduced further and now sits at 2.85-2.96 years. This is a significant shortfall in housing supply.

The NPPF therefore advises that where Council's cannot demonstrate a five-year supply, the presumption in favour of 'Sustainable Development' as set out in paragraph 11(d) applies.

Paragraph 11(d) of the NPPF, sets out a decision-taking framework that states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, read together with its footnote 6; or  
any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

As confirmed within the 'The Gladman case' (CD7.03) (Gladman Developments Ltd v SSHCLG & Corby BC & Uttlesford DC [2020] EWHC 518 (Admin), ) Mr Justice Holgate stated that "LPAs and Planning Inspectors may continue to weigh development plan policies in the tilted balance in paragraph 11(d)(ii)."

Mr Justice Holgate also said that where paragraph 11(d)(ii) is triggered because of a housing land supply shortage, it is for the decision-maker to decide how much weight should be given to the policies of the development plan, including the "most important policies" referred to in paragraph 11(d).

A decision-maker may take into account for example the nature and extent of any housing shortfall, the reasons for the shortfall, the steps being taken to remedy the shortfall, and the prospects of the shortfall being reduced in the future.

In conclusion, whilst this proposal complies with Policies SS1 and PMT3 of the Local Plan, the lack of a five-year housing land supply means that paragraph 11(d) is nevertheless triggered and the tilted balance applies. Whether the adverse impact of the proposal would significantly or demonstrably outweigh the benefits are therefore assessed within the conclusion and planning balance at the end of this report.

## **Design, layout and appearance and impact on the surrounding area**

When the application was originally submitted in 2016 it was accompanied by an illustrative masterplan and Design and Access Statement.

However, due to the passage of time since the submission of the original details and now, the Applicant took the opportunity to carry out a comprehensive review of the design concept of the development prior to its re-submission to the Council.

As part of this refresh, the scheme was presented to Design Review Panel South West on 16th May 2023 which Officers also attended. The panel's response was very positive and the suggestions made have been considered carefully and where appropriate, reflected in the final masterplan.

Therefore, whilst the application is in outline, a comprehensive but indicative masterplan has been submitted to demonstrate how it is proposed to develop the site. More details are provided in the Design and Access Statement submitted including how the plan for the whole site has been formulated along with an analysis of the site and surrounding area. The masterplan has since been revised again to take into account the need for slightly larger drainage attenuation ponds.

Concerns were raised by the Landscape Officer in regard to the original masterplan layout with the impact of the development upon the setting of Herne Hill being raised in particular however this was assessed as part of the local plan process and, in addition, the indicative masterplan has limited the extent of housing development to the first row of fields that run parallel with existing housing. Development is therefore not currently proposed to extend further south beyond the hedgerow that is adjacent to the track/right of way that runs from Coldharbour Farm. For these reasons, it is considered that the development would adversely harm the setting of Herne Hill.

Nevertheless, it also has to be accepted that the site has been included in the local plan as a Direction of Growth and the Peripheral Landscape Study found that the site has the capacity to take development when it was allocated. While the masterplan layout is indicative at this point, it is anticipated that any following reserved matters applications will reflect this layout.

Overall it is considered that the masterplan and Design and Access Statement demonstrates that a high quality development with a good level of green infrastructure, open space and play facilities is intended to be brought forward on this site. Good connectivity both within and around the site, as well as to the wider town of Ilminster itself have been shown on the masterplan. The houses are laid out well



with a hierarchy of streets and all dwellings have good access within a short walking distance to areas of open space. The layout has also respected existing green infrastructure, particularly existing hedgerows which are mostly retained with minimal openings formed where roads to pass through.

Finally, in order to ensure that the high quality development is achieved on this site, a condition has been attached requiring that a design code is submitted with each submission of reserved matters. The Design Code is required to set out the design principles of the development to reflect the conclusions set out in the Design and Access Statement.

While the masterplan is indicative, with the final layout, scale and appearance of the development being decided at reserved matters stage, it has been demonstrated that an acceptable development can come forward on this site that is of an acceptable layout, character and appearance and which would not have a harmful impact on the surrounding area.

### **Impact on Residential Amenity**

As this application is in outline with matters of layout and appearance reserved for consideration later there is insufficient detail to conclude that the development will not, at this stage, have a detrimental impact on the residential amenity of any existing or future occupiers.

However, given the location and relationship of the site in regard to existing dwellings, it is considered that a layout can be achieved that would not cause adverse harm to the amenity of both existing and future residential occupiers.

Notwithstanding this, a construction management plan is recommended to be secured via a condition to ensure that the impact of construction work and deliveries etc is satisfactorily mitigated.

### **Impact on Trees**

The site contains a number of trees within the site which are protected by Tree Preservation Orders, comprising both individual and groups of trees. These are primarily located within the hedges on the boundaries of the site and some within hedges that run across the site.

The Council's Arborist has raised an objection due to the close proximity of dwellings to trees within the site and the associated issues that this raises. However, these

comments are based on the indicative layout plan submitted with the application. The applicant is aware of those concerns and is also aware that they will need to be satisfactorily addressed as part of the layout details when any subsequent reserved matters application is submitted.

### **Impact on Nutrient Neutrality (Phosphates)**

The site lies within the Somerset Levels and Moors Ramsar site water catchment area, which is subject to the advice issued by Natural England in August 2020 that all development should be nutrient neutral. This means that development should not increase the loadings of phosphorous (otherwise referred to as 'nutrients') entering the hydrological catchment.

The foul waste produced by the development is assumed to convey to the Ilminster waste water treatment works (WwTW) where there is a current permit level of 5mg/litre output for phosphorous. Under the Asset Management Plan period for 2020-2025 (AMP7) there are planned upgrades to Ilminster WwTW which will set a new TP permit level of 0.9mg/litre.

The application has been accompanied by a Nutrient Neutrality Statement (NNAMS) which explains that the nutrient budget for the proposed development has been calculated using the Somerset Phosphate Budget Calculator and shows that the development will lead to an increase of 227.67kgTP/yr. However once the WwTW is upgraded (AMP7) this will drop to 38.04kgTP/yr.

As explained in the Ecologist's comments, the strategy to mitigate for phosphates is to fallow 110.32ha of agricultural land within the Donyatt County Farm Estate currently under the control of Somerset County Council. A Fallowing Assessment has been undertaken and the nutrient removal benefit of converting the land to greenspace (fallowing) has been calculated as 38.72kgTP/yr. Therefore, fallowing of this land will allow the development to achieve nutrient neutrality in the post-AMP7 scenario (Ilminster WwTW).

However, fallowing of land is considered to only be a short term solution for phosphate mitigation and therefore, if no alternative strategy comes forward by 2030 then it is proposed the land within the Donyatt County Farm Estate will undergo a permanent land use change to woodland, which would provide a nutrient removal benefit of 51.96kgTP/yr.

An shadow Habitats Regulations Assessment (sHRA) has been submitted and assessed by the Ecologist as being acceptable and therefore it can be concluded that

the proposals will result in no Likely Significant Effect on the Somerset Levels and Moors Ramsar site and Special Area of Conservation provided the mitigation is secured by legal agreement and that occupation does not commence until January 2025 at the earliest.

Natural England have been consulted to ensure that they consider that these proposals will result in no Likely Significant Effect on the Somerset Levels and Moors Ramsar and Special Area of Conservation based on the Shadow Habitats Regulations Assessment. However at the time of writing the report comments had not been received.

In light of this the recommendation is to delegate approval of the proposal subject to the following:

- No adverse comments from Natural England

Officers will provide an update at the Committee meeting in this regard.

In all other respects the proposal is considered to comply with Policy EQ4 of the South Somerset Local Plan.

### **Impact on Ecology and Biodiversity**

The applicant submitted a series of Ecological reports during the life of the application and each document has been reviewed by the Council's Ecologist. The applicant has undertaken a number of ecological site surveys to establish the position in regard to habitats and species present on the site, the implications of development and appropriate mitigation. The site contains species rich hedgerows, mature trees, scrub, and a pond. Species on site include breeding birds, badgers, great crested newts, butterflies, reptiles, dormice and bats.

Previously the mitigation included a 5 hectare mitigation area/open space with new planting throughout the site, new ponds and grassland, protection of habitats/trees during construction, wildlife corridors, translocation of great crested newts to a new pond, buffer zones around badger sets and a landscape and ecology mitigation plan. This mitigation area was to be secured within the S106 specifically as mitigation.

Whilst the provision of mitigation is still required, the development will require that a Natural England EPS licence for dormouse, badgers and great crested newts which is obtained in order for the works to the relevant habitats to commence.

In particular the EPS licence for dormouse will require that the ecologist submits a detailed mitigation and compensation strategy, including appropriate buffers and compensatory habitat, etc. which will be assessed and approved by Natural England. In addition, the 2023 surveys include some additional details about planting and compensatory habitat that will be put in place for dormice. While it has to be acknowledged that the site will come forward in phases, meaning an site wide masterplan is unlikely to be submitted at reserved matters stage for approval, thereby securing the mitigation areas at the earliest stage of development via the planning process, the EPS licence is very strict in its requirements and can be relied on instead to secure the necessary compensatory habitat, buffer zones, etc, for dormice and other protected species. Any subsequent approval of reserved matters would then need to be in accordance with the licence.

In addition, the impact of the development on polecats on site has been raised, however the Ecologist has advised that the loss of farmland and polecat habitat is very unlikely to be sufficient to have a significant impact on the conservation and continued recovery of the local polecat population. With the majority of hedges being retained, the risk of direct harm to a polecat den is very small.

Overall the proposal is considered to be in accordance with Policy EQ4 of the South Somerset Local Plan and, subject to conditions and obligations within the S106 agreement the proposal would not result in harm to protected species.

### **Impact on Heritage Assets Including Archaeology**

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant listed building consent for any works, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

It is also one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 195 sets out that the Local Planning Authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 194 -208 set out the framework for decision making relating to heritage assets and this assessment takes account of the relevant considerations in these paragraphs.

In this instance the Archaeologist is satisfied with the findings of trial trenching on site which proved negative with no evidence for any settlement type archaeological activity in the trenches and no finds recovered. No further archaeological work is required. On this basis, the proposed development would cause no harm to any archaeological non designated heritage assets.

There are no listed buildings either on the site or in the immediate vicinity, and the site is also not within or adjacent to Ilminster Conservation Area. In this regard the submitted Heritage assessment has established that the proposed development would not constitute a change of character to the landscape surroundings of the Ilminster Conservation Area or Listed Buildings located within it. Thus the proposal would not adversely affect the significance of the designated heritage assets within the environs of the Site through the alteration to their setting and would therefore have no harm to any designated heritage assets, as specified in the Framework.

Having regard to the above, no material harm to the designated heritage assets has been identified and therefore the proposal complies with Section 16 of the Planning (Listed Building and Conservation Area) Act 1990, Chapter 16 of the NPPF and Policy EQ3 of the Local Plan.

### **Impact on Highway Safety**

This outline application seeks consent for the vehicular and pedestrian access arrangements. As outlined above in this report, the Highway Authority had raised an objection to the proposals particularly in regard to safety issues arising from the use of the existing access from Canal Way, which currently serves the medical centre. However, following the submission of further details from the applicant, in particular the introduction of a zebra crossing and other technical changes to the access road, the Highway Authority are now satisfied that these measures will provide a safe means of access for all users.

In regard to the secondary access that will run into Adams Meadow, this access is only proposed for emergency vehicles as a secondary access for all users has been found unacceptable by Highways.

In regard to wider vehicle impacts of the development on the local road network outside of the site, the Highway Authority had originally raised concerns about trip generation and the absence of any junction modelling outputs. Following discussion and advice from the Highway Authority, further work was undertaken by the applicant and following the submission of updated Transport Statements provided further

information in regard to the impact on the Riec-sur-Belon Way /Canal Way roundabout and the Station Road / Riec-Sur-Belon Way roundabout. The Highway Authority are satisfied that the scheme would not result in capacity issues on the local highway network. Moreover, the Travel Plan would seek to reduce the traffic impact.

Following concern from the Town Council in regard to the validity of the traffic data informing the traffic analysis within the Transport Assessment, the applicant commissioned a new set of site surveys to provide a comparison exercise to be undertaken. New surveys were undertaken at a number of key local junctions in the town. A Technical Note was submitted which sets out the results of this comparison exercise. It concludes that the original traffic surveys, and consequently the findings of the Transport Assessment, remain valid.

Highways England originally placed a holding direction on the application as they sought information from the applicant about the impact of the development on the Southfields and Hayes End Roundabouts. However following the submission of additional information, they are satisfied that the development would not create any capacity issues on the main A roads and trunk roads and have withdrawn their objection.

Concern has been raised by many local residents and Donyatt Parish Council that the local highway infrastructure would not be able to cope with the additional traffic created by this development. Those concerns have been carefully assessed as part of the overall assessment of the impact of this proposal. The highways impact has been carefully assessed by the Highway Authority and Highways England. Following the submission of the various highway documents and highway safety proposals as outlined above, both are satisfied that the development would not be detrimental to highway safety and that the highway network would be able to satisfactorily accommodate the additional traffic. On this basis, it is not considered that there are any adverse highway related issues that warrant refusal of the application.

In regard to parking provision, this would be determined as part of any reserved matters application.

### **Impact on Flooding and Drainage**

The site is located entirely within Flood Zone 1. This is defined as an area where there is less than 0.1% (1 in 1000 year) probability of flooding from rivers or sea. Due to the size of the application site exceeding 1 hectare, the applicant has submitted a Flood Risk Assessment which has confirmed the relevant flood zone and that there

are no recorded river flooding incidents within the site.

With regard to the risk of flooding from surface water, the vast majority of the site sits outside of the Environment Agency's map showing areas at risk of flooding from surface water. A small section along the edge of the northern boundary of the site is included and it is recommended to keep houses away from this area. Indeed, the indicative masterplan has been amended following comments from the LLLFA to provide a number of swales and attenuation ponds along the northern boundary of the site to address the concerns. In respect of groundwater flooding, there are no recorded such events on site; the report does advise that before any detailed design work that boreholes are installed to monitor groundwater levels.

While the information submitted as part of this application has confirmed the high level strategy for drainage on the site, a condition is attached requiring the submission of a detailed sustainable urban drainage scheme is submitted prior to the commencement of development. Furthermore the long term management and maintenance of the drainage system will be secured within the S106 legal agreement.

Following revisions to the scheme, neither the Lead Flood Authority nor Wessex Water have any objections it is therefore considered that the development can be served by a satisfactory system of surface and foul water drainage that would not increase the risk of flooding elsewhere.

Accordingly, it is not considered that there are any grounds to refuse the application in respect of flooding or drainage issues.

### **Open Space Assessment**

The proposal has been accompanied by a Play Provision and Open Space Assessment that confirms that the following will be provided on site and will be secured by a S106 legal agreement:

Informal sport provision for youths comprising a Multi Use Games area (MUGA)  
Neighbourhood Area for Play (NEAP)  
Locally Equipped Area for Play (LEAP)  
2 x Local Area of Play (LAP)

The submitted plans also indicatively show that a total of 12.22 ha of open space, including SuDS attenuation ponds and swales, is to be provided which is in excess of the 2.4ha that is required for the proposed 400 dwellings.

In addition the running routes, with a trim trail, are being proposed of 3km, 5km and 10km in length which are partially provided on site but then link up with public footpaths off site, the provision of these routes are expected to form part of the reserved matters submission.

Overall the on site provision of open space, play and recreational facilities, albeit some being shown indicatively, are considered to be acceptable and are in accordance with Policy HW1 of the Local Plan.

### **Public Rights of Way**

A number of public footpaths run both within and on the boundary of the site. A public bridleway also runs through the site. Based on the indicative layout, sections of these public rights of way will be directly affected by the scheme and some sections will need to be diverted. The Rights of Way Service Manager has not raised an objection to the scheme but has requested that appropriate informatives are attached to the permission advising of the need to apply for the necessary diversion order(s). In relation to the Sustrans bid for funding to upgrade cycle route 33, it is noted that the development adjoins some 800m of this route and that Sustrans had not previously sought contributions from this development. Whilst the NPPF has been updated since 2017, the Local Plan has not and therefore a bid seeking funding now when the policy framework was in place in 2017 is considered unreasonable and excessive for the likely impacts of this particular development upon the network.

### **Affordable Housing**

In terms of affordable housing, the scheme proposes 35% affordable homes which would be split 75:25 Social Rent : First Homes. The NPPF requires 10% of the site overall to be provided for affordable home ownership. The affordable housing will be secured in the S106 agreement with the final mix of dwellings and their location to be dealt with at reserved matters.

### **Loss of Agricultural Land**

The development would result in the loss of agricultural land. The site is currently used for the growing of a variety of arable crops. The NPPF states that the economic and other benefits of the best and most versatile agricultural land should be taken into account. The best and most versatile agricultural land is defined within the NPPF as land in grades 1, 2, and 3a.

Whilst the land is clearly productive as evidenced by the recent growing of crops the



Agent has confirmed that the part of the site where built development is proposed has no official classification with the undeveloped lozenge of land in the south as it rises up to meet the woodland is Grade 3A.

Therefore, while the proposal will result in a relatively small amount of Grade 3a land being lost to agricultural use, it is located on a hillside that makes it more difficult to farm in any case and would not justify the refusal of the application on these grounds.

### **Employment**

The proposed scheme provides short term employment during the course of its construction which is welcomed. Although the direct employment that would be generated by the construction of the development would only be for a limited period, additional employment will be generated by ongoing maintenance of the proposed residential properties and through use of services within Ilminster. This will go some way in creating a sustainable form of development, as promoted by the National Planning Policy Framework.

### **Other Matters**

Subsequent to the last resolution to approve this development, the former district council declared a climate emergency which has been carried forward into the new Council. It is likely that the future Somerset Local Plan will go further in terms of the Council's response to Climate Change, and reflect national policy and guidance as it progresses.

It is also relevant that the Levelling up and Regeneration Act, which recently obtained Royal Assent, has not kept the Lords request for climate change to be a factor in decision making, but will keep it as an issue for policy making.

### **Planning Obligations and Community Infrastructure Levy**

Planning obligations have been sought from the Housing, Education, Sport and Play, Open Spaces and Highway officers. The specific requests have been outlined above in this report. In addition, the Community Infrastructure Levy will be liable on this development at a rate of £40 per sqm for every dwelling. An exemption can be applied to the affordable housing. The applicant is fully aware of the obligations and has not raised any viability issues to date. Accordingly, it is expected that the development will provide a fully policy compliant scheme in respect of planning obligations.

## **Education**

In particular regard to education provision, the County originally advised that the approval of this development would necessitate the need for a new First School. This resulted in the original scheme indicatively showing the provision of a primary school on a 2.1 ha parcel of land located on the north eastern boundary of the site, owned by Somerset Council.

However the Council's Education Consultee has now confirmed that a new school is no longer required because in the meantime the school system has changed from a 3 tier system to a 2 tier, where there are primary schools and a secondary school. This change in the school system has created capacity for the Primary school age groups in years Reception to year 6. Therefore there is no longer a need for education contributions for these age groups and the site which was reserved for a primary school will no longer be used for that purpose. Reference to the school has therefore been removed from the plans.

The applicant has confirmed that they agree to the above contributions being secured by a S106 legal agreement attached to the permission. It is considered that this will satisfactorily mitigate the impacts of the development in terms of educational need.

## **Infrastructure and GP Provision**

Concern has been raised about the inability of the town's infrastructure to cope with the proposed development. All of the key infrastructure providers have been consulted about these proposals and all have commented.

With particular regard to contributions towards NHS facilities, particularly the provision of additional GP surgery infrastructure, the NHS have confirmed that there is sufficient capacity to absorb the population increase that this development would generate.

## **Sport, Leisure and Play**

The scheme has previously included a football pitch on site however, due to concerns regarding an overprovision of football pitches within Ilminster from Sport England the pitch has been removed from the scheme. In place of the pitch it has been agreed, in consultation with Ilminster Town Council, that contributions totalling £565,281 for the provision of new, or refurbishment/upgrading of existing facilities within Ilminster. This is considered to be an acceptable approach in this instance.

## **Overall assessment and conclusion**

At the heart of the NPPF is the key aim to achieve sustainable forms of development. The applicant has made the case that this development would provide a sustainable residential development of 400 houses, new play facilities, open space, highway improvements and the creation of attractive and strong linkages within the development and to the existing town.

Ilminster is an appropriate place for development and the site falls within the Direction of Growth in the adopted local plan. It was considered a sustainable location by the Local Plan Inspector with good access to a range of services and facilities. The scheme will make an important contribution towards meeting the district's housing needs, including 35% affordable housing, plus contributions towards education, play and sport facilities.

Given the passage of time and the introduction of phosphates into the considerations, the impact of the development on the environment has been revisited. The ecologist has considered the proposals in full and has raised no objections subject to conditions and S106 obligations. The site is within the water catchment area of the Somerset Levels and Moors Ramsar Site and therefore a scheme of mitigation via the fallowing of land as a short term measure, with the planting of woodland on that land if an alternative solution does not come forward within 5 years, has resulted in an HRA being carried out. This has concluded that the proposal is acceptable and would not have a harmful impact on the Ramsar Site.

The land does contain habitat for numerous protected species including dormouse and great crested newts however suitable mitigation is being proposed which has been found acceptable by the Council's Ecologist and which will be secured either by condition or an obligation within the S106 agreement.

Overall and in light of the above, it is considered that the development satisfactorily protects or enhances the natural environment.

The proposal is considered to provide a mix of development and to provide both housing and employment during the construction phase and spin-off employment in the longer term, along with the contributions for appropriate infrastructure. This is a key element of the NPPF and would meet the economic role of sustainable development.

The applicant has proposed improvements to existing footpaths and crossings to encourage walking and running and financial contributions are sought to ensure that

spaces in local schools etc are available at the point that the spaces are required.

It is considered that the proposed development constitutes sustainable development as defined by the National Planning Policy Framework.

Finally, the principle of the development has been found to comply with Local Plan Policies SS1 and PMT32. However, notwithstanding this, as the South Somerset Local Plan is over 5 years old it is considered to be out of date and the housing policies within have reduced weight. Furthermore, the Council cannot currently demonstrate a 5 year housing supply which both means that paragraph 11 d) is triggered and the tilted balance applies. There should therefore be a presumption of sustainable development and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Overall the proposals have been considered to cause very few harms which are not considered to outweigh the significant benefits and therefore the principle of the development and the proposal on the whole is considered to be acceptable and should be granted planning permission.

## **RECOMMENDATION**

Delegate to Officers to grant permission.

## **SUBJECT TO THE FOLLOWING:**

- No adverse comments from Natural England.

together with

- The prior completion of a section 106 planning obligation (in a form acceptable to the Council's solicitor(s)) before the decision notice granting planning permission is issued, to cover the following items/issues:
  - a) Highways works including the roundabout on Canal Way, changes to the access to the doctors surgeries, first part of the spine road and two Zebra Crossings
  - b) Education contributions
    - 36 x £21,188.00=£762,768.00 for early years
    - 56 x £29,419.00=£1,647,464.00 for secondary

- 3.68 x £101,215.72= £372,473.85 for SEND
  - Total: £2,782,705.80
- c) The provision of 35% affordable housing with a split of 75:25 social rent :  
First Homes;
- d) Sport, leisure and play:
- Minimum of 12.22 ha of open space (including SuDS attenuation)
  - Provision of on site LEAP, NEAP and a MUGA
  - 2 x LAPS
  - Contributions of £288,473 for off site provision of changing rooms plus maintenance charge of £23,207
  - Contributions of £255,769 for off site provision of sports facilities in Ilminster plus maintenance charge of £95,789
  - Plus 1% locality service administration fee
- e) Travel Plan;
- f) Provision and long term management and maintenance of SuDS drainage features
- g) Open space management plan incorporating Landscape and Ecological Management Plan (LEMP)
- h) Management company
- i) Phosphates
- 1) No occupation shall commence until post December 2024.
  - 2) A Fallow Land Management Plan (FLMP)

And the following conditions which may be amended as necessary prior to the issuing of the decision:

01. Notwithstanding the local concerns, the scheme would provide a sustainable development with a good access to a range of services and facilities. It will make an important contribution towards meeting the district's housing needs, including 35% affordable housing, it would provide a safe means of vehicular and pedestrian access, would not adversely harm residential amenity, ecology or the local landscape and would satisfactorily mitigate for surface and foul water drainage. The proposal is in accord with PMT3, SD1, SS1, SS5, SS6, HG3, HG5, TA4, TA5, TA6, HW1, EQ1, EQ2, EQ4 and EQ5 of the adopted South Somerset Local Plan, the Core Planning Principles and Chapters 6, 7, 8, 10 and 11 of the National Planning Policy Framework.

**SUBJECT TO THE FOLLOWING:**

01. Details of layout, scale, appearance and landscaping (the 'reserved matters') shall be submitted to, and approved in writing by the Local Planning Authority

before any development hereby permitted takes place, and the development shall be carried out as approved. Application for approval of the reserved matters for the first phase of development shall be made to the local planning authority not later than the expiration of 3 years from the date of this permission. Application for approval of the reserved matters for the final phase of development shall be made to the local planning authority not later than the expiration of five years from the date of this permission. The development hereby permitted shall begin not later than the expiration of 2 years from the approval of the reserved matters for the first phase of development (or, in the case of approval on different dates, the date of approval of the last of the reserved matters for the first phase to be approved).

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

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

edp8080\_d001b - Site Boundary

23178 001 Rev P3 - Proposed Access from Canal Way

23178 002 Rev P1 - Proposed Emergency Access from Adams Meadow

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

03. No development shall commence until a programme showing the phasing of the development has been submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.

Reason: In the interests of highway safety and the protection of protected species to accord with Policies TA5 and EQ4 of the South Somerset Local Plan. This is a condition precedent to understand the phasing of the scheme and the submission of information relating to conditions below before construction commences.

04. For each phase or sub-phase of development, the reserved matters applications for layout, scale, landscape and/or appearance shall be accompanied by a design code setting out the design principles of the development to reflect the conclusions set out in the Design and Access Statement dated 20 October 2023.

Reason: In order to ensure that the development is of a high quality design as set out and agreed at outline stage in accordance with Policy EQ2 of the South Somerset Local Plan.

05. For each phase or sub-phase of development, the reserved matters application for layout shall be accompanied by a scheme for a network of cycleway and footpath routes within the site and connections to other routes adjoining the site, development shall thereafter be constructed in accordance with the approved details within 6 months of the final occupation of the dwellings within that phase or sub-phase and shall thereafter retained and remain open to the public in perpetuity.

Reason: In the interests of highway safety and to promote sustainable modes of travel to accord with Policy TA5 of the South Somerset Local Plan.

06. For each phase or sub-phase of development, no development on the elements listed below shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority:

- a) estate roads
- b) footways
- c) tactile paving
- d) cycleways
- e) retaining walls
- f) vehicle overhang margins
- g) carriageway gradients
- h) drive gradients
- i) car, motorcycle and cycle parking
- j) pedestrian and cycle routes and associated vehicular accesses and crossings
- k) all new junctions
- l) proposed levels
- m) highway drainage, including footways and cycle ways
- n) an estate street phasing and completion plan setting out the development phases and completion sequence by which the estate streets serving each phase of the development will be completed.

The development shall then be carried out in accordance with the approved details and the approved estate street phasing and completion plan.

Reason: To ensure that suitable access is provided in the interests of highway safety in accordance with Policy TA5 of the South Somerset Local Plan.

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

Reason: In the interests of highway safety to accordance with Policy TA5 of the South Somerset Local Plan.

08. Prior to any occupation of the relevant phase, a detailed scheme for the emergency access (as shown on drawing number: 23178 002 Rev P1) shall be submitted to and approved in writing by the Local Planning Authority. The emergency access shall thereafter be constructed in accordance with the approved details prior to the occupation of the 230th dwelling and thereafter retained only as an emergency access for the lifetime of the development.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

09. No development shall commence on any phase or sub-phase until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- A construction programme including phasing of works;
- 24 hour emergency contact number;
- Delivery and construction operation hours and expected number of construction vehicles per day including, size of construction vehicles, the use of a consolidation operation or scheme for the delivery of materials and goods
- Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction):
  - Programming;
  - Waste management;
  - Construction methodology;
  - Shared deliveries;



- Car sharing;
- Travel planning;
- Parking facilities for staff and visitors;
- A scheme to encourage the use of public transport and cycling;
- Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residential roads;
- Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- Locations for storage of plant/waste/construction materials;
- Arrangements for the turning of vehicles, to be within the site unless completely unavoidable;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Swept paths showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available;
- Any necessary temporary traffic management measures;
- Measures to protect vulnerable road users (cyclists and pedestrians);
- Arrangements for temporary facilities for any bus stops or routes;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
- Measures (including screening) to be taken to minimise emissions of dust, fumes, odour, noise, vibration. Details for the safe disposal of waste materials shall also be included confirming that no burning of site generated waste is permitted,
- Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice,
- Other measures to control the emission of dust and dirt deposition during construction including any wheel washing facilities,
- Prevention of nuisance caused by radios, alarms, PA systems or raised voices

And shall confirm:

That noise generating activities shall not occur outside of the following hours:

- Mon - Fri 08:00-18:00
- Sat 08:00 -13:00
- All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

The development shall thereafter be carried out in accordance with the approved CEMP details.

Reason: To ensure the safe operation of the highway and minimise the effect of noise, odour and dust from the construction phase of development on occupiers

of nearby properties in the interests of residential amenity and sustainable development, in accordance with Policies EQ2 and TA5 of the South Somerset Local Plan and Chapter 15 of the NPPF. This is a pre-commencement condition because any initial construction or demolition works could have a detrimental impact upon highway safety and/or residential amenity.

10. No development shall commence on any phase or sub-phase, including site clearance works, until scheme of tree and hedgerow protection measures in accordance with British Standard 5837: 2012 - Trees in relation to design, demolition and construction has been submitted to and approved in writing by the Local Planning Authority. No development shall thereafter commence until the approved tree and hedgerow protection measures (specifically the fencing and signage) has been erected in accordance with the approved details and shall remain in place for the duration of the construction of the development.

Reason: To preserve existing landscape features (trees and hedgerows) in accordance with Policies EQ2, EQ4 and EQ5 of the South Somerset Local Plan (2006 - 2028). This is a pre-commencement condition to prevent harm to trees and hedgerows by initial construction works.

11. In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority and further development works shall cease unless alternative arrangements have been first agreed in writing with the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a revised remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The revised scheme shall thereafter be implemented as approved. The requirements of this condition shall also apply if other circumstances arise during the development, which require a reconsideration of the approved remediation scheme.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to human health, controlled waters and other off-site receptors and in accordance with section 11 and 15 of the National Planning Policy Framework.

12. No development shall commence on any phase or sub-phase of the development until a foul water drainage strategy has been submitted and approved in writing by the Local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker. The strategy shall include appropriate

arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development phasing and shall be in accordance with the Nutrient Neutrality Assessment and Mitigation Strategy by Stantec dated November 2023 and the Shadow Habitats Regulation Assessment by GE Consulting dated November 2023, No occupation of any dwellings within the relevant phase shall commence until the drainage scheme has been constructed in accordance with the approved details.

Reason: To ensure that the development is provided with adequate foul drainage to accord with the National Planning Policy Framework and also to ensure the provision of satisfactory drainage and avoid pollution of the environment with specific regard to the Somerset Levels and Moors Ramsar Site and associated potential impact on ecology. This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy in accordance with Somerset District Council Local Plan - Policy EQ4 Biodiversity.

13. No development on any phase or sub-phase shall commence until details of the sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme should aim to meet the four pillars of SuDS (water quantity, quality, biodiversity, and amenity) to meet wider sustainability aims as specified by The National Planning Policy Framework and the Flood and Water Management Act (2010). The development shall include measures to control and attenuate surface water and once approved the scheme shall be implemented in accordance with the approved details and maintained at all times thereafter.

These details shall include, but not limited to: -

- Drawing / plans illustrating the proposed surface water drainage scheme including the sustainable methods employed to delay and control surface water discharged from the site, sewers and manholes, attenuation features, pumping stations (if required) and discharge locations. The current proposals may be treated as a minimum and further SuDS should be considered as part of a 'SuDS management train' approach to provide resilience within the design.
- Further details on the flood risk within the site, including a hydraulic model, if required. Should any development/landscaping/change of topography occur within a surface water or fluvial flood risk area the flooding will be required to be modelled pre and post works, including identification of flooding mechanism and include any mitigation measures to ensure that flood risk is

not increased to the site or elsewhere. This includes basins within flood risk areas.

- Detailed, network level calculations demonstrating the performance of the proposed system are required and this should include:
- Details of design criteria etc and where relevant, justification of the approach / events / durations used within the calculations.
- Where relevant, calculations should consider the use of surcharged outfall conditions.
- Performance of the network including water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details / discharge rates.
- Results should be provided as a summary for each return period (as opposed to each individual storm event).
- Evidence may take the form of software simulation results and should be supported by a suitably labelled plan/schematic to allow cross checking between any calculations and the proposed network
- Detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific.
- 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. Suitable consideration should also be given to the surface water flood risk during construction such as not locating materials stores or other facilities within this flow route.
- Further information regarding external levels and surface water exceedance routes and how these will be directed through the development without exposing properties to flood risk.
- Details on the discharge locations and receiving systems including CCTV surveys of culverts. The applicant will be required to undertake any remediation works to the receiving culverts to outfall (which includes any third-party permissions) to discharge surface water in these locations to ensure that these systems are suitable to take water from the site. This should demonstrate that the receiving system has the capacity to take flow from the site and include further restriction to discharge rates if required. This should also include erosion control to manage a point discharge from the site without deteriorating the watercourse.

Reason: To ensure the development is properly drained in accordance with the National Planning Policy Framework and in accordance with [SD1, EQ1, EQ2, EQ5 of the South Somerset Local Plan 2006-2028]. This is a pre-

commencement condition 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.

14. All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme (phasing) to be submitted to and agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policy EQ5 of the South Somerset Local Plan.

15. No development shall commence (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including nesting birds habitat clearance measures, badgers pre-works checks and buffer zones, precautionary clearance for dormice, birds, and reptiles, tree protection zones (all retained habitats will be buffered and protected), etc.
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person, including regular compliance site meetings with the Council Biodiversity Officer and Landscape Officer (frequency to be agreed, for example, every 3 months during construction phases);

- h) Use of protective fences, exclusion barriers and warning signs.
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To ensure that adequate measures are put in place to avoid or manage the risk of pollution during construction, in accordance with Policy EQ4 of the South Somerset Local Plan. This is a pre-commencement condition to ensure that the construction methods are understood at the earliest stage of development to ensure that there is no harmful impact on protected species.

16. No occupation shall commence of each phase or sub-phase until a report prepared by the Ecological Clerk of Works or similarly competent person certifying that the required mitigation and compensation measures identified in the Construction Environmental Management Plan, have been completed to their satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to and approved in writing by the Local Planning Authority. Any approved remedial works shall subsequently be carried out under the strict supervision of a professional ecologist following that approval.

Reason: To ensure that ecological mitigation measures are delivered, and that protected /priority species and habitats are safeguarded in accordance with the CEMP and Policy EQ4 of the South Somerset Local Plan.

17. For each phase or sub-phase, the reserved matters application for layout, landscaping and/or appearance shall include a Biodiversity Enhancement Plan (BEP) which shall include, and show on all relevant plans, the following:
- A. A Habitat 001 box (or similar) will be mounted at least four metres above ground level and away from windows, on the south and/or west facing elevations and maintained thereafter on 50% of dwellings.
  - B. A Schwegler 1SP Sparrow terrace (or similar) mounted directly under the eaves and away from windows on the north and/or east elevations on 25% of the dwellings
  - C. A Vivra Pro Woodstone House Martin nest (or similar) mounted directly under the eaves and away from windows on the north and/or east elevations on 25% of the dwellings

- D. A cluster of 3 x Schwegler 1as swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level, ensuring that there is an unobstructed access for birds to enter/leave the box on the east and/or north facing elevations of 10 dwellings.
- E. A bee brick built into the wall about 1 metre above ground level on the south or east elevation of each dwelling. Please note bee bricks attract solitary bees which do not sting.
- F. Installation of 15 x Vivara Pro Woodstone Bird Boxes (a combination of open front design and 32mm hole versions) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter.
- G. Installation of 20 x dormouse boxes/tubes located within suitable habitat on site.
- H. Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site.
- I. 5 x hibernacula/log piles as a resting place for reptiles and or amphibians constructed on the site boundaries, near retained hedgerows and ditches.
- J. Installation of new native species rich hedgerows to be planted within the site, along the boundaries of the development, comprised of a minimum of 5 of the following species: hazel, blackthorn, hawthorn, field maple, elder, elm, dog rose, bird cherry and spindle.

The development shall thereafter be carried out in accordance with the approved details and retained in perpetuity.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National Planning Policy Framework, and the Draft Environment (Principles and Governance) Bill 2018.

- 18. No one phase of the Development shall commence until a Lighting Strategy for Biodiversity for that phase has been submitted to and approved in writing by the Local Planning Authority. The strategy shall:
  - (a) identify those areas/features of the site within that phase or sub phase that are particularly sensitive for bats, dormice and otters and that are vulnerable to light disturbance in or around their breeding sites and resting places or along important routes used to access key and supporting areas of their territory, for example, for foraging;
  - (b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent

the above species using their territory or having access to their breeding sites and resting places; and

- (c) the design should accord with Step 4 and Step 5 of Guidance Note 08/23, including submission of contour plans illustrating Lux levels and pollution on habitats used by light sensitive species, and will demonstrate that light levels falling on wildlife habitats do not exceed an illumination level of 0.5 Lux [below 0.2 lux on the horizontal plane, and at or below 0.4 lux on the vertical plane on the identified key & supporting horseshoe bat features and habitats].

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy.

Reason: In the interests of biodiversity and the protection of European Protected Species in accordance with National Planning Policy Framework 2021, ODPM Circular 06/2005 and policy EQ4 of the South Somerset District Council Local Plan.

- 19. No development in any phase or sub-phase, other than the works to create the approved access as shown on drawing no 23178 001 Rev P3, shall commence until a survey for badger setts, carried out within 6 weeks of the intended commencement date, has been carried out by an experienced ecologist and the results, along with any subsequent actions or mitigation required, shall be submitted to and approved in writing by the Local Planning Authority. If badgers are found and mitigation is required, no development shall thereafter commence until the mitigation has been approved in writing by the Local Planning Authority and is in place. Where a Natural England mitigation licence is required a copy shall be submitted with the mitigation requirements above.

Reason: In the interests of the strict protection of badgers and to comply with the (e.g. Protection of Badgers Act 1992 / Conservation of Habitats and Species Regulations 2017) and in accordance with Policy EQ4 of the South Somerset Local Plan.

- 20. No development, including any groundwork, shall commence in areas annotated G1 and G2 on drawing no 0349-EcIA-F1 contained within the Ecological Impact Assessment by GE Consulting dated October 2023 ref: 0349-EcIA-MD, until a great crested newt District Level Licence issued by Natural England (pursuant of regulation 55 of the Habitats Regulations 2017) and the respective District Level



Licence payment receipt has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the strict protection of European protected species and in accordance with Conservation of Habitats and Species Regulations 2017 (as amended) and (insert relevant local policy). This is a pre-commencement condition to ensure that a Licence is in place, if required, because initial works to commence development have the potential to harm protected species.

21. No development shall commence unless the Local Planning Authority has been provided with either:
- a) a copy of the Hazel Dormouse licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
  - b) a statement in writing from the licensed dormouse ecologist to the effect that he/she does not consider that the specified development will require a licence.

Reason: In the interests of the strict protection of European protected species and in accordance with Conservation of Habitats and Species Regulations 2017 (as amended) and Policy EQ4 of the South Somerset Local Plan. This is a pre-commencement condition as the initial works to create the access will require the removal of or have an impact on existing hedgerows which potentially form Hazel Dormouse habitat and could therefore have a harmful impact on this protected species.

22. No individual dwelling hereby approved shall be occupied until the optional requirement for potential consumption of wholesome water by persons occupying that dwelling in Part G of Schedule 1 and Regulation 36 of the Building Regulations 2010 of 110 litres per person per day has been complied with.

Reason: To improve the sustainability of the dwellings and in order to ensure that the development achieves nutrient neutrality in accordance with the Policy EQ4 of the South Somerset District Local Plan and the National Planning Policy Framework.

23. The development hereby permitted shall comprise no more than 400 dwellings.

Reason: To ensure that the level and density of development is appropriate to the location and commensurate with levels of contributions sought in

accordance with policies SD1, SS6, HG3 and HW1 of the South Somerset Local Plan.

**Informatives:**

01. The County Rights of Way Officer has advised the following: 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.
  02. If it is not possible to construct the estate road to a standard suitable for adoption, yet it is deemed the internal layout of the site results in the laying out of a private street, under Sections 219 to 225 of the Highway Act 1980, it will be subject to the Advance Payment Code (APC). In order to qualify for an exemption under the APC, the road should be built and maintained to a level that the Highway Authority considers will be of sufficient integrity to ensure that it does not deteriorate to such a condition as to warrant the use of the powers under the Private Streetworks Code. A suitable adoptable layout should be provided as part of the Reserved Matters application.
  03. Any systems provided for the purposes of draining the site shall be constructed and maintained privately until such time as the drainage is adopted. At no point will this Authority accept private infrastructure being connected into highway drainage systems. Consent from the riparian owner of any land drainage facilities affected, that are not within the developer's title, will be required for adoption.
-

## Officer Report On Planning Application: 16/05500/OUT

<b>Proposal :</b>	Outline application for residential development for up to 400 dwellings with associated access.
<b>Site Address:</b>	Land South West Of Canal Way, Ilminster.
<b>Parish:</b>	Ilminster
<b>ILMINSTER TOWN Ward (SSDC Members)</b>	Cllr C Goodall Cllr V Keitch
<b>Recommending Case Officer:</b>	Andrew Gunn Tel: (01935) 462192 Email: andrew.gunn@southsomerset.gov.uk
<b>Target date :</b>	10th April 2017
<b>Applicant :</b>	Persimmon Homes SW & Somerset County Council
<b>Agent: (no agent if blank)</b>	
<b>Application Type :</b>	Major Dwlgs 10 or more or site 0.5ha+

### REASON FOR REFERRAL TO REGULATION COMMITTEE

This application has been referred to the Regulation Committee with a recommendation of refusal from Area West Committee for the following reason:

*The applicant has failed to demonstrate that the proposed scale of growth which significantly exceeds the Local Plan targets will not have an adverse impact upon local infrastructure and amenity.*

### Application update

Since the meeting of the Area West Committee held on the 16th August 2017, the applicant has submitted a Briefing Note. This outlines the key issues and the applicant's response to the objections raised by the Town Council and local residents. Plus, additional plans that illustrate highway layout, landscape and ecology, green infrastructure and surface water details. It must be stressed that these are indicative plans only; however these detail how certain aspects may be implemented on site. The layout of the scheme is not being sought for approval at this stage. Detailed matters including the layout will need to be subject to either a reserved matters application (provided the outline consent is approved) or a full planning application.

Following concerns raised by Area West members about the highway impacts of the development, the Council's Highway Consultant has provided an assessment of the highway related issues. He concludes that the development is acceptable from a highway perspective. The Case Officer will outline the main highway points addressed by the Council's Highway consultant at the Regulation Committee. His full response is available on the Council's website.

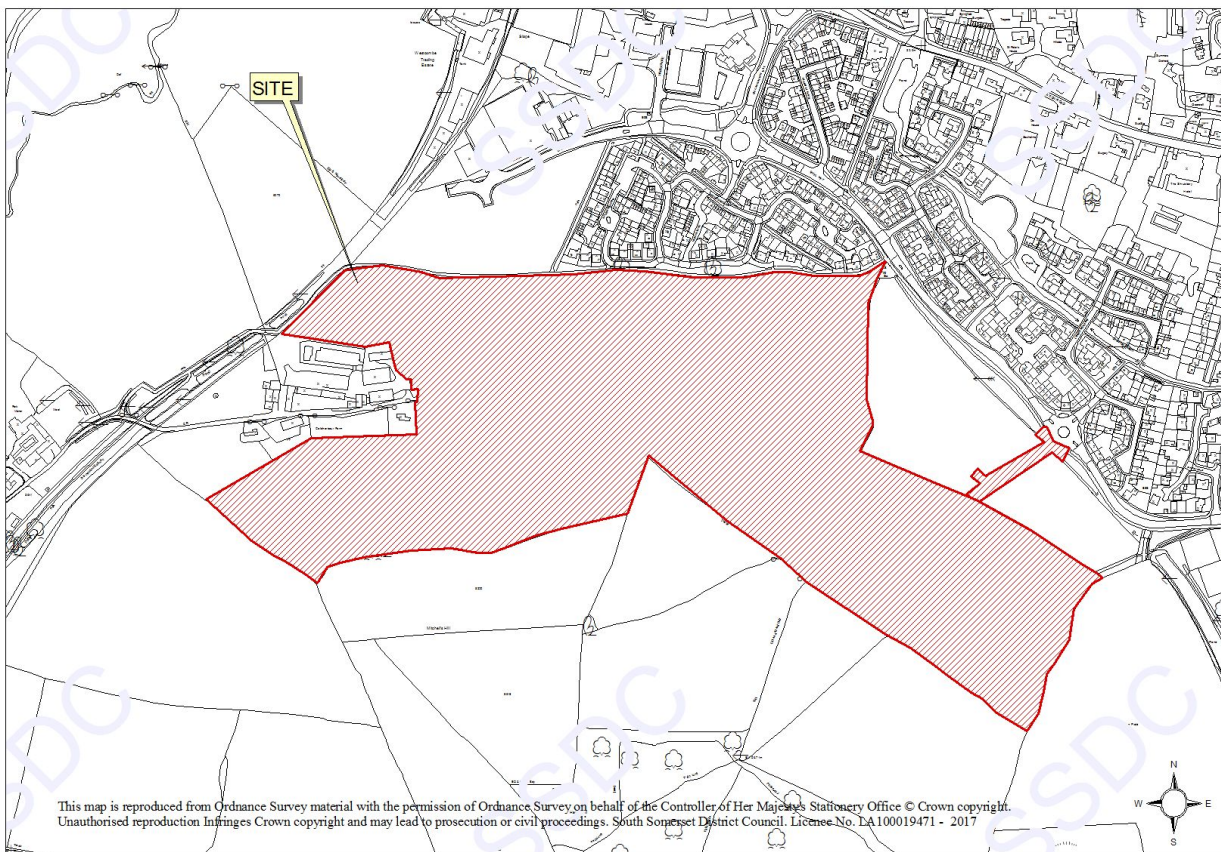
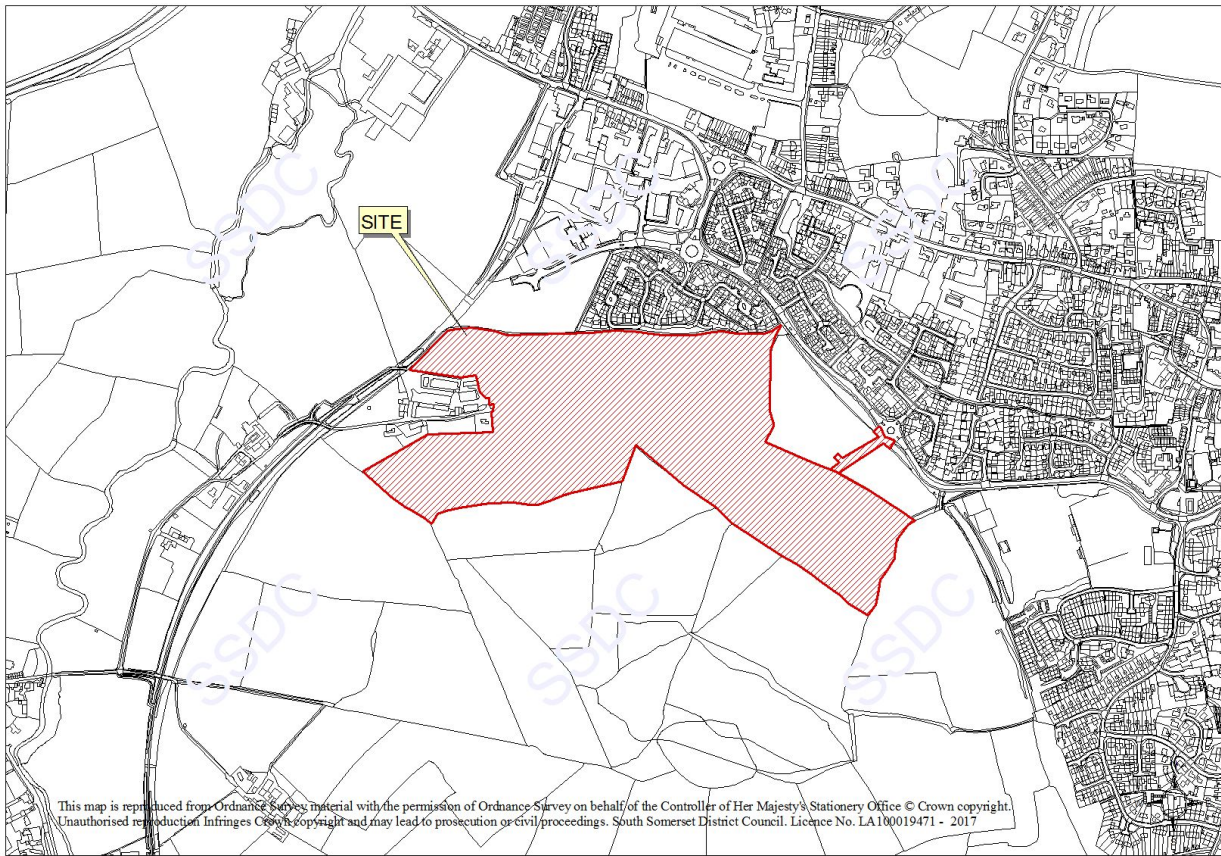
An officer from the County Highway Authority will be in attendance at the meeting.

A further 24 letters/emails have been received since the Area West Committee meeting raising objections to the proposed development. These reflect the issues and concerns previously raised and summarised in the Area West committee report, which is included in full below.

### REASON FOR REFERRAL TO COMMITTEE

This application is referred automatically to Area West Committee as it is a proposal for up to 400 homes and therefore is required to be determined by committee.

SITE DESCRIPTION



The application site is located towards the south west side of Ilminster, on the southern side of Canal Way. It currently comprises agricultural land and sits to the west of the medical centre with residential properties to the north. Coldharbour Farm is located to the west with further agricultural land/fields to the south. The fields are bounded by hedgerows with a number of mature trees located sporadically throughout the site.

A public footpath runs from Coldharbour Farm to the west heading eastwards along a track. Part of the parish boundary between Ilminster and Donyatt runs along this boundary. The right of way then dissects the field to the south of the proposed school field leading to the pedestrian and vehicular access from Canal Way. A section of the right of way also heads northwards towards Adams Meadow.

## **PROPOSAL**

This application (as revised) seeks outline consent for the erection of up to 400 dwellings with associated vehicular and pedestrian access on land at Canal Way, Ilminster. Access only is sought for approval at this stage with detailed matters in respect of layout, scale, appearance and landscaping reserved for a future planning application.

The scheme proposes 1 point of vehicular access from Canal Way utilising the existing access serving the medical centre. A vehicular access for emergency vehicles only will be provided further to the west along the northern boundary into Adams Meadow.

A field adjacent to Canal Way and to the west of the vehicular access is proposed for the replacement Greenfyld School. Vehicular access into the school will be provided from the access road that serves the residential development. This outline scheme does not seek permission for the school; this would be subject to a separate application. The highway scheme includes 2 zebra crossing points, one to be located between the medical centre and school access with a second to be provided to the west of the roundabout on Canal Way. Technical changes will be made to the access road to accommodate the proposed development.

The scheme proposes a football pitch in an area of land in the south east corner, adjacent to the existing playing field. In addition, as amended, a field to the south of the pitch and proposed residential properties will be dedicated as an area of open space/wildlife mitigation and, subject to agreement, will be transferred to the Town Council or a management company. The scheme also proposes on site play and youth facilities along with enhancement of the facilities at the recreation ground. Existing hedgerows will largely be retained with small sections removed within the site to accommodate the internal access roads.

The application has been accompanied by a range of supporting documents including the following:

- Ecological Appraisal
- Archaeological Report
- Design and Access Statement
- Planning Statement
- Flood Risk Assessment
- Landscape Appraisal
- Transport Assessment + an Addendum Transport Assessment
- Travel Plan
- Geotechnical and Contamination Assessment Report

Plans submitted with the application include a location plan, masterplan, and a landscape masterplan. It should be noted that whilst the latter 2 plans show an indicative layout for the scheme, approval for the layout of the development is not being sought at this stage.

## **HISTORY**

16/01095/EIASS - Residential Development of up to 465 dwellings, new school, public open space, formal sports area, landscaping and access. EIA not required.

No planning applications have been submitted on this site prior to the current application.

## **POLICY**

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

### Relevant Development Plan Documents

South Somerset Local Plan (Adopted 2015)

PMT3 - Direction of Growth for Ilminster

SD1 - Sustainable Development

SS1 - Settlement Strategy

SS5 - Delivering New Housing Growth.

SS6 - Infrastructure Delivery.

HG3 - Provision of affordable Housing.

HG5- Achieving a mix of Market Housing

TA4 - Travel Plans

TA5 - Transport Impact of New Development

TA6 - Parking Standards

HW1 - Provision of Open Space, Outdoor Playing Space, Sports, Cultural and Community Facilities in new Development

EQ1 - Addressing Climate Change in South Somerset

EQ2 - General Development

EQ4 - Biodiversity

### Other Relevant Documents/ Material Considerations

National Planning policy Framework

Achieving Sustainable Development

Core Planning Principles

Chapter 6 Delivering a Wide Choice of High Quality Homes

Chapter 7 - Requiring Good Design

Chapter 8 - Promoting Healthy Communities

Chapter 10 - Meeting the challenge of Climate change, flooding and coastal change

Chapter 11 - Conserving and Enhancing the Natural Environment

Somerset County Council Parking Strategy

## **CONSULTATIONS**

### **Ilminster Town Council:**

Taking into account the comments from other consultees, members of the public and the discussions, comments and issues raised during the meeting it was **RESOLVED** to recommend refusal on the grounds of:

- (l) The impact of additional vehicular movements that would be generated by the development

- without enhancement of the existing transport infrastructure
- (II) Lack of robust travel information especially walking distances
  - (III) Lack of information about the Appearance and Character of the proposed dwellings
  - (IV) Lack of infrastructure to support the development
  - (V) Impact on the environment
  - (VI) Impact on existing rights of way
  - (VII) Impractical emergency vehicle access
  - (VIII) Over development of the site

A full transcript of the minutes is available to view on the Council's website.

**Donyatt PC:**

The Council did not support this application on the following grounds:

- The Council is extremely concerned that the sprawl of the urban development of Ilminster town is encroaching into Donyatt which is a small village
- It is essential that a clear demarcation is maintained between the boundaries of Ilminster and Donyatt to retain separate identities with a separation zone between the two communities.
- The two amenity fields should be excluded from the plan as they are within Donyatt plus there are no plans to maintain them
- Adverse impact on Herne Hill
- There are four Public Rights of Way that go across the site but only two are mentioned on the plans.
- Trees with TPO's have not been shown
- The Council consider that 450 more dwellings is over development for Ilminster with its present amenities. This could seriously affect Donyatt residents as Ilminster is the nearest town for essential facilities. (Schools, Health Care, Supermarkets etc)
- The Council know that it is difficult to get a timely doctor's appointment now.
- The Council understand that the proposed new school, which will replace the current school, will not have the capacity to cope with the children living in 450 additional dwellings
- Attenuation pond is sited next to the proposed school with the obvious risk of health and safety problems

**Highways England (HE): (summary of original comments)**

HE operates and maintains motorways and major A roads. Accordingly, in this case, they have advised on the impact of development upon the A303.

HE originally recommended that planning permission is not granted for a period of 3 months in order to provide the applicant sufficient time to address outstanding HE concerns and to protect the operation and safety of the A303. HE agreed with most of the analysis outlined in the Transport Assessment undertaken by the applicant's consultant. However, further work was required in regard to the impact of the development on both the Southfields and Hayes End Roundabouts.

Further highway modelling work and assessments have now been undertaken by the applicant. HE have assessed this and are now content with the analysis. Their holding objection has now been withdrawn and no objection raised.

**County Highway Authority (HA): (summary of original comments - Feb '17)**

Having reviewed The Transport Assessment, the HA raised concerns about the scheme in regard to trip generation and the absence of any junction modelling outputs. It was concluded that the trip generation modelling would give an under estimate of traffic on the road network; this would affect the volume of traffic on the network and cause a detriment to the operation of junctions. The HA also advised that the proposed Shudrick Valley proposal should be included in the assessment. The HA also raised safety concerns in regard to the proposed access and interaction with the doctors surgery. If the above

concerns are not satisfactorily addressed, the HA would recommend refusal of the application.

County Highway Authority: (HA) (summary of revised comments (April '17) following submission of additional information)

The Highway Authority retained concerns about the development and formally objected to the scheme for 2 reasons, namely 1) safety concerns in regard to the formation of the second access together with conflicting traffic movements onto and from Adams Meadow, and in regard to the cycleway/bridleway and the public right of way, and 2) The restricted width, alignment and current layout of Adams Meadow is not considered suitable to serve as a means of access to the proposed development.

The Highway Authority also sought changes to the alignment, width and visibility into the doctor's surgery and controlled crossings across Canal Way as well as the access road into the site. A crossing point is also required along the spine road where the public rights of ways cuts through the estate. Comments were also made in regard to the design of the internal estate road, in particular to the relationship with the secondary access road into Adams Meadow.

County Highway Authority: (HA) (summary of revised comments (June '17) following submission of further information in response to the Highway Authority's objection)

The Highway Authority has withdrawn its objection to the scheme.

Details have been provided in respect of 2 zebra crossings on Canal Way and along the access road between the entrance to the medical centre and proposed entrance to the school site. The Highway Authority have requested that these zebra crossings are in place before the first occupation of 25 dwellings or the school is first brought into use. A crossing point is also provided across the right of way. The secondary access is only proposed for emergency vehicles, rather than as a secondary access for all users. The Highway Authority have accepted this position, given that the internal layout avoids a single spine road running the whole length of the development. Advice is given on the specification of the internal roads. This would be dealt with at any reserved matters stage. No objection is raised subject to conditions.

**Landscape Officer:**

If I have understood the scope of this application correctly, the proposal seeks consent for development of approx. 450 dwellings, with all details reserved other than the prime access to the site. Looking purely at the principle of development, the site has already been appraised as being an area suitable for residential growth by the local plan, and the approved 'direction of growth' was in part informed by the findings of the peripheral landscape study (PLS) of Ilminster, which was undertaken during November 2007. This study reviewed the town's immediate surrounds with the objective of identifying land with a capacity for development, looking both at the character of the land at the town's edge, and its visual profile. For the detailed evaluation I would refer you to; <http://www.southsomerset.gov.uk/planning-and-building-control/planning-policy/evidence-base/district-wide-documents/peripheral-landscape-studies/>

The outcome of the PLS is represented by 'figure 5 - landscape capacity', which is a graphic summary of the preceding evaluation. Fig 5 indicates that the fields that are the subject of this application, are evaluated as having both a high and moderate-high capacity to accommodate built development. Consequently the principle of development in this location is considered to be acceptable from a landscape standpoint, and there is no issue with the main point of access. Whether or not the land has the capacity to accommodate 450 houses however, is a moot point.

Whilst this is an outline proposal, a suite of supporting documents has been submitted, including a landscape appraisal (LA) and masterplan. The LA proposes that development be limited to the lower area of the site, to be contiguous with other modern development to the north of the site, whilst the rising land to the southwest is allocated as open space, to limit visual effects. It further proposes the provision



of street trees; landscape buffers; green corridors and open space to be introduced within and at the development's margins, to break-up and buffer development form. It concludes that the development-impact upon both the character and visual amenity of the site and its immediate surrounds, is then capable of reduction through such landscape mitigation, over time.

Clearly, placement of the housing on land of lower elevation and alongside the existing residential edge is logical, as is the proposed approach to landscape mitigation. I am not persuaded however, that this is borne out by the landscape masterplan, not only because the level of landscape provision appears limited, but also because the schematic residential layout does not appear to have been informed by the landscape appraisal. Neither do I see a landscape plan that relates to the ecology report's mitigation proposals, to suggest that there is further work to be done.

An indicative residential layout has been offered, though as I understand it, this does not require consideration as part of the current application proposal. However, there are layout issues that I have previously raised at pre-application, which are yet to be addressed, and these should stimulate changes to the layout, and there may be a subsequent impact upon numbers. In brief, these issues follow. Where I have sought to identify and locate specific elements within the scheme, I have referred to housing blocks 1-4 referring to the 4 field parcels running east (1) to west (4).

In relation to the general layout.

1) I understand the general approach to parcel the development into 4 basic residential blocks, as determined by the retention of the existing field boundaries. However, other than a 'green wedge' between parcels 2 and 3, there is limited 'breathing space' within the residential part of the site, with the densities generally appearing tight, and crammed in places. I see little 'sense of place' evident in the housing layout, and I do not see any substantive differentiation across the layout. Much of the scheme comprises tightly-packed units with a heavy reliance upon parking to the fore of the plot. There is little sense of hierarchy, and more needs to be done to engender characterisation, and to create well-defined streets, and civic spaces within the layout.

2) Whilst I welcome the central green corridor between housing blocks 2 and 3, I consider the space between blocks 1 and 2; and 3 and 4, to be too narrow, and to require widening, to enable pedestrian access on both sides of the hedge (which also enables a consistency of hedge maintenance) and to allow for meaningful tree planting that will assist in breaking-up the housing mass as viewed from raised areas of land to the south. I would particularly advise that the east edge of block 2 is pulled well back from its eastern hedge boundary throughout, to enable an open corridor to be formed.

3) I note the area of rising land to the SW being offered as 'strategic POS'. However, if the offer is considered to balance the dense arrangement of the housing layout, then I would question if the balance is acceptable, better that we see a less dense, more diverse housing layout without this extra land. If this open space is to come forward, then we should see clear public access arrangements woven in; ecology and access issues reconciled by thoughtful design; and landscape enhancement being an integral component of this open area.

More detailed points:

4) Whilst I have no issue with the principle of some parking to the fore of plots, there are areas where long lines of frontage parking are indicated, which creates an over-wide space that is dominated by parked cars and driveways. More work is needed to break up such areas, not only by planting and walling, but in places, by bringing house units closer to the back of the pavement, to create a narrowing effect, and thus break-up the long lines of parking.

5) To serve the site off a single-point of access is not good urban design. I would advise a stronger vehicular link between parcel 4 and the most recent Persimmon site to the immediate north to enable

greater permeability.

6) There are locations at some of the corners of the housing blocks, e.g; SW corner of block 3; SE corner of block 3; SW corner of block 1, where an individual house projects beyond the general building line, to 'squeeze' the adjacent open space, and limit the vista, and I would advise such plots are removed from the scheme.

7) All 4 blocks should express a southern frontage, with the intervening land between frontage access and the hedgerow providing a green corridor with planting and pedestrian linkage.

8) Greatest public perception of the site will be gained from Herne Hill, and in this respect, the southern frontage of blocks 1; and an amended southern frontage to block 2, should be laid out to avoid too great a massing effect, and arranged to help provide incident, and enable the introduction of street trees. Side garaging/parking can be integrated to assist the break-up of too solid a frontage.

In summary, I consider the prime expression of this current layout to be too akin to a singular large housing estate, which does not encourage the perception that this could be a development that is rich and varied in its offer of housing and public space, and there is more fundamental work that needs to be done if this proposal is to match the projected quality of the appeal proposal to the east of the town (for 220 houses). I trust that a more detailed masterplan will offer some comfort on these matters, and to that end, if you are minded to approve this outline application, I'd suggest that the following is conditioned for approval prior to any submission of a Reserved Matters application.

- (a) a design code for the development;
- (b) a detailed masterplan for the whole site, including outline landscape treatment, and;
- (c) a public space proposal, inclusive of access detail, and site management prescriptions.

**County Education:**

As you are aware the Greenfylde First school is located on a constrained site and cannot sustain any further expansion. The accumulative effect of developments coming forward in the area will necessitate the need to expand Greenfylde and this is not achievable in its current location so relocation of Greenfylde is very likely. This development will also bring forward the need for an additional 52 middle school places.

The proposed development is within the catchment Swanmead Middle School. This school will need to be expanded to accommodate these additional numbers. Therefore the Authority will be seeking education contributions towards provision of the additional school places that will be required should this development be approved.

- 16 pre-school places at @ £14,175\* per place = £226,800
- 65 first school places @ £14,175\* per place = £921,375
- 52 middle school @ £17,766\* per place = £923,832

\*These figures have been reviewed using June 2016 confirmed BCIS General Building Cost Index figure.

**Officer comment:**

Further to the submission of the above comments, the County have advised that approval of this development would necessitate the need for a new First School. Designs and delivery of the school are being prepared to coincide with any approval for the residential scheme. As advised earlier in this report, the school will be located on land adjacent to and fronting Canal Way, to the north west of the medical centre.

**Lead Flood Authority: (summary)**

No objection subject to a condition seeking submission of a surface water drainage scheme based on

sustainable drainage principles, along with details of implementation and lifetime maintenance.

**County Archaeologist:**

I have been contacted by AC Archaeology who have submitted a trial trench evaluation strategy which I have agreed. This evaluation will provide sufficient information to assess the significance of archaeological remains on the site as indicated in the National Planning Policy Framework (Paragraph 128). Until the evaluation has taken place and a report submitted this application should not be determined.

**Archaeology Update:**

The results of the archaeological trial trench evaluation have now been submitted as requested by the County Archaeologist. The results of which have proved negative with no evidence for any settlement type archaeological activity in the trenches and no finds recovered. The County Archaeologist is satisfied with the findings and no further archaeological work required.

**Environmental Health Officer:**

No objection to the application. A condition is sought in regard to reporting and, if required, stopping development and remediation if any signs of pollution are found.

**Natural England: (summary)**

No objection. Natural England are satisfied about the great crested newt mitigation which follows pre-application advice. However, advise that this does not guarantee a license will be issued as this is subject to a separate process and considered in its own right. Provide advice on protected species and green infrastructure/biodiversity enhancements.

**Ecologist:**

I've noted the Ecological Appraisal (Green Ecology, Nov 16) and I've visited parts of the site. I raise the following concerns.

1. Site layout and insufficient dormouse mitigation along the southern boundary

Evidence of dormouse was recorded in the East boundary hedge (adjacent to the existing sports fields). I agree with the Ecological Consultant's statement that it is 'considered likely that they use hedgerows and woodland throughout the site.'

Dormice are a European Protected Species and a Section 41 'Priority Species' for the conservation of biodiversity (Natural Environment and Rural Communities Act 2006).

Therefore, any planning proposal/approval must:

- a) be able to demonstrate maintenance of favourable conservation status to satisfy obligations under the Habitats Regulations 2010, and
- b) satisfy NPPF and Local Plan Policy EQ4.

Dormice are very reluctant to cross open ground and therefore require good habitat connectivity to ensure their conservation. Within the site and surrounding areas, dormice will be restricted to the network of hedges and small woodlands. I agree with the ecological consultant that one of the potential impacts upon dormice could be cat predation. This is likely to be a greater risk closer to houses. Fragmentation of habitat (by estate roads passing through hedges) is likely to be another significant impact that will likely leave many of the retained hedges, particularly in the northern half of the site, no longer suitable for use by dormice. I therefore consider the habitat loss for dormice could effectively be significantly greater than the 100m stated in the Ecological Appraisal (Table 9), and advise compensation habitat for such loss should be provided.

A layout that gives more buffering space alongside hedges would be appropriate throughout the site. However, I consider it to be particularly important along the southern boundary of the development. With

dormouse evidence in the east of the site, and proposed dormouse compensation planting in the west of the site, I consider provision of a strengthened (wider) dormouse habitat corridor running east-west along the southern boundary, to be an important element of dormouse mitigation.

I suggest the current layout, particularly the proximity of housing to the south boundary hedge in the second field from the east, to be detrimental to establishing a strong east-west dormouse habitat corridor, and could represent grounds for refusal.

## 2. Retention of Eastern boundary hedge not shown on Landscape Masterplan

I note the Landscape Masterplan doesn't show retention of the Eastern boundary hedge, and I wonder if it is planned to remove this in order to better link the proposed new football pitch with the existing pitches? This would be a cause of concern as this is the hedge where evidence of dormouse was recorded.

Removal of this hedge would increase the amount of dormouse habitat loss and hence increase the amount of dormouse compensation habitat that will need to be provided.

Please could clarification be sought on this matter.

## 3. Wildlife mitigation and compensation areas aren't shown on the Landscape Masterplan

I suggest confirmation of compensation areas for European Protected Species (dormouse and great crested newt), and identification of such on development plans (e.g. landscape masterplan), should be provided to help demonstrate that sufficient compensation is feasible and not in conflict with other open space uses. This will be necessary to help demonstrate meeting of the Habitats Regulations test of maintaining favourable conservation status (necessary before planning permission can be granted).

Officer comment: The applicant is aware of the comments raised by the Council's Ecologist. Having discussed with the Ecologist, it is proposed to condition a detailed masterplan and detailed layout plans for the whole of the application site which will expect to address the points raised above. In regard to the question about the eastern hedgerow, this is not being removed.

In addition, the case officer was asked about the impact of the development on polecats on site. Having raised this with the ecologist, he has advised that the loss of farmland and polecat habitat is very unlikely to be sufficient to have a significant impact on the conservation and continued recovery of the local polecat population. With the majority of hedges being retained, the risk of direct harm to a polecat den is very small.

### **Somerset Wildlife Trust:**

In general, support the findings of the submitted ecology report, in particular the recommended mitigation and compensation measures. Also, seek that the design of internal boundaries between properties are designed to allow passage of small animals.

### **Tree Officer: (summary)**

Objects to the application due to the proximity of proposed dwellings to the root protection areas of retained trees. Also, outlines practical concerns about the proximity of trees to houses.

### **Officer comment:**

Whilst layout plans have been submitted, these are indicative only. Access only is being sought for approval at this stage whilst details of the layout would be submitted as part of any subsequent reserved matters application. The applicant is aware of the points raised by the Council's Arborist and will need to be taken into account when any detailed layout is being sought for approval.

**Climate Change Officer:**

The majority of dwelling in this proposal have reasonably well orientated uncluttered roof space that would enable installation of photovoltaic arrays, either at the time of construction or at a later date. However, the layout could be improved within the constraints of the site to provide a greater number of dwellings with south facing roof space. It is very likely that future residents will want to install photovoltaic arrays roof space in the near future (if the developer does not install them during construction). Prices as of January 2017, when levelised over 20 years, provide electricity at less than 2p/kWh without subsidy. Prices are expected to fall still further, making PV a very attractive proposition, especially when combined with battery storage to time shift PV generated electricity to the evening.

I note that the building fabric will be particularly energy efficient and this is welcome. However, prevention of sterilisation of roof areas from PV installation is an equally important aspect of sustainability and conversations with the developer at this outline stage to consider this issue during the reserved matters stage would be worthwhile.

**Housing Development Officer: (summary- based on 400 dwellings.)**

Seek 35% affordable houses which equates to 140 dwellings. The tenure split will be 112 for social rent and 28 other intermediate solutions. A mix of dwelling sizes has been sought - 32 x 1 bed flats/houses, 58 x 2 bed flats/houses, 46 x 3 bed, 2x 4 bed and 2 x 4 bed parlour house. Appropriate trigger points for the delivery of the affordable homes will need to be agreed along with minimum space standards. It is also requested that the units are pepper potted throughout the site. The numbers of 1, 2 and 3 beds can be varied once the final house numbers are confirmed, but I will insist the number of 4 beds are preserved.

**Horticulture Officer: (summary)**

Based on a scheme of 450 homes, the amount of informal open space sought is 1.75 hectares. The indicative layout shows provision of open space in excess of that required. Whilst no objection is raised to the amount of open space, improvements are sought to the design and siting of the open space to establish better links throughout the whole development and to provide smaller pockets of open space with a central green area in each of the different areas of the development. The LEAP and NEAP on opposite sides of the road should be avoided.

**Officer comment:**

The applicant is aware of the above comments. The whole layout of the scheme would be subject to a reserved matters application provided outline consent is granted. It will be expected that the comments and advise of the horticulture officers is taken into account in any subsequent reserved matters application. A masterplan shall be sought as a condition and this will be expected to show the areas of open space and links within the development.

**Leisure Policy Officer:**

Based on a scheme of up to 450 dwellings, total contributions have been sought totalling £1,424,672. This is split as follows:

- Equipped play space - £229,176 + £132,376 (commuted sum) - on site NEAP.
- Equipped play space - £152,784 + £88,250 (commuted sum) - off site contribution towards enhancing the equipped play area at the recreation ground.
- Youth facilities - £74,999 +£27,729 (commuted sum) - on site provision of floodlit multi-use games area.
- playing pitches - £207,128 + £125,723 (commuted sum) - 1 on site pitch.
- changing rooms - £357,729 +£28,778 (commuted sum) - towards new/refurbished cricket changing rooms at the recreation ground.

Community halls, theatres/art centres, swimming pools, indoor tennis centres and sports hall all to be funded through the Community Infrastructure Levy. No contribution sought towards artificial grass

pitches.

**Sport England: (summary)**

No objection.

Advise that the development will create a demand for sporting provision and that the developer should make a contribution towards meeting this demand through the provision of on site and/or where required off site facilities. The level and nature of such facilities should be informed by up to date sports facilities and playing pitch strategies and other relevant needs assessments. They provide advice on playing pitches and associated infrastructure along with making people more active.

**Wessex Water:**

As identified within the FRA submitted with the application (WYG, August 2015) hydraulic modelling will be required to confirm the capacity of the existing foul network to accept foul flows and to identify any required improvement works. As such, if the Local Planning Authority decides to grant consent to the proposed development, we require the following planning condition to be imposed to ensure that a drainage strategy for the site is agreed. This is necessary to ensure that the proposals do not increase the risk of downstream flooding and pollution.

**Officer comment:** Submission of a foul water drainage strategy is required via condition.

**Somerset Drainage Boards Consortium:**

No objection subject to a condition in respect of surface water drainage works.

**CPRE: (summary)**

Object to the application due to the harmful cumulative impact of development in Ilminster, particularly when taking into account the Shudrick Valley scheme. This should also be taken into account in an EIA assessment. Raised concern that cumulative impact not taken into account. Also suggest waiting for the outcome of the Shudrick case before determining this application.

**Officer comment:**

Having given the cumulative impact further assessment, it is not considered that the cumulative impacts would give rise to significant environmental effects necessitating an Environmental Assessment. In any case, the Shudrick scheme has been dismissed following an appeal and is therefore not being developed.

**Crime Prevention Design Advisor:**

Despite being an outline application I would urge that consideration is given to gating the many alleyways that are shown on the masterplan. The gating should be as close to the entrance of the alleyway and where it accesses more than one property then access control will be required

The issue of garden gates has been discussed previously with Persimmon but my stance is that they should be included on all properties as a basic protection to the property boundary to prevent unauthorised access to the garden and house.

**County Rights of Way:**

I can confirm that there are public rights of way (PROW) recorded on the Definitive Map which runs through and adjacent to this proposed development I have attached a plan of these for your information.

**Specific Comments:**

Public footpath CH 11/3 will be obstructed by the development and thus will require a diversion, or a revision of the current proposed layout. An informative note should be added to any permission that may be granted in relation to the need for a diversion. Public footpath CH 11/4 runs through the site adjacent to two hammerheads, and may be affected by the proposal. However, any diversion proposal for CH 11/3 may present an opportunity to regularise the definitive line of CH 11/4 to that which is walked on

the ground, as the two appear to vary, (subject to a site visit). Public footpath CH 11/2 would appear to have been catered for within the layout, albeit this will need closer checking at the REM stage in terms of ensuring that the width is not being encroached upon. The spine road will cut across footpath CH 11/2 and will, one assumes, be subject to later technical approval and potential adoption, which should address any concerns regarding visibility and dropped kerbs etc, for those using the footpath.

Public bridleway CH 32/25 also appears to be affected by a road linking to Adams Meadow. It is not clear what the intention is for this link, but whatever the intention there will need to be consideration for the use of public bridleway in terms of the detailed design.

Throughout the site there are several links/ open space running North - South which are beneficial to local residents. If there is any intention for the ownership of these areas to be transferred to a private company, then there may be some value in terms of seeking linking paths, albeit, as Highway Authority, we would want to be involved in any such discussions. To facilitate connectivity it is requested that some breaks in the hedgeline between the residential areas and public footpath CH 11/3 are provided. I have discussed school access with colleagues and the intention is to have only one site entrance to the school, which is the one as indicated on the site plans.

#### Generic Comments:

Any proposed works must not encroach on to the widths of the public rights of way.

Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary (stopping up/diversion) 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.

The health and safety of users must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) has maintenance responsibilities for the surface of the rights of way, but only to a standard suitable for their public use. SCC will not be responsible for putting right any damage occurring to the surface of the rights of way resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a public footpath or bridleway unless the driver has lawful authority (private rights) to do so.

## REPRESENTATIONS

26 letters/emails have been received raising the following objections.

- Accept town needs to grow but this is not the most suitable site.
- Should use existing redundant sites first - Powermatic and Horlicks.
- Persimmon have a monopoly on new development in the town. Why have they been chosen?
- Too many houses proposed
- If allowed, the number of houses would far exceed local plan requirement of 496.
- One access and emergency access will create safety issues - should create a new access onto Swanmead Drive
- Where are people going to work?
- Increase in traffic on local roads - improvements to A303/A358 have not taken place
- Local service and facilities would not be able to cope
- Local GP services struggling
- Local schools will not be able to cope with the additional children- would Persimmon build a new school?
- Wrong to build on agricultural land
- Lack of parking spaces in the town
- Character of Herne Hill would be harmed
- Loss of views of the countryside

- The setting of the well used cycle path will be harmed
- Don't agree that 30% of people would walk into town
- Lack of parking/visitor spaces
- Impact on wildlife
- New homes would be out of character with traditional homes in Ilminster
- Drainage and other issues/ problems experienced on persimmon housing site opposite.
- Will drainage proposal be adequate for this development?
- Too many 2/3 bed homes- need larger 4 bed homes
- Congestion along Canal Way

4 letters/emails have been received making the following observations/comments:

- Asked about the impact of construction traffic on local residents and how long the Council keep plans.
- Refers to the poor bus services and that if these were better, less car use would occur. Figures for the 30 service is not correct and may change again.
- Development would mean a huge amount of traffic travelling through the Adams Meadow housing area.
- Road would cut through the cyclepath, thus raising safety issues for users - agree with connecting paths but not the road. Other options for the road should be considered.
- Support the proposed development in general, welcome retention of trees, wildlife corridors, amenity space and space for a new school.
- Raised the issue of providing additional off road parking spaces due to numbers of cars parked on roads in the local area.
- Suggested relocating second access further along Canal Way.

## **CONSIDERATIONS**

### **Principle of development**

Ilminster is classified as a Primary Market Town in the adopted South Somerset Local Plan, one of 4 such towns in the district. These 4 towns sit below Yeovil in the settlement hierarchy. Therefore, as one of the largest settlements in the district and, in accordance with its important housing, employment, retail and community role, and close proximity to major road links, the Local Plan has allocated 496 dwellings in Ilminster over the plan period (2006-2028). To accommodate this level of housing growth, a Direction of Growth has been identified to the south west of the town, on the southern side of Canal Way.

The application site is located within this Direction of Growth and, therefore, is in principle an area of land that the Council has identified as being acceptable to meet identified housing needs over the plan period. On this basis, there is no objection to the principle of housing on this site. Members will recall that this site along with another option at Shudrick Valley was subject to a Local Plan Examination; the outcome of which was that the Local Plan Inspector clearly found the Canal Way site to be the preferred option. Moreover, in dismissing a planning appeal in January 2017 against a proposed development in the Shudrick Valley for 220 houses, the appeal Inspector referred to the fact that an application has been received within the Direction for Growth as part of his overall assessment, and was one of the decisive factors for dismissing that appeal.

### **Number of proposed dwellings/scale of growth.**

Whilst the principle of development is acceptable, and the application is located in the Direction for Growth, it does not necessarily follow that any number of houses sited within and absorbing the whole of the Direction of Growth would be acceptable. An assessment has to be made as to whether the proposed number of units are acceptable taking into account the local plan strategy and the wider impact of the development on the town's infrastructure, service and facilities. It is also important to have regard to appeal decisions elsewhere in the district where the numbers of houses and scale of growth have



been one of the key issues.

The current scheme seeks outline consent for up to 400 dwellings. In regard to meeting the housing requirements for Ilminster, housing completions and commitments up until the end of March 2017 are 264 dwellings completed with 120 commitments (ie those with planning permission but yet to commence). This gives a total of 384 within the current plan period. It should be noted that 72 of the committed dwellings are those on one site (former Powrmatic) with permission lapsing in January 2018. Accordingly, this would potentially give a figure of 784 for Ilminster or 58% over the local plan figure of 496. Without the Powrmatic site, this would reduce to 712 or just under 44% over the local plan requirement.

The Council is not currently able to demonstrate a 5 year supply of deliverable housing sites. Accordingly, there is a presumption in favour of development provided that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme. It is important to note that the lack of a 5 year supply is a district wide issue, and even though a certain settlement may be performing well in terms of meeting its own housing needs/local plan number, it does not mean that additional housing cannot be accommodated within that settlement.

It is important to note that the local plan figure of 496 is not a maximum housing figure. However, proposed housing developments that would take the town's housing numbers significantly over that number have to be carefully assessed. In this case, the application has been assessed by a range of different consultees and service/infrastructure providers. Importantly, none of the service/infrastructure providers have either raised an objection to the development or have maintained an objection following submission of further information.

In addition, it is also important to have regard to appeal decisions in the district where the number of dwellings being sought is significantly over the local plan number. On the whole, Inspectors have allowed settlements to grow beyond the local plan number unless there are significant adverse impacts of approving such schemes. One of the most recent and relevant decisions is in regard to Ansford/Castle Cary where 2 sites were approved taking the housing provision to approximately 56% over the local plan number. Thus, a similar figure to Ilminster but in a smaller settlement than Ilminster.

Another relevant consideration in respect of the scale of growth for the town is the current local plan review. A review was sought by the Local Plan Inspector within 3 years of the adoption of the local plan. The currently adopted local plan runs from 2006-2028. The local plan review will extend the local plan timescale by another 6 years ie from 2014 to 2034. Additional housing across the district will be required, and given Ilminster's status as one of the district's largest towns, is very likely to be expected to take its share of the housing requirements. Clearly, the actual position has yet to be decided and would be subject to a thorough process and public consultation. Thus, whilst this should only be afforded limited weight in the overall planning balance in regard to determining this application, it is clear that this application site in seeking up to 400 homes can absorb some or all of the additional housing that may be required/concluded as part of the local plan review.

On the basis of the above, the principle of development is accepted. The following section examines the key issues and importantly assesses whether on the basis of the Council's current lack of a 5 years supply of housing, there are any significant adverse impacts that would warrant a refusal of the proposal.

### **Highways**

This outline application seeks consent for the vehicular and pedestrian access arrangements. As outlined above in this report, the Highway Authority had raised an objection to the proposals particularly in regard to safety issues arising from the use of the existing access from Canal Way, which currently serves the medical centre. However, following the submission of further details from the applicant, in particular the introduction of 2 zebra crossings, a crossing point over the right of way and other technical changes to the access road, the Highway Authority are now satisfied that these measures will provide

a safe means of access for all users.

In regard to the secondary access that will run into Adams Meadow, this access is only proposed for emergency vehicles, rather than as a secondary access for all users. The Highway Authority had objected on the basis that the estate road within Adams Meadow is not suitable to act as an access route to serve the development. On the basis that this is not the case, the Highway Authority have also withdrawn their objection to this issue.

In regard to wider vehicle impacts of the development on the local road network outside of the site, the Highway Authority had originally raised concerns about trip generation and the absence of any junction modelling outputs. Following discussion and advice from the Highway Authority, further work was undertaken by the applicant and an updated Transport Statement was submitted. This provided further information in regard to the impact on the Riec-sur-Belon Way /Canal Way roundabout and the Station Road / Riec-Sur-Belon Way roundabout. The Highway Authority are satisfied that the scheme would not result in capacity issues on the local highway network. Moreover, the Travel Plan would seek to reduce the traffic impact.

Following concern from the Town Council in regard to the validity of the traffic data informing the traffic analysis within the Transport Assessment, the applicant commissioned a new set of site surveys to provide a comparison exercise to be undertaken. New surveys were undertaken at a number of key local junctions in the town. A Technical Note was submitted which sets out the results of this comparison exercise. It concludes that the original traffic surveys, and consequently the findings of the Transport Assessment, remain valid.

In addition, as outlined earlier in this report, Highways England had originally placed a holding direction on the application as they sought information from the applicant about the impact of the development on the Southfields and Hayes End Roundabouts. Following the submission of additional modelling information, Highways England were satisfied that the development would not create any capacity issues on the main A roads and trunk roads and withdrew their objection.

Concern has been raised by many local residents that the local highway infrastructure would not be able to cope with the additional traffic created by this development. Those concerns have been carefully assessed as part of the overall assessment of the impact of this proposal. The highways impact has been carefully assessed by the Highway Authority and Highways England. Following the submission of the various highway documents and highway safety proposals as outlined above, both are satisfied that the development would not be detrimental to highway safety and that the local roads along with the nearest A roads and major trunk roads will be able to satisfactorily accommodate the additional traffic. On this basis, it is not considered that there are any adverse highway related issues that warrant refusal of the application.

In regard to parking provision, this would be determined as part of any reserved matters application.

### **Flooding/Drainage**

The site is located entirely within Flood Zone 1. This is defined as an area where there is less than 0.1% (1 in 1000 year) probability of flooding from rivers or sea. Due to the size of the application site exceeding 1 hectare, the applicant commissioned and submitted a Flood Risk Assessment. This confirmed the relevant flood zone and that there are no recorded river flooding incidents within the site.

In regard to the risk of flooding from surface water, the vast majority of the site sits outside of the Environment Agency's map showing areas at risk of flooding from surface water. A small section along the edge of the northern boundary of the site is included and it is recommended to keep houses away from this area. Indeed, the indicative layout proposes a balancing pond in this area. In respect of groundwater flooding, there are no recorded such events on site; the report does advise that before any detailed design work that boreholes are installed to monitor groundwater levels.

As per more recent guidance, it is likely that rainfall will increase and hence an increase of 30% is required to take into account climate change. The surface water drainage scheme has been designed to take this increase into account.

Due to the predominance of clay within the site, soakaways are not considered to be an appropriate method of surface water drainage. During the officer site visit, it was noted that there was an area of standing water towards the northern edge of the site. This would confirm the findings of the applicant's geotechnical study. However, it should be noted that the site is currently not attenuated and that the scheme proposals will seek to ensure that surface water is dealt with appropriately in accordance with specialist advice.

Pipes will be installed to take surface water runoff to the attenuation areas on site ie to attenuation basins and underground tanks. These will be located along the site's northern boundary which will form part of the applicant's proposals for a green corridor. In regard to foul drainage, a foul gravity sewer will be installed which will discharge to the existing Wessex Water sewage pumping station to the north east of the site.

Importantly, details for the management and maintenance of all the drainage features shall be conditioned and submitted as part of any reserved matters applications. Adoption of these features will be offered to Wessex Water. The Lead Flood Authority and Wessex Water have assessed these works and have not raised any objections subject to conditions. These will cover the design and maintenance of the drainage systems. On the basis of the above, it is considered that the development can be served by a satisfactory system of surface and foul water drainage and would not increase the risk of flooding elsewhere.

Accordingly, it is not considered that there are any grounds to refuse the application in respect of flooding or drainage issues.

### **Rights of Way**

Public footpaths run both within and on the boundary of the site. A public bridleway also runs through the site. Based on the indicative layout, sections of these public rights of way will be directly affected by the scheme and some sections will need to be diverted. The Rights of Way Service Manager at the County Council has not raised an objection to the scheme and has advised about the need to apply for the necessary diversion order(s).

### **Residential Amenity**

Given the location and relationship of the site in regard to existing dwellings, it is considered that a layout can be achieved that would not cause any adverse harm to the amenity of existing residential occupiers. A construction management plan can be secured via a condition to ensure that the impact of construction work and deliveries etc is satisfactorily mitigated.

### **Landscape/Trees**

The Landscape officer has not raised an objection in principle to the development of the site on landscape grounds, accepting that the site is included in the local plan as a Direction of Growth and noting that the Peripheral Landscape Study found that the site has the capacity to take development. A number of points/concerns have been raised in regard to the indicative layout details submitted. However, as approval of the layout is not being sought at this stage, the applicant has been made aware of the points and will need to be addressed at the reserved matters stage. 3 conditions have been recommended in respect of:

- 1) a design code for the development;
- 2) a detailed masterplan for the whole site, including outline landscape treatment, and;
- 3) a public space proposal, inclusive of access detail, and site management prescriptions.

Concerns have been raised about the impact of the development upon the setting of Herne Hill. This

has been carefully assessed by the council's Landscape officer who has not raised an objection on these grounds. Moreover, the impact upon the setting of Herne Hill was assessed as part of the local plan process. In addition, the extent of housing development will be limited to the first row of fields that run parallel with existing housing. Development will not extend further south beyond the hedgerow that is adjacent to the track/right of way that runs from Coldharbour Farm. Whilst built form would come closer to Herne Hill than at present, development will be restricted to the lower lying fields. For these reasons, it is not considered that the development would adversely harm the setting of Herne Hill.

The Council's Arborist has raised an objection due to the close proximity of dwellings to trees within the site and the associated issues that this raises. However, these comments are based on the indicative layout plan submitted with the application. The applicant is aware of those concerns and will need to be satisfactorily addressed as part of the layout details when any subsequent reserved matters application is submitted.

### **Ecology**

The applicant submitted an Ecological Appraisal with the application and this has been reviewed by the Council's Ecologist. The applicant has undertaken a number of ecological site surveys to establish the position in regard to habitats and species present on the site, the implications of development and appropriate mitigation. The site contains species rich hedgerows, mature trees, scrub, and a pond. Species on site include breeding birds, badgers, great crested newts, butterflies, reptiles, dormice and bats. The mitigation includes a 5 hectare mitigation area/open space with new planting in this area and throughout the site, new ponds and grassland, protection of habitats/trees during construction, wildlife corridors, translocation of great crested newts to a new pond, buffer zones around badger sets and a landscape and ecology mitigation plan.

The Council's ecologist had raised concerns about particular aspects of the proposals. Having discussed those with the case officer, it was confirmed that the layout provided is only indicative and will need to be changed to address the issues raised, particularly in terms of providing adequate buffering for dormice from development and a wider corridor to support and link with the new mitigation planting. In addition, the eastern hedgerow will be retained. A site wide masterplan will be required to be submitted as part of the reserved matters application(s) and this will include a landscape masterplan to include wildlife mitigation and compensation areas. The area of land to the south of the built development will be used to provide mitigation in addition to the mitigation within the site as outlined above. On this basis, it is considered that the ecological impacts of the development can be adequately secured.

### **Archaeology**

The County Archaeologist is satisfied with the findings of trial trenching on site which proved negative with no evidence for any settlement type archaeological activity in the trenches and no finds recovered. No further archaeological work is required. On this basis, there are no archaeological grounds to refuse the application.

### **Planning Obligations and Community Infrastructure Levy**

Planning obligations have been sought from the Housing, Education, Sport and Play, Open Spaces and Highway officers. The specific requests have been outlined above in this report. In addition, the Community Infrastructure Levy will be liable on this development at a rate of £40 per sqm for every dwelling. An exemption can be applied to the affordable housing. The applicant is fully aware of the obligations and has not raised any viability issues to date. Accordingly, it is expected that the development will provide a fully policy compliant scheme in respect of planning obligations.

In particular regard to education provision, the County have advised that approval of this development would necessitate the need for a new First School. Greenfylde First School is at full capacity and the design and delivery of the school are being prepared to coincide with any approval for the residential scheme. As advised earlier in this report, the school will be located on land adjacent to and fronting Canal Way, to the north west of the medical centre. Persimmon are providing access to the school but planning approval for the school would be subject to a separate application.

Concern has been raised about the inability of the town's infrastructure to cope with the proposed development. All of the key infrastructure providers have been consulted about these proposals and all apart from the health authority have commented. None of those who have responded have any objection to the scheme. It is acknowledged that there is a national issue with regard to GP recruitment. However, this matter is likely to apply wherever new houses are to be built across the country and needs to be addressed at national level. It is not a direct matter that developers can resolve, although, as with other service providers, there was nothing to stop the health authority from requesting planning obligations to mitigate the impact of the development. However, none have been requested.

#### **Other issues**

In regard to the concern about the lack of information regarding the appearance and character of the dwellings, the Design and Access statement outlines that the scheme would be reflective of local vernacular. However, the scheme has been submitted in outline; details in respect of the design/layout and materials of the dwellings would be dealt with at any reserved matters stage.

Comments and concerns have been raised about Somerset County Council's decision to agree a deal with Persimmon for their land. It should be made clear that this is not a material planning consideration and not relevant to the assessment of the planning merits of this application.

Donyatt PC commented that the area of open space should be excluded from the plans as these are located within the Donyat parish. This area of land has been removed from the application and has been re-sited to the south east of the new dwellings adjacent to the existing recreation area.

#### **Overall assessment and conclusion**

It is considered that the principle of residential development on this site is acceptable. Ilminster is an appropriate place for development and the site falls within the Direction of Growth in the adopted local plan. It was considered a sustainable location by the Local Plan Inspector with good access to a range of services and facilities. The scheme will make an important contribution towards meeting the district's housing needs, including 35% affordable housing, plus contributions towards education, play and sport facilities. Having assessed all of the responses and advice, as outlined in this report, it is not considered that there are any adverse impacts that significantly and demonstrably outweigh the benefits of the scheme. On this basis, the scheme is recommended for approval.

## **SECTION 106 PLANNING OBLIGATION**

The application be approved subject to:

- a) The prior completion of a section 106 planning obligation (in a form acceptable to the Council's Solicitor(s) before the decision notice granting planning permission is issued, the said planning permission to cover the following terms/issues:
- 1) The provision of 35% affordable housing with a split of 80:20 rent /intermediate product;
  - 2) Contribution towards the provision of sport, play and strategic facilities,
  - 3) Contribution towards education provision;
  - 4) Submission of a Travel Plan;
  - 5) Provision and maintenance of open space; and
  - 6) Provision and maintenance of compensatory ecological habitat.

## **RECOMMENDATION**

Grant permission

01. It is considered that the proposed scheme would provide a sustainable development with good access to a range of services and facilities. It will make an important contribution towards meeting the district's housing needs, including 35% affordable housing, it would provide a safe means of vehicular and pedestrian access, would not adversely harm residential amenity, ecology or the local landscape and would satisfactorily mitigate for surface and foul water drainage. The proposal is in accord with PMT3, SD1, SS1, SS5, SS6, HG3, HG5, TA4, TA5, TA6, HW1, EQ1, EQ2 and EQ4 of the adopted South Somerset Local Plan, the Core Planning Principles and Chapters 6, 7, 8, 10 and 11 of the National Planning Policy Framework.

## **SUBJECT TO THE FOLLOWING:**

01. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To accord with the provisions of Article 4 (Article 5) of the Town and Country Planning (Development Management Procedure) Order 2015.

02. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

03. For each phase of development, approval of the details of the layout, scale, external appearance, internal floor levels of the building(s), the means of access thereto and residential boundary treatments, shall be obtained from the Local Planning Authority before any development is commenced.

Reason: To accord with the provisions of Article 4 (Article 5) of the Town and Country Planning (Development Management Procedure) Order 2015.

04. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be

constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

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

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local plan.

06. No work shall commence on the development site until works to the roundabout on Canal Way, changes to the access to the doctors surgeries and first part of the spine road, providing access to the school (as shown generally in accordance with drawing number: 28326/5503/001) have been carried out in accordance with a design and specification to be approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

07. There shall be no commencement of development until details of the new zebra crossings have been submitted to and approved in writing by the LPA; with no occupation of the school or 25 dwellings (whichever is the soonest) until the works have been carried out in accordance with the approved design and specification.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

08. Details of the emergency access (as shown generally in accordance with drawing number: 28326/5503/002) shall be submitted to and approved in writing, prior to the commencement of any dwelling within that phase of development. The emergency access shall then be fully constructed in accordance with the approved design and specification.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

09. Before any work is commenced a programme showing the phasing of the development shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

10. In the interests of sustainable development none of the dwellings hereby permitted shall be occupied until a network of cycleway and footpath connections has been constructed within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority in accordance with the approved phasing plan.

Reason: In the interests of highway safety and to promote sustainable modes of travel to accord with Policy TA5 of the South Somerset Local Plan.

11. No work shall commence on the development site until an appropriate right of discharge for surface water has been obtained before being submitted to and approved in writing by the Local Planning Authority. A drainage scheme for the site showing details of gullies, connections, soakaways and means of attenuation on site shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

12. The development hereby permitted shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with Somerset County Council). The plan shall include construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of public transport amongst contractors. The development shall be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: In the interests of highway safety and to minimise the impact of construction activities on local residents to accord with Policy TA5 and EQ2 of the South Somerset Local Plan.

13. The dwellings hereby permitted shall not be occupied until parking spaces in accordance with SCC parking strategy has been provided in a position approved by the Local Planning Authority. The said spaces and access thereto shall be properly consolidated and surfaced, and shall thereafter be kept clear of obstruction at all times and not used other than for the parking of vehicles or for the purpose of access.

Reason: In the interest of highway safety to accord with Polciy TA5 of the South Somerset Local Plan.

14. For each phase of the development, no development hereby permitted shall be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls, roofs and rainwater goods have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenity of the area to accord with Policy EQ2 of the South Somerset Local Plan.

15. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of (IN) from the date of occupation of the building for its permitted use.
  - a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
  - b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.



c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: To protect trees during construction of the development.

16. In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development and development must be halted on that part of the site. If the LPA considers it necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with the NPPF.

17. The development shall not be commenced until a foul water drainage strategy is submitted and approved in writing by the local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker
- a drainage scheme shall include appropriate arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development phasing
  - the drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the local planning authority.

Reason: To ensure that the development is adequately drained to accord with the NPPF.

18. The development hereby approved shall be carried out in accordance with the following approved plans:  
Drawing numbers: 2016 - ILLM P2, 28326/5503/001/A and 28326/5503/002.

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

19. No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with 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. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- 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 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 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 system of surface water drainage and that the approved system is retained, managed and maintained in accordance with the approved details throughout the lifetime of the development, in accordance with paragraph 17 and sections 10 and 11 of the National Planning Policy Framework, Paragraph 103 of the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework (March 2015).

20. The first reserved matters application to be submitted shall include the following details:

- a) a design code for the development;
- b) a detailed masterplan for the whole site, including outline landscape treatment, and;
- c) a public space proposal, inclusive of access detail, and site management prescriptions.
- d) compensation habitat for the loss of dormice habitat and great crested newt.
- e) an appropriate dormouse habitat corridor running east -west along the southern boundary

Reason: To ensure that a satisfactory design and layout is achieved and appropriate ecological mitigation is secured to accord with Policies EQ2 and EQ4 of the South Somerset Local Plan.

**Informatives:**

01. In regard to condition no 20, the applicant is strongly advised to enter into discussions with the Local Planning Authority prior to the submission of any reserved matters application.
02. In regard to the highway works, the applicant is advised to contact the Highway Authority as soon as practicable in order that the appropriate legal agreement can be completed prior to the commencement of highway works.
03. Please be advised that subsequent full or reserved matters approval by South Somerset District Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice.

You are required to complete and return Form 1 Assumption of Liability as soon as possible and to avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place Please complete and return Form 6 Commencement Notice. You are advised to visit our website for further details <https://www.southsomerset.gov.uk/cil> or email [cil@southsomerset.gov.uk](mailto:cil@southsomerset.gov.uk)

**APPENDIX A2  
MINUTES OF  
SSDC REGULATION COMMITTEE  
21 NOVEMBER 2017**

**South Somerset District Council**

**Minutes** of a meeting of the **Regulation Committee** held at the **Council Chamber Council Offices Brympton Way Yeovil on Tuesday 21 November 2017.**

(10.00 am - 1.10 pm)

**Present:**

**Members:**

Clare Aparicio Paul	Sylvia Seal
Mike Best	Gina Seaton
Neil Bloomfield	Angie Singleton
Tony Capozzoli	Martin Wale
Sarah Dyke	Nick Weeks
David Recardo	Colin Winder

**Also Present:**

Cllr Carol Goodall  
Cllr Val Keitch  
Cllr Linda Vijeh, SCC Ward Member

**Officers**

Jo Boucher	Democratic Services Officer
Paula Goddard	Senior Legal Executive
David Norris	Development Manager
Andrew Gunn	Area Lead (West and North)
Mike Bellamy	Highways Consultant, Development Control
Ben Sunderland	Somerset County Council Highways
Helen Vittery	Somerset County Council Highways

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**1. Apologies for Absence (Agenda Item 1)**

Apologies for absence were received from Councillors Graham Oakes and Peter Gubbins.

In the absence of Councillor Peter Gubbins the Chairman Councillor Angie Singleton proposed and seconded that Councillor Mike Best be elected as Vice-Chairman for the duration of the meeting. This was agreed unanimously by members.

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## 2. **Declarations of Interest (Agenda Item 2)**

Councillors Clare Aparicio Paul, Mike Best and Neil Bloomfield, all declared a personal interest in Agenda Item 4 – Land South West of Canal Way, Ilminster as they are Somerset County Councillors and the site is owned by SCC.

Councillor Angie Singleton wished to declare that her portfolio is Spatial Planning Policy but as this is a quasi-judicial procedure holds no personal interest in Item 4 – Land South West of Canal Way, Ilminster.

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## 3. **Public Question Time (Agenda Item 3)**

There were no questions from members of the public.

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## 4. **Planning Application: 16/05500/OUT - Land South West of Canal Way, Ilminster. (Agenda Item 4)**

### ***Application Proposal: Land South West of Canal Way, Ilminster***

The Area Lead West presented the application as detailed in the agenda and with the aid of a power point presentation showed the site and proposed plans. He also updated members on the following:

- Over 100 letters of objections had been received reiterating the issues and concerns previously raised regarding the impact the proposal would have on the highways, visual impact and overall infrastructure, landscape, drainage impact on local amenities and overall number of proposed housing.
- One further letter of objection received from Campaign to Protect Rural England (CPRE) objecting to scale, balance of jobs to housing and future housing requirement referring to the local plan review currently being carried out.
- Additional amended plans had been received from the applicant addressing the key issues in response to issues previously raised.
- Following the Area West Committee and the concern regarding the submitted transport assessment the SSDC Highway Consultant has now viewed this assessment and considers it to be acceptable and have no significant adverse impact on the highway network. He also considered the single point access be acceptable along with the access for emergency vehicles.

He noted that there was now no development proposed within the parish of Donyatt and explained the primary site access onto Canal Way, the proposed emergency access and the proposed drainage layout plans of the site.

He explained as this application was for outline planning permission the plans shown were indicative. He noted a number of issues identified in his report from consultees however these would be resolved at future reserved matters stage should the application be approved.

The Area Lead West referred to the key considerations and noted the application is located within the identified direction of growth. He said that the proposed number of dwellings would exceed the current Local Plan figure for the number of housing in Ilminster by approximately 50%. He confirmed there were no objections from statutory consultees including the highways authority following amendments made by the applicant and therefore they now consider the scheme acceptable.

He also noted that the Council is not currently able to demonstrate a 5 year land supply of housing and that Ilminster is classified as one of the districts larger settlements that sits in the 2<sup>nd</sup> hierarchy behind Yeovil.

He noted the proposed site is situated in flood zone 1 and that the Environment agency assessed the site and were satisfied it would not be at risk from sea or river flooding. He did however appreciate the issues of surface flooding on the northern part of the site and confirmed this would be where the relevant drainage and attenuation ponds would be located and that no housing would be built in this particular location.

The Policy Planner also explained to members the current assessment and figures regarding the balance of jobs to housing and believed that Ilminster has a high level of self-containment with employment rates higher than the national average.

The Area Lead West considered that the principle of development on this site was acceptable, in a sustainable location and the scheme would make a contribution of 35 % affordable housing plus contributions towards education, play and sport facilities. He therefore concluded that after considering all of the responses and advice, as outlined in the agenda report, he believed the proposal would not have any significant impact that demonstrably outweighs the benefits of the scheme. His proposal was therefore to approve the application subject to the conditions as set out in the agenda report.

In response to questions from members, the Area Lead West, Development Manager and Highways Officer confirmed that:

- A site visit had taken place prior to the committee where the vast majority of members had been able to walk the proposed site location.
- If member's were to approve this outline application a reserved matters application would still need to be submitted and approved with full details before full permission is granted. Reserved matters would be subject to a new application and sent out for public consultation under the normal procedure.
- Public footpaths run both within and on the boundary of the site and therefore some sections will need to be diverted. The Somerset County Council (SCC) Rights of Way Service Manager has not raised any objection to the scheme.
- Members should consider the current statutory adopted Local Plan; however the Council does not have a current five year land supply and therefore the National Planning Policy Framework (NPPF) states where this is not the case these policies should still hold some regard and therefore members need to consider the weight of these policies when coming to a decision.
- Highways had originally raised an objection to the single access from Canal Way however following further details received from the applicant to mitigate additional measures they now consider the scheme to be acceptable along with the proposed access for emergency vehicles.
- The key priority is to deliver the Council's 5 year land supply and this site has already been one of the sites identified for achieving this.

- The applicant would need to ensure an approved drainage water scheme to safeguard the discharge for surface water. Also there was the likelihood of the Council setting up a Management Company to take on areas of open space and the management of drainage ponds etc. on this site.
- Detailed pre-application discussions are already being held regarding the proposed new school with the expectation that an application will be submitted in the new year. However the proposed school is not included as part of this application.
- SSDC would liaise with the lead Flood Authority to ensure the sustainable drainage system (SuDs) is fully inspected and maintained.
- The scheme would make a significant financial contribution for the proposed school however SCC are responsible to provide the education for this scheme and the trigger point would depend on existing capacity within the area.

As County Division Member, Councillor Linda Vijeh questioned the voting rights of a member of the Regulation Committee who had declared an interest as a Somerset County Councillor but was also a junior cabinet member. She also believed that as SCC has a financial interest in the scheme there should have been an independent highway report carried out. She referred to the lack of adequate broadband facilities in the area, the issues for local house owners to obtain sufficient insurance due to flooding problems and that SCC state that there is currently no shortage of school places in the area especially at primary school age. She also believed too much emphasis has been made the 5 year land supply as 71 other local authorities do not currently have a five year land supply.

The Senior Legal Executive advised that members who also sit on County Council committees may hold a personal interest; however this is not pecuniary to them personally and therefore can participate in the debate with an open mind.

The Highways Officer confirmed that as the Highway Authority they have a statutory duty to respond to planning application independent of any other business taking place elsewhere within SCC.

Ward member, Councillor Carol Goodall, reiterated the flooding issues and concerns within the area and the insufficient broadband facilities. She raised concern regarding previous unsatisfactory surface water drainage systems currently managed by the developer and the lack of the continued maintenance.

Ward member, Councillor Val Keitch raised concern regarding the access and other highway issues and noted the original objection from the Highway Authority. She said of the current difficulties obtaining a doctor's appointment at the surgery and the lack of employment opportunities within the town. She believed the number of housing was well above the acceptable figure already allocated and the overall scale of the development. She believed it to be a dormitory village tacked onto the side of the town which would require residents to use cars and would have a significant impact on the road network and its local facilities.

The Highways Officer explained the initial objection made based on shortcomings of the assessment and layout of the development, however the applicant had overcome these concerns and therefore now recommended approval.

The Development Manager appreciated concerns regarding the impact on local amenities such as the doctor's surgery. He believed there are many reasons why there may be a deficiency in services however much of this was not within the control of the developer.

He confirmed consultation had taken place with Clinical Care Commissioning Group who confirmed that there is no evidence to suggest there was an issue in Ilminster.

Mr A Shearman of Ilminster Town Council referred to the South Somerset supplement profile stating flooding and infrastructure could not cope and that the town overall was under served by public transport. He appreciated some development but considered this scheme to be grossly overdevelopment increasing the town by 10% and that the proposal clearly does not have support from the local community.

The Committee were then addressed by 15 members of the public who were objecting to the development. Their comments included:

- The development would have a huge adverse impact on the character of the landscape and ancient ridge.
- Proposal is overbearing by its layout, density and height.
- Not enough areas of open space within the proposed scheme.
- Lack of confidence with Persimmon Homes that they will mitigate the concerns regarding existing drainage problems on the site.
- 400 houses is too many for one site in Ilminster.
- Proposal would have a severe impact on the visual amenity of the area and its historic delightful views.
- Ancient site with prehistoric and artefacts being found onsite and considered the Archaeological assessment to be inadequate.
- Road would cut through the cycle path, thus raising safety issues for users.
- Local Plan states that heritage of town is important and to retain its character.
- Impact on wildlife and the disturbance of the Great Crested Newt.
- The networks of cycleways and footpaths will be harmed.
- Local schools already overstretched with no guarantee a new school would be built.
- Number of houses proposed far exceeds the local plan requirement of 496.
- Would have a significant increase on the number of cars and traffic on local roads.
- Only one entrance and exit to the proposed development will create major traffic problems on to Canal Way.
- There was no car park for the recreation ground so Canal Way was already full of parked vehicles.
- Safety concerns regarding sharing the access with the medical centre and new school.
- Will increase the flooding risk of nearby houses as downstream conditions would be exacerbated by this development.
- The site is too far for residents to walk to the town centre therefore increasing the number of cars on the local roads.
- Development would mean a huge amount of traffic traveling through the Adams Meadow housing area.
- Canal Way already used as a rat run for cars and therefore safety concerns for pedestrians.
- Inadequate access for emergency vehicles.
- Already have proposed new homes in the town and surrounding parishes therefore understood that only another 112 was required.
- Appreciate the need for housing but why should Ilminster be dumped on and suffer.
- Concerned at the impact on local amenities such as the Doctors and Dentist surgery and the car parks within the town centre.

- Could have an adverse effect on the social impact of Ilminster as could change the small town forever.
- Questioned Somerset County Council's relationship with the developer Persimmon Homes and the procurement process carried out.
- Could set a precedent with more applications coming forward should this be approved.
- Large number of housing being approved so early within the adopted Local Plan. This should be a long term benefit and therefore no need to approve all now.
- Should use existing redundant sites first –Horlicks.
- Proposed first phase of 120 houses considered more acceptable.
- Problems with the flooding of ditches with grills permanently blocked, with local residents taking to unblocking these themselves.

Mr B Smith, the agent for the applicant, noted there were no objections from the statutory consultees and therefore considered the development to be acceptable. He acknowledged the drainage concerns but confirmed the drainage system would be maintained and managed by a management company and that the provision of the two zebra crossing points would alleviate any highway concerns. He said they would be happy to work with SCC to bring the proposed school application forward as early as possible and noted the applicants financial contribution of £1.2 million allocated for the school.

In response to a members question the Area Lead West confirmed that this application is for up to 400 dwellings and that is what members have to consider at this time. He explained this could be reduced in the future but that it was for members to consider this application for up to 400 dwellings.

The Senior Legal Executive advised that should a challenge be made to SCC regarding the legal process undertaken for the option of land, this would be a separate issue and does not preclude members from determining the application at this time. The process by which Somerset County Council disposed of the land was not an issue that can be given any weight by the Local Planning Authority. Should such a challenge be made the applicant may then be stopped from developing until the dispute is determined.

During members' discussion, varying points were raised including the following:

- 400 homes significantly higher than the currently approved figure.
- Prospect of a soulless development.
- Appreciate the need for development but this scheme would have a severe visual impact on the local countryside.
- We have responsibility to build new homes especially with the current number of homeless and young people trying to buy first homes.
- Proposed development is located within the proposed direction growth.
- Ilminster is an excellent vibrant town with high employment opportunities.
- Appreciate the issues raised however believe the conditions imposed would mitigate many of these concerns.
- Should look to adhere to the current Local Plan and its policies and therefore the number of proposed dwellings far exceeds the proposed number for this area.
- Would have preferred a lower number of houses and unfortunate this application cannot be approved with a reduced number of housing.
- Safety concerns regarding the proposed emergency access at Adams Meadow.
- One access is not enough to serve this development – look to relocate a second access further along Canal Way.



- Sought assurance that the proposed drainage scheme would be maintained and managed appropriately by a management company.
- Sought assurance that the proposed buffer zone be significantly wide and exceeds the standard width.
- Should take account of other developments within the district and learn from these problems including flooding and surface water run-off and traffic safety issues.
- Safety concerns regarding sharing the access with the medical centre and new school with all persons using the same access.
- Appreciate the concerns raised, however all statutory consultees consider the proposal to be acceptable and therefore need to adhere to their professional response and advice.
- Mindful of planning appeal costs nonetheless should not be fearful of such due to the proposal significantly exceeding the number of proposed dwellings than the currently approved figure in the Local Plan.
- Noted the objection from the Area West Committee and the local Parish Council.
- Appreciate this was an outline planning permission and that should the application be approved detailed matters including the layout of the scheme will need to be decided at reserve matters application stage.
- Localism – the need to consider and take account of the views of the local people.

In response to members, the Development Manager advised that:

- The adopted Local Plan was there to facilitate growth and that Canal Way had been identified as a suitable location for the direction of growth.
- Confirmed a review of the currently adopted Local Plan was being undertaken, however need to be guided by the Local Plan and planning policies at the present time.
- Confirmed all statutory consultees had been consulted and concluded that having taken into consideration all of the responses and advice, as outlined in the agenda report, believed the proposal would not have any significant impact that demonstrably outweighs the benefits of the scheme.

During a short debate, members discussed and suggested reasons for refusal. These included:

- Harmful to the landscape and detrimental to the local plan.
- Overdevelopment and density of the site.

Following a short adjournment to finalise and agree the full wording of the reasons for refusal, the Development Manager read out two proposed reasons for refusal as follows:

1. The proposed development would by reason of its scale have an adverse impact upon the landscape of the area contrary to the relevant policy of the Local Plan.
2. The proposed development by reason of its scale would have an adverse impact upon the settlement hierarchy contained in the Local plan and would therefore be contrary to the relevant policies.

This was then proposed and subsequently seconded that planning permission be refused, contrary to the officer's recommendation for the reasons as read out by the Development Control Manager.

On being put to the vote this was taken as 5 votes in favour, 5 against and 1 abstention. The Chairman then provided her casting vote against refusal of the application and therefore this proposal was lost.

It was then proposed and subsequently seconded that permission be granted as per the officer's recommendation as set out in the agenda report. On being put to the vote this was carried by 6 votes in favour, 5 against and 0 abstentions.

#### **RESOLVED:**

That application **16/05500/OUT** be approved for the following reason:

01. It is considered that the proposed scheme would provide a sustainable development with good access to a range of services and facilities. It will make an important contribution towards meeting the district's housing needs, including 35% affordable housing, it would provide a safe means of vehicular and pedestrian access, would not adversely harm residential amenity, ecology or the local landscape and would satisfactorily mitigate for surface and foul water drainage. The proposal is in accord with PMT3, SD1, SS1, SS5, SS6, HG3, HG5, TA4, TA5, TA6, HW1, EQ1, EQ2 and EQ4 of the adopted South Somerset Local Plan, the Core Planning Principles and Chapters 6, 7, 8, 10 and 11 of the National Planning Policy Framework.

#### **SUBJECT TO THE FOLLOWING:**

01. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To accord with the provisions of Article 4 (Article 5) of the Town and Country Planning (Development Management Procedure) Order 2015.

02. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

03. For each phase of development, approval of the details of the layout, scale, external appearance, internal floor levels of the building(s), the means of access thereto and residential boundary treatments, shall be obtained from the Local Planning Authority before any development is commenced.

Reason: To accord with the provisions of Article 4 (Article 5) of the Town and Country Planning (Development Management Procedure) Order 2015.

04. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing

before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

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

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local plan.

06. No work shall commence on the development site until works to the roundabout on Canal Way, changes to the access to the doctors surgeries and first part of the spine road, providing access to the school (as shown generally in accordance with drawing number: 28326/5503/001) have been carried out in accordance with a design and specification to be approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

07. There shall be no commencement of development until details of the new zebra crossings have been submitted to and approved in writing by the LPA; with no occupation of the school or 25 dwellings (whichever is the soonest) until the works have been carried out in accordance with the approved design and specification.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

08. Details of the emergency access (as shown generally in accordance with drawing number: 28326/5503/002) shall be submitted to and approved in writing, prior to the commencement of any dwelling within that phase of development. The emergency access shall then be fully constructed in accordance with the approved design and specification.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

09. Before any work is commenced a programme showing the phasing of the development shall be submitted to and approved in writing by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

10. In the interests of sustainable development none of the dwellings hereby permitted shall be occupied until a network of cycleway and footpath connections has been constructed within the development site in accordance with a scheme to be

submitted to and approved in writing by the Local Planning Authority in accordance with the approved phasing plan.

Reason: In the interests of highway safety and to promote sustainable modes of travel to accord with Policy TA5 of the South Somerset Local Plan.

11. No work shall commence on the development site until an appropriate right of discharge for surface water has been obtained before being submitted to and approved in writing by the Local Planning Authority. A drainage scheme for the site showing details of gullies, connections, soakaways and means of attenuation on site shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of highway safety to accord with Policy TA5 of the South Somerset Local Plan.

12. The development hereby permitted shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with Somerset County Council). The plan shall include construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of public transport amongst contractors. The development shall be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: In the interests of highway safety and to minimise the impact of construction activities on local residents to accord with Policy TA5 and EQ2 of the South Somerset Local Plan.

13. The dwellings hereby permitted shall not be occupied until parking spaces in accordance with SCC parking strategy has been provided in a position approved by the Local Planning Authority. The said spaces and access thereto shall be properly consolidated and surfaced, and shall thereafter be kept clear of obstruction at all times and not used other than for the parking of vehicles or for the purpose of access.

Reason: In the interest of highway safety to accord with Polciy TA5 of the South Somerset Local Plan.

14. For each phase of the development, no development hereby permitted shall be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls, roofs and rainwater goods have been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenity of the area to accord with Policy EQ2 of the South Somerset Local Plan.

15. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs a) and b) below shall have effect until the expiration of (IN) from the date of occupation of the building for its permitted use.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason: To protect trees during construction of the development.

16. In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development and development must be halted on that part of the site. If the LPA considers it necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with the NPPF.

17. The development shall not be commenced until a foul water drainage strategy is submitted and approved in writing by the local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker
- a drainage scheme shall include appropriate arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development phasing
  - the drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the local planning authority.

Reason: To ensure that the development is adequately drained to accord with the NPPF.

18. The development hereby approved shall be carried out in accordance with the following approved plans:  
Drawing numbers: 2016 - ILLM P2, 28326/5503/001/A and 28326/5503/002.

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

19. No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with 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. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- 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 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 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 system of surface water drainage and that the approved system is retained, managed and maintained in accordance with the approved details throughout the lifetime of the development, in accordance with paragraph 17 and sections 10 and 11 of the National Planning Policy Framework, Paragraph 103 of the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework (March 2015).

20. The first reserved matters application to be submitted shall include the following details:
- a) a design code for the development;
  - b) a detailed masterplan for the whole site, including outline landscape treatment, and;
  - c) a public space proposal, inclusive of access detail, and site management prescriptions.
  - d) compensation habitat for the loss of dormice habitat and great crested newt.
  - e) an appropriate dormouse habitat corridor running east -west along the southern boundary

Reason: To ensure that a satisfactory design and layout is achieved and appropriate ecological mitigation is secured to accord with Policies EQ2 and EQ4 of the South Somerset Local Plan.

**Informatives:**

- 01. In regard to condition no 20, the applicant is strongly advised to enter into discussions with the Local Planning Authority prior to the submission of any reserved matters application.
- 02. In regard to the highway works, the applicant is advised to contact the Highway Authority as soon as practicable in order that the appropriate legal agreement can be completed prior to the commencement of highway works.
- 03. Please be advised that subsequent full or reserved matters approval by South Somerset District Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice.

You are required to complete and return Form 1 Assumption of Liability as soon as possible and to avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place Please complete and return Form 6 Commencement Notice. You are advised to visit our website for further details <https://www.southsomerset.gov.uk/cil> or email [cil@southsomerset.gov.uk](mailto:cil@southsomerset.gov.uk)

(voting: 6 in favour, 5 against, 0 abstentions)

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**5. Date of Next Meeting (Agenda Item 5)**

The next scheduled meeting of the Regulation Committee is on Tuesday 19<sup>th</sup> December 2017 at 10.00am. However this meeting will only take place if there is business to conduct.

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Chairman

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Date

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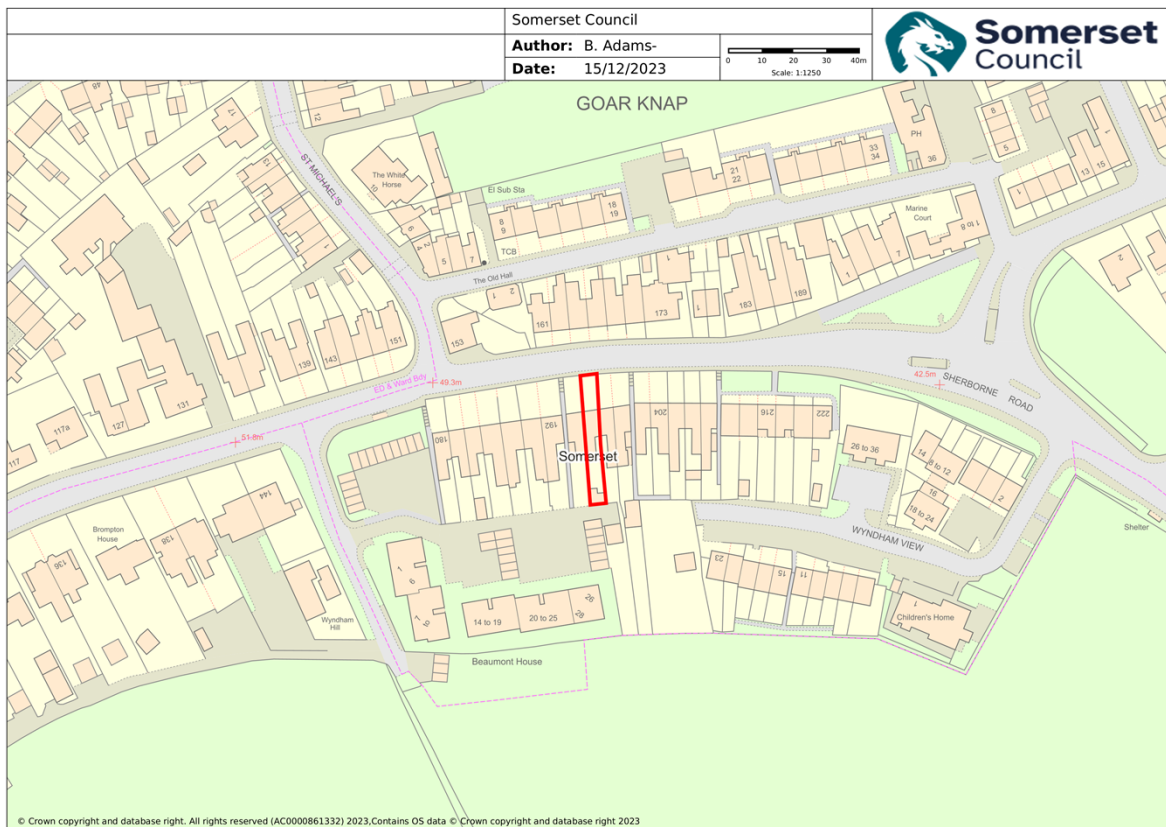
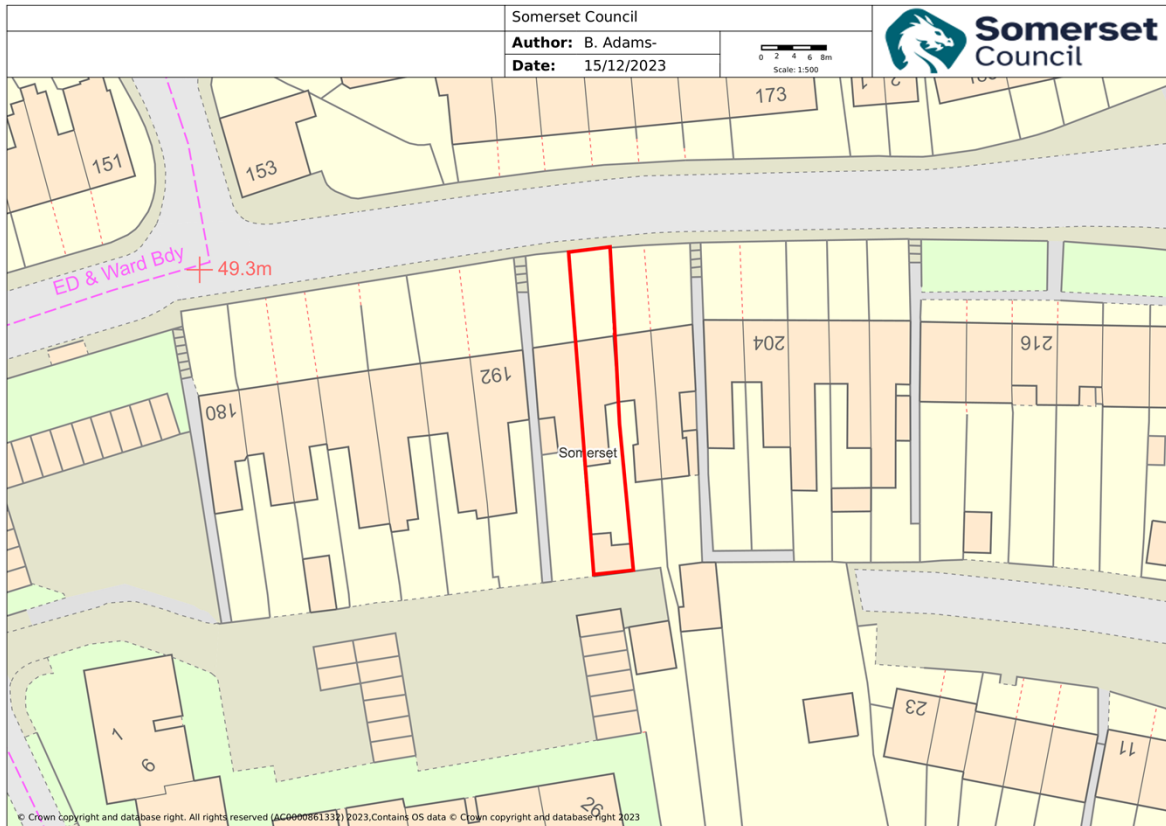
## Officer Report On Planning Application: 23/02163/COU

<b>Proposal:</b>	Change of Use from C3 Residential to C4 HMO (no external changes).
<b>Site Address:</b>	196 Sherborne Road, Yeovil, Somerset, BA21 4HL
<b>Parish:</b>	Yeovil
<b>YEOVIL EAST Division</b>	Cllr Tony Lock, Cllr Graham Oakes
<b>Recommending Case Officer:</b>	Debbie Redding (Specialist)
<b>Target date:</b>	13th December 2023
<b>Applicant:</b>	Mr Max Rowswell
<b>Agent: (no agent if blank)</b>	Mr Thomas Maunder, 40 Hawks Rise, Yeovil BA22 8XT
<b>Application Type:</b>	Other Change Of Use

### REASON FOR REFERRAL TO COMMITTEE

In line with the adopted scheme of delegation, this application was referred to the Chair and Vice Chair of Planning Committee South as Yeovil Town Council objected to the proposal which is contrary to the officer recommendation. After consideration by the Chair and Vice Chair, it was decided that the application be referred to the Planning Committee to discuss the relevance of the HMO Article 4 Direction, parking standards and impact on residential amenity.

# SITE DESCRIPTION AND PROPOSAL



196 Sherborne Rd is located within the Development Area of Yeovil, Flood zone 1 and the catchment area of the Somerset Levels and Moors. Sherborne Road is an A class road (A30) being a main route into the town centre. The site is also covered by an Article 4 Direction for Houses in Multiple Occupation which removes permitted development rights and therefore requires the submission of a planning application for a change of use.

The existing property comprises a 3 storey, 4-bedroom terraced dwelling. This application seeks to change the use of the property to a House in Multiple Occupation with 6 bedrooms. This would consist of 4 large rooms with en-suites on the ground and first floors and a further 2 rooms on the Second Floor with a shared bathroom. On the ground floor is a Kitchen / Dining / Living Space. The area of each room would be in accordance with the Somerset HMO regulations. Work to provide this accommodation would be internal only being the installation of en-suites on the ground floor and removal of an internal wall to create the kitchen/dining/living space.

Externally the property is set back and raised above the road level, with a front garden accessed via steps from the pavement. To the rear the property borders the access and car park of a flat development known as Beaumont House. The Beaumont House access is used by several properties in Sherborne Road to gain access to the rear, including car parking. No 196 has one existing car parking space at the rear and access to the rear garden, which also includes a cycle store. No external changes to the building, access or garden are proposed.

The agent has provided the following information in support of the application:  
*Historically this property has been used as temporary housing accommodation and has also struggled with squatters using the property for unlawful activities. Generally, the property was in very poor condition when purchased by my client and had been having a poor impact on the surrounding area and community. To clarify, these rooms will be marketed without parking and aimed at young professionals working in the town centre and hospital, both of which are within walking distance of the property. It is intended that most of the HMO rooms will be provided with their own En Suite, and the rooms will also come newly decorated and furnished. I believe this shows the intent to provide a high level of renovation and associated rooms to market. My client intends to let these rooms himself and retain ownership of the property. As such, the tenants these rooms will be let to will be vetted to ensure there is no detrimental impact either to the local area, or to my clients' hard work in renovating this property.*

## **RECENT HISTORY**

None.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006-2028 (adopted March 2015).

SD1 Sustainable Development  
SS1 Settlement Strategy  
TA5 Transport Impact of new Development  
TA6 Parking Standards  
EQ1 Addressing Climate Change in South Somerset  
EQ2 General Development  
EQ4 Biodiversity

### National Planning Policy Framework 2019

Chapter 2 Achieving Sustainable Development  
Chapter 4 Decision Making  
Chapter 5 Delivering a Sufficient Supply of Homes  
Chapter 9 Promoting Sustainable Transport  
Chapter 12 Achieving Well-Designed Places  
Chapter 15 Conserving and enhancing the natural environment

### Planning Policy Guidance

Somerset County Council Parking Strategy (March 2012)

## **REPRESENTATIONS**

4 letters of objection have been received that raise the following concerns:

- Vehicle access to the rear is via a private road which is abused by Sherborne Rd properties

- Residents' safety and security
- Insufficient parking
- Fire risk
- Noise and disturbance to neighbours
- Too many HMOs in the area covered by Article 4 direction
- Property too small for HMO occupied by unrelated people
- Additional traffic and highway safety
- Insufficient garden and amenity space for residents

## **CONSULTATIONS**

### Yeovil Town Council :

Object on the grounds of inadequate parking and servicing areas; unsuitable access arrangements and unacceptable traffic generation; an unspecified number of cycle parking spaces; and an overdevelopment of HMOs occurring on Sherborne Road reaching a threshold that potentially will have a negative impact on the local community.

### Highway Authority :

Standing advice applies.

### Ecology :

As this is changing from 1 dwelling to a 6 bed HMO, there is no change in phosphate levels according to the somerset phosphate budget calculator (anything above 6 beds would constitute a change in the budget calculator).

Therefore, the proposed application is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore, a Likely Significant Effect under The Conservation of Habitats and Species Regulations 2017 (and as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) can be ruled out.

Please attach the following condition:

1. 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:

- A Beaumaris Woodstone maxi bat box (or similar) will be mounted at least four metres above ground level and away from windows, on the south and/or west facing elevations and maintained thereafter.
- Two Sparrow Terraces (or similar) directly under the eaves and away from windows on the north and/or east elevation and maintained thereafter.
- 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, and the Draft Environment (Principles and Governance) Bill 2018.

Please attach the following informatives to any planning permission granted:  
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 (as amended). 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.

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.

## **CONSIDERATIONS**

### **PRINCIPLE OF DEVELOPMENT**

Sherborne Road is in the Development Area of Yeovil which is identified as a Strategically Significant Town and the focus for development. This is a sustainable location with good access to the town centre and facilities. As such residential uses are acceptable in principle.

Houses in Multiple Occupancy (HMOs) provide accommodation for unrelated people with shared facilities as opposed to self-contained flats. HMOs with 5 or more occupants are required to be licensed which oversees the standard of accommodation, fire safety and management regulations.

HMOs provide an element of the private rented housing market for which there is on-going demand.

However, the Article 4 direction in Yeovil acknowledges that there are areas of the town with a disproportionate balance of HMOs where planning applications need to be considered to assess the impact and suitability of the change of use which in other areas would be permitted development.

Sherborne Road does include several HMOs with 6 licensed properties in relatively

close proximity to the application site. Most of these are larger properties with the two largest having 10 and 14 occupiers at Nos 187 and 188 respectively. Other properties in the area have been converted to self-contained flats.

Although within the area covered by the Article 4 Direction the change of use now proposed must be considered on its merits and the impact of the proposal in this location and the surrounding area. In particular, this proposal would be for 6 bedrooms in a traditional terraced house and the occupancy would not necessarily increase significantly from a family home. Therefore, in terms of occupancy and activity this would not have an adverse impact upon the residents or surrounding properties.

### SCALE AND DESIGN

The scale and appearance of the property would not change as only internal alterations are needed to implement the proposed change of use. Therefore, the visual appearance and impact of the proposal on the character of the surrounding area would be acceptable.

### HIGHWAYS ACCESS AND PARKING

Pedestrian access to the property is from Sherborne Road, which would not change. This provides access for all occupiers and the communal use of the ground floor allows access to the rear garden area and which has space for bin and cycle storage. Cycle parking should be provided at 1 space per bedroom and can be secured by condition.

The access to the rear of the property via Beaumont House has been in use for many years and provides one car parking space. This has however been queried in representations and it is understood this is a private road and as no formal right of way is afforded to the property. Therefore, the use of this access and parking cannot be relied upon.

However, in this sustainable location close to the town centre occupiers would not be reliant on private motor vehicles; alternative modes of transport would be available for walking and public transport, and the provision of cycle storage would encourage cycling.

The Somerset Parking Strategy does acknowledge that the specified car parking standards are optimum and in sustainable locations can be reduced. Therefore refusal on the grounds of insufficient on-site car parking would not be justified.

## RESIDENTIAL AMENITY

The accommodation provided would be acceptable for 6 occupiers as proposed and licensing would ensure standards and management requirements are met.

Some concern regarding noise and disturbance to neighbours has been raised but the occupancy level and activity is not likely to result in an adverse impact on their residential amenity.

## ECOLOGY

The comments of Somerset Ecology are noted and in particular the proposal is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site. Therefore, no mitigation regarding the impact of phosphates is required. In addition, conditions and informatives are suggested to ensure no harm and enhancement to protected species.

## CONCLUSION

The conversion of this property into a 6 person HMO would provide acceptable accommodation for future residents in a sustainable location with good access to the town centre and public transport. On-site parking would not be essential and the size of the accommodation and resulting activity would not result in unacceptable impact on the surrounding area, or neighbours in terms of noise or disturbance.

Overall, the location, use and impact on the surrounding area is acceptable and in accordance with planning policy.

## RECOMMENDATION

Grant permission.

01. The conversion of this property into a 6 person HMO would provide acceptable accommodation for future residents in a sustainable location with good access to the town centre and public transport. On-site parking would not be essential and the size of the accommodation and resulting activity would not result in unacceptable impact on the surrounding area, or neighbours in terms of noise or disturbance.



**SUBJECT TO THE FOLLOWING:**

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

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in accordance with the following approved plan reference:

2037-101 Proposed location plan, site plan and floor plans.

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

03. Prior to first occupation of the development here by approved secure cycle parking for 6 cycles shall be provided on site in accordance with details to be submitted and approved in writing by the Local Planning Authority, and thereafter the cycle parking shall be retained as approved.

Reason: To encourage alternative sustainable transport options.

04. 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:

- A Beaumaris Woodstone maxi bat box (or similar) will be mounted at least four metres above ground level and away from windows, on the south and/or west facing elevations and maintained thereafter.
- Two Sparrow Terraces (or similar) directly under the eaves and away from windows on the north and/or east elevation and maintained thereafter.

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, and the Draft Environment (Principles and Governance) Bill 2018.

**Informatives:**

01. 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 (as amended). 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.

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.

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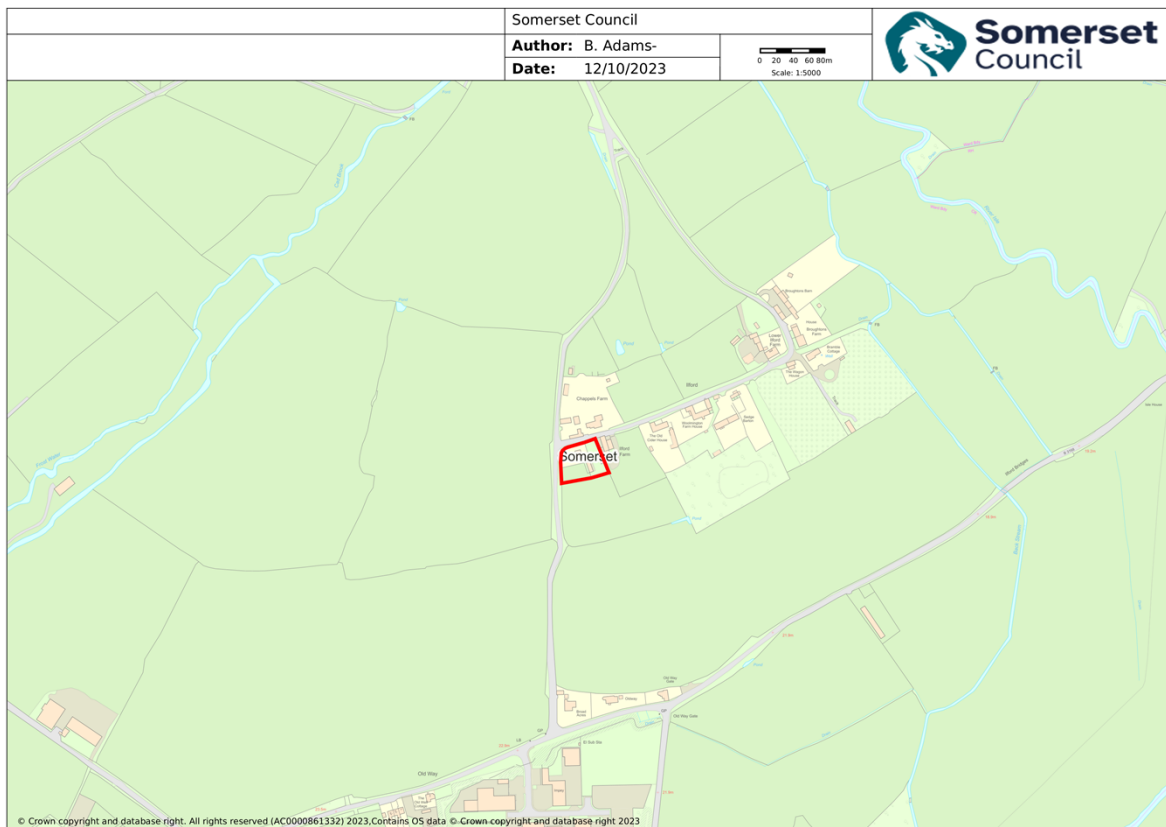
## Officer Report On Planning Application: 23/01939/FUL

<b>Proposal:</b>	Change of use of adjoining land to residential, erection of extensions and alterations to property in order to create a multi-generational dwellinghouse, erection of a detached garage
<b>Site Address:</b>	Ilford Farm, Ilford Lane, Ilton, Ilminster, Somerset, TA19 9EB
<b>Parish:</b>	Ilton
<b>SOUTH PETHERTON AND ISLEMOOR Division</b>	Cllr Adam Dance Cllr Jo Roundell Greene
<b>Recommending Case Officer:</b>	Greg Lester (Specialist)
<b>Target date:</b>	22nd September 2023
<b>Applicant:</b>	Mr And Mrs Brister And Mr And Mrs Dunn
<b>Agent: (no agent if blank)</b>	Mr R Smith, Alan J Young Ltd, The Lodge, Penn Mill, Yeovil BA20 1SF
<b>Application Type :</b>	Minor Other less than 1,000 sq.m or 1ha

### REASON FOR REFERRAL TO COMMITTEE

This application is referred to the Planning Committee as the applicant is a member of Staff within the Planning Service area. As such it is not considered appropriate for determination under the Council's scheme of delegation.

# SITE DESCRIPTION AND PROPOSAL



The site comprises a detached residential dwelling, with residential properties located to the north and east, and agricultural land laying to the south and west of the site. The property currently benefits from an enclosed garden, bounded by high screen hedging. An existing garage is located to the east of the property, served by an existing access from Ilford Lane.

A Grade II listed property lies beyond an existing group of buildings to the east at a distance of approximately 100 metres.

Existing residential properties in the vicinity vary in design, size and layout and benefit from varying sizes of residential curtilage, with the site subject of this application arguably the least generous.

The proposal seeks full planning permission to enable a change of use of land of a portion of agricultural land located to the south and east of the property, incorporating part of the land around the site including the site of an existing garage, part of the access and an area located beyond the existing residential curtilage utilised for what appears to be the growing of produce.

As well as a change of use of land, the proposals also seek to extend the existing property to enable its use for multi-generational living. Part of the extension proposed falls on land outside the current curtilage. The proposed extension is located to the south of the existing property, and would comprise of a two-storey addition to provide two bedrooms and a bathroom at first floor level; along with a living room, utility area, home office and wet room to the ground floor. The extension would be linked to the host dwelling by way of a single storey extension forming a garden room. A small ground floor extension to be utilised as a boot room is proposed to the north elevation.

A detached garage is also proposed to the east of the dwelling, in broadly the same area as the existing garage

## **RECENT RELEVANT HISTORY**

15/05013/S73: Section 73 application to vary conditions 5 and 11 (approved plans) of planning approval 15/00139/FUL by substitution of revised plans - permitted with conditions  
(revised design)

15/00139/FUL: Conversion and change of use of a barn into a single detached

dwellinghouse, formation of a vehicular access and parking area together with the change of use of land to domestic garden / curtilage - Permitted with conditions.

11/04144/FUL: Application for a new planning permission for the conversion of barn to a single unit of holiday accommodation to replace extant permission 08/03899/FUL to extend the time limit for implementation - Permitted with conditions.

08/03899/FUL: The conversion of barn to a single unit of holiday accommodation - Permitted with conditions.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006-2028 (adopted March 2015).

Policy SD1 - Sustainable Development

Policy EQ2 - General Development

Policy EQ3 - Historic Environment

Policy EQ4 - Biodiversity

Policy HG8 - Replacement Dwellings and Extensions in the Countryside

Policy TA5 - Transport impact of New Development

Policy TA6 - Parking Standards

### National Planning Policy Framework 2023

Chapter 6: Building a strong, competitive economy

Chapter 12: Achieving well-designed places

Chapter 15: conserving and enhancing the Historic environment

### Planning Policy Guidance

Design

Historic Environment

## **REPRESENTATIONS**

The application was subject to a neighbour notification exercise and a site notice posted. No letters of representation have been received.

## **CONSULTATIONS**

### Ilton Parish Council:

The parish council have no objections to the proposal but make the following observations:

At the time of review by the parish council, no consultee comments were available in relation to ecological impacts. Any recommendations made in this respect should be followed by the applicant.

The parish council believe the proposed design would have no adverse impact on visual amenity or parking/access at the location.

It was noted that comment was made on a previous application at the same location with regards to management of surface water run-off onto the highway. With the introduction of additional property footprint, thus potentially removing natural drainage into the ground, this should be given consideration.

Councillors were supportive of the property being developed for multigenerational use.

Highway Authority: Standing advice applies.

Ecology: No objection subject to conditions for biodiversity net gain.

## **CONSIDERATIONS**

### **PRINCIPLE OF DEVELOPMENT**

National and local planning policies generally support the extension to residential properties, provided they can be considered to be seen as in keeping with their surroundings. In addition, extensions to properties located within the open countryside should not result in a disproportionate addition over and above the existing dwelling.

Given the above, and the proposal being considered acceptable in all other regards, as further explained in this report, the principle of development is considered acceptable.

## SCALE AND DESIGN

The proposal can be broken down into two components: the change of use of land to residential curtilage, and the extension of the existing dwelling and provision of a detached garage.

### Change of use of land

The proposed change of use of land would result in an area of approximately 1488 square metres being changed from an agricultural use to residential. Of this area, a position of the land to the north of the property currently comprises hardstanding/hardcore surfacing providing parking, along with access to what is used as a garage. The area to the south of the dwelling appears to be utilised as an area for the growing of fruit and vegetables, and is surrounded by an area of mown grassland and does not appear to be utilised for agricultural uses, aside from the aforementioned growing of fruit and vegetables.

Other properties in the vicinity benefit from residential curtilages in excess of the size of both the existing and proposed, and whilst the proposed additional area of curtilage is greater than the existing, the site is well contained with hedgerow and has very limited visibility from outside the site. The proposed extension to the curtilage is broadly in-line with those to the east and would not appear excessive when viewed against the existing property.

It is considered the proposals would respect the character and appearance of the area.

### Extensions and detached garage

The extensions proposed to the dwelling would fall to be assessed against the provisions of Policy HG8, which states that: 'Extensions to existing dwellings in the countryside will be permitted where the extension does not result in a dwelling that is disproportionate to the scale of the original dwelling and the size and design of the extension are appropriate to the landscape character of the location.'

The existing dwelling has an existing floor area over two floors of approximately 170 square metres. The proposed extension represents an addition of approximately 200 square metres. Whilst this results in an extension of over 100% of the existing property, the preamble to Policy HG8 directs that account may be taken of any additions which may be made to the existing property as a result of permitted development.



In this case, it does not appear that these rights have been withdrawn, and as such it must be considered as a material consideration to be afforded significant weight in the decision-making process. The property could be extended within the roof space to provide accommodation at second floor level including a hip to gable conversion, along with additional extensions that may be permitted at the rear, including two storey and single storey additions, along with a side extension at ground floor level to the south elevation.

Whilst no such intentions have been expressed, the desire to create a dwelling capable of housing more than one generation of the same family suggests that alternative options would be explored. In the case of permitted development, the Local Planning Authority are unable to exercise any form of control over the design of such a proposal, although materials would need to be similar.

The proposals in this case are shown to be for a subservient extension (although greater in floor area), linked to the existing dwelling with a single storey garden room extension. Materials are indicated as render brickwork and boarding. No details have been provided for the boarding, although a planning condition could be attached to require these details before development proceeds above damp-proof level.

The proposed detached garage would be located in close proximity to an existing group of buildings and is of a design and scale that is considered appropriate to the locality.

Taking into account other material considerations described above, whilst the proposals forming this application would result in an extension that would exceed the size of the original dwelling, on balance the proposals can be regarded as acceptable due to the subservient nature of the design, and the overall form and appearance respecting the host dwelling.

#### HIGHWAYS ACCESS AND PARKING

The proposal will continue to utilise existing accesses to serve the business use and the additional parking is considered not to present any highway safety issues.

#### RESIDENTIAL AMENITY

Given the location of the proposed development in relation to adjoining neighbours, the proposal does not present any neighbour amenity issues.

## ECOLOGY

Subject to the submission of a Biodiversity Enhancement Plan and provision of details for enhancement and replacement planting to compensate for the removal of hedgerow, the proposals are considered to be acceptable. The suggested ecology conditions have been modified to take in to account the retrospective nature of the application.

## FLOOD RISK

The site lies within Flood Zone 1 and the proposal does not present any flooding issues.

## HERITAGE

Given the scale of the proposed works and their location being outside of the listed building curtilage, the proposal is considered not to undermine the setting of any heritage asset in the locality.

## CONCLUSION

The proposal is considered to represent an acceptable form of development that is compatible with the surrounding area. It is considered not to be harmful the character of the area and will not be detrimental to neighbour amenity, highway safety, ecology or heritage.

## RECOMMENDATION

Approve, subject to conditions.

01. The proposal is considered to represent an acceptable form of development that respects the character of the area and causes no demonstrable harm to residential amenity, ecology, heritage or the highway network in accordance with the aims and objectives of relevant policies contained within the South Somerset Local Plan (2006-28) and the provisions of the National Planning Policy Framework 2023.

## SUBJECT TO THE FOLLOWING:

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

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

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

5031/03

5031/04

5031/05

5031/06

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

03. No development above damp-proof course shall commence until samples of the materials to be used in the construction of external surfaces of the development hereby approved have been submitted to and approved in writing by the local planning authority. Development shall be carried out in complete accordance with the approved materials, unless the Local Planning Authority agrees to variation in writing.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with Policy EQ2 of the adopted South Somerset Local Plan 2006 - 2028.

04. Where external lighting is to be installed, prior to installation, a lighting design for bats, following Guidance Note 08/23 - bats and artificial lighting at night (ILP and BCT 2023), 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 should be below 0.5 Lux on key & supporting features or habitats. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with policy EQ4 of the South Somerset District Council Local Plan.

05. A Biodiversity Enhancement Plan (BEP) shall be submitted to the Local Planning Authority within 3 months of the date of this permission, for approval in writing.

Photographs of the installed features will also be submitted to the Local Planning Authority prior to use of the buildings: The content of the BEP shall include the following:

1. At least 1 x Beaumaris Woodstone maxi bat boxes (or similar) will be mounted at least four metres above ground level and away from windows, on the south and/or west facing elevations and maintained thereafter;
2. Provision will be made for nesting swallows, for example within a structure providing shelter, such as an open fronted log store or bespoke box attached to the wall, and with the provision of two artificial nest cups within.
3. At least 1 x swift box (or similar) built onto the wall at least 60cm apart, at least 5m above ground level, ensuring that there is an unobstructed access for birds to enter/leave the box on the east and/or north facing elevations of a building on site.
4. Details of enhancement planting within the site to compensate for the removal of hedgerow.

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, and the Draft Environment (Principles and Governance) Bill 2018.

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order), the use of any existing garage, or garage hereby permitted, as part of this development shall not be used other than for the parking of domestic vehicles and not further ancillary residential accommodation, business use or any other purpose whatsoever unless the Local Planning Authority agrees to any variation in writing.

Reason: In the interests of highway safety, in accordance with Policy TA5 of the adopted South Somerset Local Plan 2006 - 2028.

07. The accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Ilford Farm, Ilford Lane, Ilton, Ilminster, TA19 9EB, unless the Local Planning Authority agrees to variation in writing.

Reason: The establishment of an additional independent unit of accommodation at this location would give rise to the provision of a dwelling in an unsustainable location and lead to an unsatisfactory relationship between independent

dwellings, in accordance with Policy EQ2 of the adopted South Somerset Local Plan 2006 - 2028.

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**Report for Information  
Planning Committee - South**



9 January 2024

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**Appeal Decisions (for information)**

To inform members of the planning appeal decisions received for the Planning Committee - South area since the previous agenda was published (8 December 2023).

**Application No:** 23/00120/HOU  
**Address:** Dairy House Farm, Farm Lane, Buckland St Mary, Chard, TA20 3QZ  
**Description:** Alteration and extension to barn including internal reconfiguration of kitchen/long space.  
**Application Decision by:** Officer delegated  
**Appeal Decision:** Allowed.

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**Application No:** Not applicable  
**Address:** Land at 39 The Avenue, Stoke Sub Hamdon TA14 6QB  
**Description:** Enforcement notice - without planning permission: the stationing of a mobile home within the residential curtilage of a dwelling for the purpose of use as an independent unit of residential dwelling; and the erection of a raised wooden decking area situated to the front of the mobile home.  
**Application Decision by:** Officer delegated.  
**Appeal Decision:** Appeals A & B – both dismissed.

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**Application No:** 22/00302/FUL  
**Address:** Former Radio Station, Watts Quarry Lane, Somerton TA11 7JE  
**Description:** Provision of a single dwelling and double garage with associated access and parking.  
**Application Decision by:** Officer delegated.  
**Appeal Decision:** Dismissed.

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The Inspector's decision letters are shown on the following pages.





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# Appeal Decision

Site visit made on 23 November 2023

**by Alexander O'Doherty LLB (Hons) MSc MRTPI**

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

**Decision date: 11 December 2023**

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**Appeal Ref: APP/R3325/D/23/3322807**

**Dairy House Farm, Buckland St Mary, Chard, Somerset TA20 3QZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Layard against the decision of Somerset Council.
  - The application Ref 23/00120/HOU, dated 15 January 2023, was refused by notice dated 22 March 2023.
  - The development proposed is alteration and extension to barn including internal reconfiguration of kitchen / lounge space.
- 

## Decision

1. The appeal is allowed and planning permission is granted for alteration and extension to barn including internal reconfiguration of kitchen / lounge space at Dairy House Farm, Buckland St Mary, Chard, Somerset, TA20 3QZ, in accordance with the terms of the application, Ref 23/00120/HOU, dated 15 January 2023, and subject to the conditions set out in the attached schedule.

## Preliminary Matter

2. The appeal was submitted against the decision of South Somerset District Council. However, Somerset Council has now taken over the functions of South Somerset District Council. Somerset Council has therefore been named in the banner header, above.

## Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the existing building and on the local area.

## Reasons

4. The appeal site comprises Dairy House Farm, a converted former agricultural building, and its grounds, which includes a kitchen garden, a garden, and a terrace which provides long views over the valley.
5. Dairy House Farm is found within a cluster of other barn conversions of a similar architectural style. In this regard, I observed that the north-western elevation of Butterlaw Cottage, which is clearly visible from within the site, contains extensive amounts of glazing, which gives that part of that building a contemporary feel. Similarly, from within the site I observed another building beyond Butterlaw Cottage which also has a considerable amount of glazing on the elevation which faces the site.
6. In this context, with nearby buildings exhibiting a partially modern aesthetic, the amount of glazing used for the proposed single storey rear extension would

not appear out-of-place. This element of the proposed development would also add interest to the existing building, whilst not overpowering it, due to its simple and elegant form. Moreover, although this element of the proposed development would be domestic in nature, as a single-storey structure it would appear subordinate in height to Dairy House Farm. It would extend the footprint of Dairy House Farm, but not by a significant margin.

7. The other alterations proposed, including a window to the master bedroom, a rooflight to the hallway, and a canopy over the entrance, would all be features of limited scale such that they would not greatly alter the appearance of the existing building when considered as a whole. An element of original building fabric would be lost via the proposed development, but a significant amount of fabric which contributes to the significance of Dairy House Farm as a former agricultural building would remain.
8. Taking all of the above into account, and noting that the proposed materials would complement the agricultural heritage of the building, I consider that the proposed development would appropriately modernise Dairy House Farm, without undermining its historic interest as a former agricultural building.
9. The wider area is rural, with a large expanse of fields interspersed with hedgerow and trees being visible from the terrace on site. However, the site is significantly set-back from public vantage points such that the proposed development would be barely perceptible from beyond the immediate vicinity.
10. I therefore find that the proposed development would have an acceptable effect on the character and appearance of the existing building and on the local area. It would comply with Policy EQ2 of the South Somerset Local Plan (2006 – 2028) (adopted 2015) which provides that, amongst other things, development will be designed to achieve a high quality, which promotes South Somerset's local distinctiveness and preserves or enhances the character and appearance of the district.
11. The proposed development would also comply with paragraph 130 c) of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

### **Other Matters**

12. The conduct of the Council during the processing of the planning application is not a matter that I can assess in the context of a planning appeal.
13. It is common ground between the main parties that the proposed development would not adversely affect the landscape and scenic beauty of the Area of Outstanding Natural Beauty<sup>1</sup> within which the site is located. Given the limited scale of the proposed development in its wider context, I concur with this assessment.

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<sup>1</sup> Since 22 November 2023 Areas of Outstanding Natural Beauty are known as National Landscapes.

## Conditions

14. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework and the Planning Practice Guidance. Conditions are necessary, in the interests of clarity and enforceability, setting out the timescale for the commencement of development (condition 1) and the approved plans (condition 2), respectively.
15. The appellants have suggested that a condition should be imposed to confirm the specification of the facing materials. I have imposed a condition to secure this, in the interests of safeguarding the character and appearance of the existing building and the local area (condition 3).
16. The submitted Ecology Report<sup>2</sup> states that the eaves of the dwelling are used by house martins, with several nests noted to the north-west elevation and to both sections of the dwelling. Given that their nests are protected by law, it is necessary for a condition to be imposed prohibiting construction works between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before works commence and no active birds' nests have been identified (condition 4).
17. As condition 4 provides the necessary protection for any active birds' nests, I have not imposed a condition requiring artificial nest cups to be erected under the retained eaves, as such a condition would not be necessary to make the development acceptable in planning terms, and accordingly would not comply with paragraph 56 of the Framework, which provides that, amongst other things, planning conditions should be kept to a minimum and only imposed where they are necessary. The appellants will nevertheless be aware of the recommendation in this regard contained within the submitted Ecology Report.
18. Similarly, as the Ecology Report states that the dwelling has negligible potential for roosting bats, and the cherry tree mentioned in the Ecology Report is not protected by a Tree Preservation Order, the evidence does not indicate that planning permission would otherwise be refused in the absence of planning conditions relating to bats and trees. Therefore, whilst the appellants will be aware of the recommendations within the Ecology Report in relation to the installation of a bat box and the planting of 2 native fruit trees, conditions relating to these matters are not necessary in the terms of paragraph 56 of the Framework.
19. The Ecology Report does not raise concerns with respect to the effect of any potential light pollution on protected species and given the limited scale of the proposed development, and in the absence of substantive evidence to indicate otherwise, I consider that a condition minimising light pollution is not necessary in this case.

## Conclusion

20. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed.

*Alexander O'Doherty*

INSPECTOR

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<sup>2</sup> Ecology Report (SWE Limited) (November 2022) (SWE Ref: SWE 709)

### **Conditions Schedule**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Drawing No. 005), Site Block Plan (Drawing No. 006), Ground Floor Demolition Plan (Drawing No. 060), First Floor Demolition Plan (Drawing No. 061), Proposed Site Plan (Drawing No. 110), Proposed Ground Floor Plan (Drawing No. 120), Proposed First Floor Plan (Drawing No. 121), Proposed Roof Plan (Drawing No. 122), Proposed North-West Elevation (Drawing No. 130), Proposed North-East Elevation (Drawing No. 131), Proposed South-East Elevation (Drawing No. 132), Proposed South-West Elevation (Drawing No. 133), Proposed Section A-A (Drawing No. 140), Proposed Section B-B (Drawing No. 141), Proposed Section C-C (Drawing No. 142), Proposed Section D-D (Drawing No. 143), Artist's Impression (Drawing No. 150), Artist's Impression (Drawing No. 151), Artist's Impression (Drawing No. 152), Artist's Impression (Drawing No. 153).
- 3) No development above ground works (slab level) shall commence until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details / samples.
- 4) Construction works relating to the development hereby permitted must not commence between 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before works commence and no active birds' nests have been identified. Any birds nesting will be left to complete breeding (i.e. until all dependant juveniles have fledged) before construction works relating to the development hereby permitted shall commence.

### **End of Conditions Schedule**



## Appeal Decisions

Site visit made on 13 November 2023

**by James Blackwell LLB (Hons) PGDip, Solicitor**

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

**Decision date: 13<sup>th</sup> December 2023**

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**Appeal A Ref: APP/R3325/C/22/3309153**

**Appeal B Ref: APP/R3325/C/22/3309154**

**Land at 39 The Avenue, Stoke Sub Hamdon, Somerset, TA14 6QB**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeals are made by Mr Alan Terry (Appeal A) and Ms Mickaela Terry (Appeal B) against an enforcement notice issued by South Somerset District Council.
- The notice was issued on 28 September 2022.
- The breach of planning control as alleged in the notice is without planning permission: the stationing of a mobile home within the residential curtilage of a dwelling for the purpose of use as an independent unit of residential dwelling, shown (in the approximate position) coloured blue on the plan; and the erection of a raised wooden decking area (measuring above 30cm from natural ground level) situated to the front of the mobile home, shown (in the approximate position) coloured green on the plan.
- The requirements of the notice are to: i) permanently cease the unauthorised use of the land by the stationing and use of the mobile home as an independent unit of accommodation; ii) permanently remove the entire unauthorised raised wooden decking area from the land; and (iii) remove any residential paraphernalia, debris or materials arising from compliance with the above requirements from the land.
- The period for compliance with the requirements is three months from the date the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(b) and (d) of the Town and Country Planning Act 1990 as amended (1990 Act).

**Summary decisions: The appeals are dismissed and the enforcement notice is upheld with a correction and variation in the terms set out in the Formal Decisions.**

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### Preliminary Matters

1. Whilst no appeals on ground (c) have been brought, the appellants contend that the mobile home is/was solely used for purposes incidental to the enjoyment of the main dwelling. On this basis, they say this element of the matters alleged in the enforcement notice (EN) would not need planning permission. The appellants further contend that the decking is free-standing, and would again not need permission. These arguments are more akin to a ground (c) appeal, being that the matters alleged do not constitute a breach of planning control. I have therefore addressed this additional ground of appeal in my reasoning.
2. Whilst the appeal property is registered to Michaela Terry, for the purpose of the banner heading, I have used the spelling "Mikaela", as set out in the appeal form.

## Appeals on Ground B and C

3. Pursuant to ground (b), the appellants contend that parts of the matters alleged have not occurred. The appeals on this ground appear limited to the stationing of the mobile home for use as an independent unit of residential accommodation. To succeed on this ground, the burden is on the appellants to demonstrate, on the balance of probability, that the matters alleged have not occurred. As a legal ground of appeal, the planning merits of the alleged development are not relevant. I should also highlight that, irrespective of whether the matters alleged have now ceased, this ground must be determined with regard to the situation as at the time the EN was issued.
4. If the matters alleged have occurred, then the appellants say they do not constitute a breach of planning control. The burden on this ground (c) appeal again falls on the appellants to demonstrate, on the balance of probability, that the matters alleged do not constitute a breach of planning control. The planning merits are again not relevant.

## Main Issues

5. The main issues with regards to the appeals on these grounds are:
  - whether the matters alleged had occurred prior to the EN being issued;
  - whether use of the mobile home is/was incidental to the enjoyment of the main dwelling; and
  - whether the decking constitutes development, and if so, whether it would benefit from any permitted development rights.

## Reasons

### *Mobile Home*

6. A Planning Contravention Notice (PCN) was issued by the Council in April 2022 in respect of the alleged breaches of planning control. Mr Terry's response to the PCN says that the mobile home was first brought on to the site in October 2018. He goes on to say that the mobile home was first used as temporary residential accommodation in March 2020. In themselves, these responses are indicative of the mobile home having been used as an independent unit of residential accommodation at the time the EN was issued.
7. Whilst the appellants originally alleged that the mobile home had always remained incidental to use of the main dwelling (and had not been let out on Airbnb), they have since conceded that it has been let out on Airbnb. Reviews on the website show that the mobile home has been let out as far back as July 2020, long before the EN was issued. Notwithstanding the appellants' comments that the mobile home is no longer used in this way, customer reviews on the website show it has been let out as recently as November 2023, with hundreds of reviews during this intervening period.
8. The mobile home is advertised as suitable for a "little getaway", which is indicative of it being used as a holiday let. It contains all the facilities necessary for day-to-day living, cooking, bathing and sleeping, thereby allowing it to be used independently of the main dwelling. Whilst the advertisement says the host's garden is available for visitors to enjoy, the physical arrangement of the site and the apparent exclusive possession of the mobile home given to

visitors, mean I can be satisfied that it is used independent of the appellants' main dwellinghouse when it is let out.

9. On the available evidence, it therefore seems clear that the mobile home had been used as an independent unit of residential accommodation prior to the EN being issued. This use appears to remain ongoing.
10. Such use would effectively constitute a sub-division of the appeal site to form two separate residential units, and would not be incidental to the enjoyment of the main dwelling. Planning permission would therefore be required for this material change of use (MCU).
11. Insofar as relevant to the stationing of the mobile home for use as an independent unit of residential accommodation, the appeals on grounds (b) and (c) therefore fail.

### *Erection of Decking*

12. The appellants say that the decking would not require planning permission, as it is a free-standing structure which is not fixed to the mobile home. Notwithstanding this position, I observed the decking to be a substantial structure which extends along the entire frontage of the mobile home. It connects into steps to a patio to the rear of the main dwelling, as well as a fence which runs along the rear boundary to this patio. The supporting structures to the decking appear to be dug into the ground, and there are also brackets which connect the raised platform to the mobile home. On account of these factors, the decking has a degree of physical permanence which helps facilitate stable access into the mobile home. From my own observations, the decking would therefore constitute development, as per s55 of the 1990 Act, and no substantive evidence has been presented by the appellants to demonstrate otherwise.
13. As mentioned, use of the mobile home as an independent unit of residential accommodation has effectively sub-divided the appeal site to form two separate planning units. This would mean that the mobile home is no longer within the curtilage of the main dwelling, and any permitted development rights which allow certain development within the curtilage of a dwellinghouse would not be applicable to the mobile home.
14. In any event, the "construction or provision of a verandah, balcony or raised platform" is expressly excluded from the permitted development rights conferred by Article 3 and Classes A and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Given the decking in this instance is raised (measuring above 30cm from ground level), it would therefore not benefit from these permitted development rights if it were within the curtilage of the main dwellinghouse. In turn, the decking would constitute development requiring planning permission.
15. For completeness, there is no suggestion from the appellants that the raised decking had not been erected at the time the EN was issued, and this element of the matters alleged was evident on my site visit. In turn, there is nothing before me to suggest that erection of the decking had not occurred at the time the EN was issued.
16. Insofar as they relate to the decking, the appeals on grounds (b) and (c) therefore also fail.

## **Appeals on Ground D**

17. In terms of the ground (d) appeals, the appellants contend that, as at the date the EN was issued, no enforcement action could be taken in respect of the matters alleged. Whilst this argument appears limited to the decking only, I have addressed both elements of the matters alleged for completeness.
18. As with the appeals on grounds (b) and (c), planning merits are not relevant to the outcome of this ground. The burden again falls on the appellants to demonstrate, on the balance of probability, that the breaches of planning control were immune from enforcement at the date the EN was issued.

## **Main Issue**

19. The main issue with regards to the appeals on ground (d) is therefore whether the matters alleged, or any part of those matters, were immune from enforcement at the time the EN was issued.

### *Mobile Home*

20. As moveable structures, mobile homes are not usually considered as buildings, and there is no suggestion from either party that I should conclude otherwise. Indeed, whilst the decking does add a limited degree of permanence to the structure, the mobile home appears otherwise capable of being moved and transported elsewhere. In turn, I have proceeded on the basis that the mobile home is a caravan and not a building, as defined in s29(1) of the Caravan Sites and Control of Development Act 1960.
21. As per s171B of the 1990 Act, to succeed on this ground, the appellants would therefore need to demonstrate that the stationing of the mobile home for use as an independent unit of residential accommodation, which would constitute a material change of use (MCU) of the appeal site, had subsisted continuously for a period of ten years before the EN was issued. Put another way, the effective sub-division of the site to form two separate units of residential accommodation would need to have subsisted for a period of ten years before the EN was issued.
22. As mentioned, Mr Terry's response to the PCN says that the mobile home was first brought on to the site in October 2018, and that it was first used as temporary residential accommodation in March 2020. Aerial images of the appeal site are consistent with this position, as they show there was no mobile home on the appeal site in June 2018. There is also no suggestion from either party that there was any independent residential use separate from the main dwelling before this time.
23. The EN was issued on 28 September 2022. This means any use of the mobile home as an independent unit of residential accommodation had not subsisted for a period of ten years before the EN was issued. In turn, this element of the matters alleged was not immune from enforcement action at the time the EN was issued.
24. It is worth noting that even if the four-year immunity rule had applied (which is applicable to operational development), the requisite period of time to benefit from immunity would still not have been obtained before the EN was issued.

### *Erection of Decking*



25. To succeed on ground (d) with regards to the erection of the raised decking area, the appellants would need to demonstrate that this operational development was substantially completed more than four years before the EN was issued (noting there is no suggestion that it is integral to the MCU).
26. The appellants have submitted very little evidence to confirm when the raised decking area was erected. However, Mr Terry's response to the PCN says that the mobile home was brought on to the site in October 2018. The raised decking wraps around the footprint of the mobile home, which means it would undoubtedly have been erected (and substantially completed) after the mobile home was brought on to site. The aerial images provided by the Council are consistent with this position, as the relevant part of the appeal site is shown to be clear of any physical development in June 2018.
27. This means the decking was likely erected sometime after October 2018, when the mobile home was first brought on to site. The appellants have presented no alternative timeline to suggest otherwise. Given that the EN was served in September 2022, the raised decking would not have been substantially complete more than four years before the EN was issued. The operational development comprising the erection of raised decking would therefore not have been immune from enforcement at the date the EN was issued.
28. The appeals on ground (d) therefore fail.

### **Other Matters**

29. Mr Terry's response to the PCN says he has sometimes used the mobile home for sleeping, to avoid climbing stairs in the main dwelling. The responses also say that the mobile home has been used on occasion to house homeless people and key workers. However, as the planning merits of the alleged development are not relevant to consideration of grounds (b), (c) or (d), these factors cannot affect the outcome of the appeals.
30. I have made a minor correction to the matters alleged in the EN which allow them to read better. I have also made a minor variation to the requirements to ensure they accurately reflect the matters alleged. This is because the requirement to cease the unauthorised use of the land did not explicitly refer to "residential" accommodation. Given that the requirements would likely have been interpreted as a requirement to cease the independent residential use of the mobile home, I am satisfied that these amendments do not cause injustice to either party.

### **Conclusion**

31. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction and variation, as set out below in the Formal Decisions.

### **Formal Decisions**

32. It is directed that the enforcement notice is corrected by:
  - (a) substituting the words "for the purpose of use as an independent unit of residential dwelling" in paragraph 3.1 with "for use as an independent unit of residential accommodation"and varied by:

- (b) deleting requirement (i) from paragraph 5 and replacing it with  
“(i) Permanently cease the stationing of a mobile home for use as an  
independent unit of residential accommodation.”

33. Subject to this correction and variation, the appeals are dismissed and the enforcement notice is upheld.

*James Blackwell*

INSPECTOR



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# Appeal Decision

Site visit made on 13 December 2023

**by Mrs H Nicholls FdA MSc MRTPI**

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

**Decision date: 18 December 2023**

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**Appeal Ref: APP/R3325/W/23/3318600**

**Former Radio Station, Watts Quarry Lane, Somerton TA11 7JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Beacon Vale Developments Ltd against the decision of Somerset Council.
  - The application Ref 22/00302/FUL, dated 1 February 2022, was refused by notice dated 22 September 2022.
  - The development proposed is provision of a single dwelling and double garage with associated access and parking.
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## Decision

1. The appeal is dismissed.

## Applications for Costs

2. An application for costs was made by the Applicant against the Council in writing. This application is subject of a separate decision.

## Preliminary Matters

3. The appeal was submitted against the refusal of permission by South Somerset District Council, which since the submission of the appeal, has merged with other Councils to form Somerset Council. As a result, I have referred to Somerset Council in the banner heading above.
4. An elevation and floor plan of the proposed garage was submitted with the Appellant's final comments (Plan Ref 21-22.SK6). Whilst this was absent from the original submission, the garage is detailed in the description of the development and its location is shown in the Proposed Site Plan. Therefore, I have accepted the additional Plan on the basis of the Wheatcroft<sup>1</sup> principles and do not consider this has prejudiced any interested parties.
5. During my site visit, I noted that groundworks were being undertaken on the appeal site. These works appear to commence a previously approved scheme<sup>2</sup> to construct an office building, which, despite the difference in uses, would be the same in terms of scale, siting and appearance to the proposed dwelling.

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<sup>1</sup> Wheatcroft Ltd V SSE [1982]

<sup>2</sup> 19/02970/FUL, 21/02883/S73 and 21/02882/S73

## Main Issue

6. The main issues in this appeal are:

- whether the location of the development accords with local and national policies that seek to provide residents with convenient access to facilities and minimise the dependency on private vehicle; and
- the effects of the proposal on the Somerset Levels and Moors Special Protection Area and Ramsar Site (SPA).

## Reasons

### *Location of development*

7. The appeal site is situated to the south-east of a cluster of 9 dwellings which were converted from buildings associated with a former radio station. As part of that scheme<sup>3</sup>, some poorer quality buildings were removed and three new dwellings have been built in their place. Under a separate permission, an office building was approved which would have been situated adjacent to Plot 7 but accessed from the Watts Quarry Lane from its own separate access driveway. The site is still covered in hardstanding from its former car park use and is partially enclosed by unsightly security fencing and floodlights.
8. Considered in a broader context, the site is situated in the countryside on the outskirts of the village of Somerton. The distance from the appeal site to the edge of Somerton is around 1.6km with a marginal additional distance to its town centre. Somerton is a Local Market Town under Policy SS1 of the South Somerset Local Plan (Local Plan) (adopted 2015) due to its strong employment, retail and community role. On visiting the area, it became evident that Somerton contains a range of facilities to support its residents, including convenience shops, recreational spaces, a public house and a primary school. The Policy seeks to provide for housing, employment, shopping and other services that increase the degree of self-containment and enhance the role of the settlement as a service centre.
9. Policy SS2 of the Local Plan and its preamble set out that developments outside of Market Towns and Rural Centres will be strictly controlled to that which provides employment opportunities, enhances or provides community facilities, or meets an identified housing need, particularly for affordable housing. The preamble also indicates that new housing development should only be located in Rural Settlements that offer easy access to a range (i.e., two or more) everyday facilities, such as a convenience shop, pub, post office, village hall and primary school etc.
10. As the site is outside of the Market Town of Somerton, it is essentially within the countryside and therefore, the proposal is contrary to Policies SS1 and SS2 of the Local Plan. Whilst the Council's decision notice also refers to Policy SD1 of the Local Plan, that essentially confirms the Council's proactive approach to reflect the National Planning Policy Framework (the Framework) and adds nothing locally specific to the way in which the proposal should be assessed.

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<sup>3</sup> 19/02955/FUL & 21/ 02882/S73

### *SPA Effects*

11. The application site is within the catchment of the Somerset Levels & Moors SPA and Ramsar which is deteriorating due to increased nutrient loads, in particular phosphates. The addition of overnight accommodation and new residents which increase the amount of foul water produced in the catchment area will be likely to increase the phosphorus loading and further unbalance the nutrient levels within the SPA. Significant effects from the development are therefore incapable of being ruled out and are considered likely.
12. The appeal was submitted with a Nutrient Neutrality Assessment and Mitigation Strategy<sup>4</sup> (Mitigation Strategy) which details that a specified package treatment plant (PTP) would be installed to deal with foul water, and that an orchard area would be planted within the drainage field within the adjoining land owned by the Appellant to offset the predicted 0.57 kgTP/yr of additional phosphates that would otherwise be directed to the SPA. The Mitigation Strategy also includes management plans for the orchard and PTP.
13. The Council's Ecologist has reviewed the Mitigation Strategy and indicates that it has no objection to it in principle. However, no S106 planning obligation has been provided to secure the implementation of the Mitigation Strategy. The Appellant accepts that the mitigation would be necessary but indicates that there was insufficient time within the appeal timetable to produce one.
14. I have considered the possibility of using planning conditions as an alternative to a S106 planning obligation if the appeal proposal were acceptable in other respects. However, a development has commenced on site, which, given its similarities with the appeal scheme, could simply evolve from one to the other. In this context, the use of a negatively worded condition at the 'prior to commencement' trigger point would not be sufficiently robust, and I therefore do not have sufficient certainty that mitigation could be secured in this case.
15. In the absence of an appropriate mechanism to secure the necessary Mitigation Strategy, it has not been fully considered as part of an appropriate assessment under the Conservation of Species and Habitats Regulations 2017, as amended (Habitats Regulations). Therefore, I can only find that the proposal is in conflict with the expectations of the Habitats Regulations and Policy EQ4 of the Local Plan which prevents development that will adversely impact the integrity of national and international wildlife and landscape designations.

### **Planning Balance**

16. The proposed dwelling would have the same effect on the character and appearance of the site and surroundings as the office building under construction, as one use would essentially be swapped for the other. Whilst I note the submitted viability statement that indicates a current lack of demand for office space of the size that would be available at the appeal site, there appears a clear intent to build it in any event.
17. Though the car park would only cater for 12 of their vehicles, around 20 workers could be accommodated within the available office space if fully occupied according to the viability statement. The proposal would be likely to generate fewer vehicle movements than the office use, which would be a net

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<sup>4</sup> Halpin Robbins, March 2023

positive, though the overall benefit would be tempered by the loss of employment opportunities.

18. The Appellant has indicated that a fallback position may be available under the General Permitted Development Order (GPDO) 2015 (as amended) to convert the office building. From the evidence, the GPDO route would require that the completed office building shall have been used as an office for at least two years and therefore makes an assumption that such rights will be available some time into the future and under the same terms. This aspect attracts limited weight as it does not provide an immediately available option on which to fall back and as I have limited certainty about future eligibility.
19. Much has been made of the previously developed status of the site (PDL) which was the rationale behind the conversion of the adjacent buildings and redevelopment of parts of the wider site. I see that the implemented scheme has resulted in a beneficial reuse of PDL and an enhancement of the appearance of the area. The appeal site is absent of any previously used buildings that would be reused or removed, but the scheme would result in the removal of the leftover elements associated with the previous use of the site. It would also complete and give coherence to the development of the wider site, covering the extent which was previously hardsurfaced and enclosed. This is an aspect weighing in favour of the scheme.
20. Using the terms of Local Plan Policy SS2, I have considered the ease with which residents would be able to access facilities and services. Such facilities are based in Somerton at a distance of around 1.6km away. Combined with the absence of footways along the rural roads, it is unlikely that this journey would be made on foot on more than limited occasions. The journey to Somerton is a short one by car and, given the distance and gradients of the route, cycling would be a realistic alternative for some purposes. However, the absence of attractive walking options or public transport services suggests that the site's access to Somerton would not be easy, insofar as the development would largely perpetuate a reliance on vehicles. Nonetheless, my overall view is that the site could not be considered truly isolated in the context of the Bramshill judgement<sup>5</sup> and the short length of the journey indicates that the access to some key facilities would at least be reasonable given the Framework's acceptance that transport solutions will vary between urban and rural areas.
21. In terms of other benefits, the proposal would make a modest contribution to the local housing stock. The construction phase economic boost would be generated by either the consented scheme or the proposal, so I attribute this limited weight. The absence of harms to the character of the area, the local highway network or other interest do not constitute additional benefits.
22. The parties are in agreement that the Council cannot currently demonstrate a five year supply of housing land which engages Framework paragraph 11 d). This requires that where the policies which are most important for determining the application are out-of-date, permission should be granted unless (i) the application of Framework policies that protect assets or areas of importance provide a clear reason for refusal, or (ii) any adverse impacts would significantly and demonstrably outweigh the benefits.

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<sup>5</sup> City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government [2021] EWCA Civ 320

23. In this case, the site is within the catchment of the SPA which is a protected area under Paragraph 11d) (i) and footnote 7. Therefore, in the absence of potentially necessary mitigation, the likely effects to the SPA constitute a clear reason for refusal. It is therefore unnecessary to proceed to Paragraph 11d) (ii).

**Conclusion**

24. For the foregoing reasons, the proposal is contrary to the development plan when taken as a whole. There are no considerations of such materiality that indicate that an appeal decision should be made other than in accordance therewith. I therefore conclude that the appeal should be dismissed.

*Hollie Nicholls*

INSPECTOR

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