

Public Agenda Pack



Notice of Meeting of

PLANNING COMMITTEE - SOUTH

Tuesday, 27 February 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	

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, 26 February 2024** by email to 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, 15 February 2024.

AGENDA

Planning Committee - South - 2.00 pm Tuesday, 27 February 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 (Pages 17 - 30)

To approve the minutes from the previous meeting.

3 Declarations of Interest

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

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

4 Public Question Time

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

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

Requests to speak at the meeting at Public Question Time must be made to the Monitoring Officer in writing or by email to democraticserviceteam@somerset.gov.uk by 5pm on Wednesday 21 February 2024.

5 Planning Application 22/02118/OUT - Land West of Silver Street, South Petherton TA13 5AN (Pages 31 - 80)

To consider an outline application for the demolition of single garage, and the erection of 40no dwellings (26 market & 14 affordable); considering access only, with all other matters reserved.

6 Planning Application 23/02730/REM - Holly Tree Farm, Longstrings Lane, Crewkerne TA18 7EA (Pages 81 - 94)

To consider a Reserved Matters application for approval of appearance, layout and scale of approval 19/02921/OUT for the erection of 2 dwellings.

7 Appeal Decisions (for information) (Pages 95 - 112)

Other Information:

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

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

Exclusion of the Press and Public

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

Reason: Para 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).
(Or for any other reason as stated in the agenda)

Ordnance Survey mapping/map data included within this publication is provided by Somerset Council under licence from the Ordnance Survey in order to fulfil its public function to undertake its statutory functions on behalf of the district. Persons viewing this mapping should contact Ordnance Survey copyright for advice where they wish to licence Ordnance Survey mapping/map data for their own use. Somerset Council -
AC0000861332 - 2024

This page is intentionally left blank

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 . 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.

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.

If your Non-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.

*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.

**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.

This page is intentionally left blank

Planning Committee – South – 27 February 2024

Microsoft Teams meeting

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 327 938 939 271

Passcode: pQboCr

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

Or call in (audio only)

[+44 1823 772277,,186807446#](#) United Kingdom, Taunton

Phone Conference ID: 186 807 446#

This page is intentionally left blank



Minutes of a Meeting of the Planning Committee - South held in the Council Chamber, Council Offices, Brympton Way, Yeovil BA20 2HT, on Tuesday, 30 January 2024 at 2.00 pm

Present:

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

Cllr Steve Ashton	Cllr Mike Best
Cllr Andy Kendall (left 3.15pm)	Cllr Jenny Kenton
Cllr Tim Kerley (left 5.15pm)	Cllr Sue Osborne
Cllr Oliver Patrick (left 5.55pm)	Cllr Evie Potts-Jones
Cllr Martin Wale	Cllr Kevin Messenger

In attendance:

Cllr John Bailey	Cllr Adam Dance
Cllr Tony Lock	Cllr Jo Roundell Greene

68 Apologies for Absence - Agenda Item 1

Apologies were received from Councillors Henry Hobhouse and Jeny Snell.

It was noted that Councillor Kevin Messenger was attending as a substitute for Councillor Henry Hobhouse.

69 Minutes from the Previous Meeting - Agenda Item 2

Resolved that the minutes of the Planning Committee - South held on 19th December 2023 be confirmed as a correct record.

Following a short explanation, the Lead Specialist (Built Environment) asked members that the following post meeting note be added to minute 64 Planning Application 16/05500/OUT – Land South West of Canal Way, Ilminster of the minutes of Planning Committee - South held on 9th January 2024.

'Subsequent to the meeting, the applicants have confirmed in writing their agreement to fund the proportion of the cycle route 33 improvements that the developer and Somerset Council agree to comprise a CIL compliant contribution and for this to be secured by the relevant S.106 Agreement'.

Members agreed to this amendment and the minutes of Planning Committee - South held on 9th January 2024 were then confirmed as a correct record.

70 Declarations of Interest - Agenda Item 3

There were no declarations of interest.

71 Public Question Time - Agenda Item 4

A member of the public addressed the committee and raised frustration surrounding the lack of information and communication from the Planning service regarding his planning application and the process involved for determination. He felt there had been a disregard of his requests and an inexcusable length of time taken to respond and sought clarification regarding these issues raised.

In response the Chair explained the operation of the Planning service was not a matter for the Planning Committee and noted that the Lead Specialist (Built Environment) acknowledged his concerns and would look to progress this matter. He also advised that Councillor Ros Wyke was the Lead Member for Economic Development, Planning and Assets should he wish to progress his concerns further.

72 Planning Application 21/01035/OUT - Land OS 6925, Coat Road, Martock. - Agenda Item 5

The Planning Officer presented the application as detailed in the agenda report, and with the aid of a Powerpoint presentation highlighted key elements of the proposal including:

- Site and location plan.
- An indicative layout with proposed development to the east of the site, and with open space and planting to the west.
- The phosphates solution included a package treatment plant and phosphates credits which had been purchased from the scheme agreed by the Council.
- Discharge of the water course will require separate agreement with the Environment Agency and Internal Drainage Board.
- Proposed access to site and proposed works to connect off road path into Martock.

- Martock Neighbourhood Plan acknowledges site acceptable for development.
- Reference to housing figures in the Local Plan – acknowledgement that Martock already above the number in the Plan, however the figures in the Local Plan were not a maximum.
- Identified the Stapleton and Coat green gap.
- The key considerations were the principle of development and highway safety.
- Highways were content with the proposal subject to Section 106 obligations and conditions.

He confirmed the Lead Local Flood Authority (LLFA) had not objected to the proposal and introduced the Officer from the LLFA who provided members with a detailed explanation of the discharge rates and consideration given to this application. She confirmed the site was outside most of the surface water flooding area and suggested a detailed drainage condition be included to secure these measures are in place.

The application was recommended for approval subject to planning obligations and conditions as set out in the agenda report.

Five members of the public addressed the committee in objection to the application. Some images had been submitted which were included in the officer presentation, and some of their points raised included:

- Concern regarding the proposed drainage within the site due to the flow and discharge of surface water from other catchment areas.
- Recent flooding made Coat Road and other roads within Martock impassable and with no new detailed information being provided to solve the flooding and safe access issues which remain a concern. The application should be deferred until these matters have been dealt with.
- The green gap between Coat and Martock is a high landscape sensitivity area which should be protected and that the proposed development will significantly impact this area.
- Who will be responsible for the tree planting and green gap?
- Originally identified for 55 houses and not 100 as now proposed.
- This is a case of cramming houses into a small gap.
- This will significantly increase the need for travel and congestion to the local surrounding road network.
- Local facilities such as the local doctor's surgery and schools cannot cope.
- This proposal should be considered after the 2028 once the true impact on the other developments are built out.
- Concern regarding the package treatment proposals and safety concerns around the outflow of sewage with no supporting documentation evident.

The Engineering consultant for the applicant, then addressed the committee as a supporter of the application, some of his points raised included:

- Application site is located within the lowest flood zone risk area.
- Proposal addresses the water quality and contributes to amenity and biodiversity and is fully compliant to the necessary technical assessments required.
- Acknowledged flash flooding can occur within the areas around Martock. However, this location will provide safe access to and from the site and noted that flash flooding is not unique to Martock and should not influence the acceptability of new development.
- Proposed drainage scheme will be a significant betterment than what discharges currently and will contribute to the downstream catchments.

A spokesperson for Martock Parish Council addressed the committee in objection to the application. Some of his points raised included:

- Martock neighbourhood plan shows there is sufficient housing land supply until 2036.
- Site had originally been identified for up to 55 dwellings.
- Application will significantly impact the character of the green gap between Martock and Coat.
- This development would significantly exceed the local plan allocated housing target by nearly double the intended figure.
- Lack of employment opportunities.
- Application would significantly increase the traffic exacerbating the issues at the nearby junction.
- Application does not meet the parish needs with lack of community consultation undertaken.
- Insufficient phosphate mitigation.

Division member, Councillor John Bailey, wished it noted that the Parish Council were not wholly against future housing, but that the increase in dwellings from 55 to 100 homes is unacceptable given it is within half the original identified area. He said there had been a lack of communication from the developer with the Parish Council and felt there was insufficient phosphate mitigation. He raised concern regarding flooding within the site given the recent issues within the local area and that this should be considered.

In response to points of detail and technical questions raised by the public speakers, the Planning Officer and LLFA Officer clarified that:

- The proposed development does not encroach into the green gap and that tree planting does not require planning permission.

- Highways had re confirmed they had raised no objections to scheme.
- Woodland would potentially help the surface water flow and that the discharge rates are in agreement with the drainage board.
- Phosphate Treatment Plant (PTP) was not in the remit of the LLFA.
- It was recognised that Martock had taken further development than set out in the Local Plan, however the figures in the Local Plan are minimum figures not maximum.
- Clarified this was an outline application and the only aspect for approval was the access into the site. All other matters such as the layout and drainage works would be at reserved matters stage.

In response to questions from members the Planning officer, LLFA Officer and Lead Specialist also provided the following:

- Gave a detailed explanation around the information supplied and assessment regarding surface water levels within the development boundary.
- Noted concern regarding the speed limit within the access boundary of the site, however confirmed that the Highways authority consider the scheme acceptable, and any safety concerns would have been considered.
- Explained the rights of the neighbourhood plan with the direction of growth and green gap being recognised and with the aid of a map the areas allocated within the development plan.
- Explained the application process of a Traffic Regulation Order regarding the speed limits. It was confirmed that the applicant would be applying for a TRO as part of this application and would be happy to include this as part of the conditions.
- Explained in detail the proposed package treatment plant management and the companies who provide it.
- Explained in detail the discharge rates and how they are calculated.
- Confirmed density of application was similar to other schemes nearby.

During members discussion some comments included:

- Struggling to find sufficient planning reasons to refuse this application.
- Remain concern about the surface water flooding and whether the proposed mitigation measures would be sufficient to prevent further flooding.
- Concerns that areas of the site are liable to flood with evidence to prove this.
- Sought clarification regarding the speed limit and request that the 30mph speed limit be extended beyond the site entrance to ensure safer pedestrian access into the village.

Following concerns raised the Lead Specialist explained how the surface water flow is managed and ultimately deliver betterment on the site. The LLFA Officer also explained the construction drainage management plan and what measures would be

put in place to prevent further flooding.

Following a further discussion, it was then proposed by the Chair and seconded by Councillor Oliver Patrick to approve the application as per the officer recommendation and as detailed in the agenda report with two additional conditions to 1. require that an application is made for a Traffic Regulation Order (TRO) and 2. to incorporate the Sustainable Drainage Systems (SuDS) within the construction phase.

On being put to the vote, this was carried by 6 votes in favour, 2 against and 3 abstentions.

RESOLVED:

That planning application 21/01035/OUT for up to 100 dwellings with associated works including access, public open space and landscaping at Land OS 6925, Coat Road, Martock, Somerset be APPROVED, subject to the prior completion of a section 106 planning obligation, the imposition of conditions as per the officer recommendation as detailed in the agenda report and two additional conditions to require that an application is made for a Traffic Regulation Order (TRO) and to incorporate the Sustainable Drainage Systems (SuDS) within the construction phase.

(voting: 6 in favour, 2 against, 3 abstentions)

73 Planning Application 23/02111/FUL - Land South of Camp Road, West Coker, Yeovil. - Agenda Item 6

The Planning Officer presented the application as detailed in the agenda report. For clarification and with the aid of a Powerpoint presentation provided members with the following update and revisions to the conditions as summarised:

- Condition 12 – replace wording ‘completion of the development’ with ‘completion of the soft landscaping’.
- Condition 16 – replace wording ‘before completion of the development’ with ‘following completion of the habitat and protected species mitigation and compensation measures identified in the LEMP’.
- Condition 17 – replace wording ‘completion’ with ‘energisation of the project’.
- Condition 20 – include the word ‘facilitate’ to now read ‘The BSMP must prescribe for measures to facilitate safety during construction,’ and include wording ‘and must have due regard for the containment and disposal of firewater.’

Following the submission of a Farming and Wildlife Advisory Group (FWAG) report she also confirmed the LLFA having seen the report had no reason to change their recommendation.

She then proceeded to highlight key elements of the proposal including:

- Site and location plan along with location of proposed cabling.
- Closeness of heritage assets.
- Confirmed all footpaths are to be retained.
- There would be more ability to retain surface water on the land.
- Gateway access and location of CCTV within the site.
- Proposed security around the battery storage containers.
- All hedgerows and trees to be retained around the site.
- Clarified this application is to supply renewable electricity to local business Leonardo.

She proceeded to detail the reasons for approval and highlighted the key considerations summarised as follows:

- Landscape Impact – believe impact not so adverse to refuse and taking into account clear benefit for new energy.
- Loss of agricultural land – The land around the panels can still be used for grazing sheep. This is a temporary permission for 40 years.
- Battery Storage – Issues raised do not outweigh the benefits with conditions imposed for battery safety plan.
- Use of existing Leonardo site/ economic benefit – Full consideration had been given for the possibility of Leonardo using their own site, however a Sequential Location Assessment was undertaken which outlined why other onsite locations or buildings were not viable.

The application was recommended for approval subject to the conditions as set out in the agenda report and with the revisions highlighted by the Planning Officer.

Two members of the public addressed the committee in objection to the application. Some of their points raised included:

- Raised concern around the guarantees for decommissioning and worries an extension may be granted.
- Who would be responsible and accountable for the management of the site.
- Impact on noise and air pollution and the reflection of solar panels given the close proximity of helicopter test flights in the area.
- Concern regarding the flood mitigation measures.
- Raised fire safety concerns regarding the battery storage.
- Impact on biodiversity.
- Site is in the wrong place and too far from Leonardo factory site.

The applicant addressed the committee, some of his points raised included:

- Would provide direct renewable energy source to Leonardo's factory site in Yeovil and help support it to become carbon neutral.
- Lack of other suitable sites available.
- There is significant sustainable benefits and positives for Yeovil and surrounding area.

In response to points of detail and questions raised by the public speakers, the Planning Officer clarified that:

- Conditions included will ensure that the development is fully reversible on the decommissioning of the site.
- A noise assessment had also been carried out along with a glint and glare report.
- Explained the uplift and biodiversity net gain from this development.

In response to questions from members, the Planning officer also provided the following:

- Energy source is solely for Leonardo, however clarified that should this not have been the case recommendation would still be for approval.
- No financial gain is required under this application, however, understand there is discussions ongoing with West Coker PC and Leonardo regarding this.
- Confirmed a package for Ecology and Landscaping would be put in place first.
- Reiterated that permission was temporary and on decommissioning would revert back to original agricultural use.

During members discussion some comments included:

- Consider the visible impact to be acceptable in what is a well screened site and therefore see no reason to refuse the application.
- Raised concern regarding the loss of grade II agricultural land and the impact on the heritage assets.
- Sought assurance regarding the decommissioning of the site.

Division member, Councillor Oliver Patrick said he had taken considerable time to consult with the local residents and his comments are summarised as follows:

- Rather have green energy site than more housing.
- Provide employment opportunities and supply local employer.
- Support from local community.
- Benefits to deliver clean green energy.
- Biodiversity net gain.

- Preserves the local rights of way.
- Content developer had looked at other viable sites.
- Accepted that suitable conditions would be imposed to mitigate any fire safety risks.

It was then proposed by the Chair and seconded by Councillor Steve Ashton to approve the application subject to the imposition of conditions as per the officer recommendation as detailed in the agenda report and with the revised wording to conditions 12, 16, 17 and 20 to provide clarity.

On being put to the vote, this was carried by 10 votes in favour, 0 against and 1 abstention.

RESOLVED:

That planning application 23/02111/FUL for Solar PV Farm and associated infrastructure including battery energy storage and access arrangements and cable run to supply renewable electricity to Leonardo at Land South Of Camp Road, West Coker, Yeovil be APPROVED, subject to the imposition of conditions as per the officer recommendation as detailed in the agenda report and with the revised wording to conditions 12, 16, 17 and 20 to provide clarity.

(voting: 10 in favour, 0 against, 1 abstentions)

74 Planning Application 22/02118/OUT - Land West of Silver Street, South Petherton TA13 5AN - Agenda Item 7

The Planning Officer presented the application as detailed in the agenda report. With the aid of a Powerpoint presentation highlighted key elements of the proposal including:

- This was an outline application to consider only access and the principle of development.
- Indicative site layout and location plans.
- Proposed staggered access to site.
- Location of existing garage to be removed to allow for footpath to the site.

He proceeded to detail the reasons for approval and highlighted the key considerations summarised as follows:

- Principle of development – South Petherton was a sustainable location, noted the Council’s lack of five-year housing land supply, Highways had not raised any objections and a satisfactory phosphates solution had been agreed. He

acknowledged the access requires a significant engineering solution and there would be a significant change in the street scene.

- Impact on the character of the area –Site can be developed without harm to conservation assets and neighbouring properties or amenity.

The application was recommended for approval subject to planning obligations and conditions as set out in the agenda report.

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

- Elevated site that can be seen for miles around, this view should be protected for overall character.
- Referred to appeal decision in 2019 where inspector refused six houses due to significant harm to the area.
- Contrary to policies within the Local Plan.
- Concern regarding pedestrian and highway safety with lack of footpath provision to local facilities.
- Increase in traffic through Silver Street in what is already a very busy congested road with no footpath provision.
- Countless wildlife will be destroyed.
- Current housing commitment already greatly exceeded in South Petherton.
- Impact on local facilities with the Post Office and bank already closed.
- Site outside development area.
- Contrary to South Petherton neighbourhood plan.
- Flooding risks and the impact on the increase in surface water run-off.

A representative from South Petherton Parish Council addressed the committee. Some of his points raised included:

- Referred to speed surveys carried out with evidence of huge volumes of traffic already using the road. This development will only exacerbate these issues to an already congested area.
- Unacceptable safe access, rights of way and with lack of footpaths to local school and facilities will be a danger to pedestrians.
- Contrary to policy with a need to secure safe access for all.
- Site is of varying levels and would be impossible to achieve safe access.

Division member, Councillor Jo Roundell-Greene addressed the committee and voiced her objection to the application. She felt the access would scar Silver Street in what is a charming part and entrance to the village. She said it was contrary to policy EQ2, a danger to residents who would not be able to safely access amenities and felt it would not enhance the area in any way.

Division member, Councillor Adam Dance also addressed the committee. Some of his comments included:

- Raised concern regarding highway and pedestrian safety due to increase in traffic with cars always parked along Silver Street.
- Application was contrary to the South Petherton neighbourhood plan and questioned the validity of the plan.
- The site was prime agricultural land.
- Access located at the very narrow point of Silver Street.
- Concern regarding surface water run off that will impact flooding downstream.
- Noted Planning inspector had already turned down two previous appeals in this area.

The applicant addressed the committee, some of his points raised included:

- Application had been well considered and provides a mix of housing with 14 much needed affordable homes.
- Site was within a sustainable location.
- Highways consider the proposed staggered access acceptable.
- Proposal is in keeping with the local setting.
- Benefits of the scheme outweigh any harm with no planning reasons to refuse the application.
- Proposal is in accordance with planning policy and local plan.

In response to points of detail and questions raised by the public speakers, the Planning Officer clarified that:

- Referred to previous appeals and explained the reasoning behind each.
- Exact detail of water run-off prevention has yet to be agreed but that a condition is included to prevent surface water run-off.
- The LLFA have commented on flood prevention measures however this would be outlined in reserved matters stage but are happy this can be achieved.
- Acknowledged the site is in an elevated position but consider there is sufficient planting to shield site over time. He confirmed the application had not been reviewed by an external Landscape officer.

In response to questions from members the Planning officer and Lead Specialist also provided the following:

- Confirmed South Petherton had received housing growth within the planned period and exceeded the target allocation.
- Clarified the garage to be demolished and proposed footpaths.
- Clarified the location of the previous refused application in relation to the site.
- Explained the current position of the housing land supply and validity of the

status of neighbourhood plan with respect to the NPPF.

During members discussion some comments included:

- Raised concern regarding access and highway safety given the steep level of the site in what was already a very congested street.
- Felt the increase in traffic with little or no footpaths would be a danger to pedestrians and road users.
- Shared concerns regarding highway safety but understood there to be a similar access further down the road.
- Felt it was overdevelopment of a rural centre with the loss of much needed agricultural land.
- Proposal would be overbearing and not in keeping with the area in what was an elevated site that would be seen for miles around.
- Acknowledge concerns regarding highway safety, however noted that highways had raised no objection to the application.
- Felt there was a need to deliver homes and with no objections from statutory consultees could see no planning reason to refuse the application.

The Legal officer advised members that this was an outline application and that members should only consider the principle of development and access at this stage.

Following a further debate, Councillor Jenny Kenton then proposed and seconded by Councillor Sue Osborne to refuse the application for the following two reasons:

1. Highway Safety
2. Adverse impact on landscape and character of the area.

After taking further advice and clarification from the Planning Officer and Lead Specialist, members discussed the option to defer the application, to allow for further information and the review of the Landscape Visual Impact Assessment by a Landscape Officer and the presence of a Highways Officer to be present at the next possible Planning South Committee meeting.

Following this discussion Councillor Jenny Kenton in agreement with Councillor Sue Osborne withdrew the proposal to refuse the application.

It was then proposed by the Chair and seconded by Sue Osborne to defer the application to allow for further information regarding landscape and highways and the review of the Landscape Visual Impact Assessment by a Landscape Officer and the presence of a Highways Officer to be present at the next possible Planning South Committee meeting.

On being put to the vote, this was carried by 7 votes in favour, 0 against and 2 abstentions.

RESOLVED:

That planning application 22/02118/OUT for the demolition of single garage, and the erection of 40no dwellings (26 market & 14 affordable); considering access only, with all other matters reserved at Land West of Silver Street, South Petherton be DEFERRED, to allow for further information regarding landscape and highways and the review of the Landscape Visual Impact Assessment by a Landscape Officer and the presence of a Highways Officer to be present at the next possible Planning South Committee meeting.

(voting: 7 in favour, 0 against, 2 abstentions)

75 Appeal Decisions (for information) - Agenda Item 8

Members noted the planning appeals.

(The meeting ended at 6.07 pm)

.....
CHAIR

This page is intentionally left blank

Officer Report On Planning Application: 22/02118/OUT

Proposal:	Outline application for the demolition of single garage, and the erection of 40no dwellings (26 market & 14 affordable); considering access only, with all other matters reserved at Land west of Silver Street, South Petherton.
Site Address:	Land West Of Silver Street, South Petherton, Somerset, TA13 5AN,
Parish:	South Petherton
SOUTH PETHERTON AND ISLEMOOR Division	Cllr Adam Dance and Cllr Jo Roundell Greene
Recommending Case Officer:	Colin Begeman (Principal Specialist)
Target date:	11th November 2022
Applicant:	Your Land Partner Ltd
Agent: (no agent if blank)	Mrs Merridy James, 4 Huxley Close, Shrewsbury SY2 6JQ
Application Type :	Major Dwlg 10 or more or site 0.5ha+

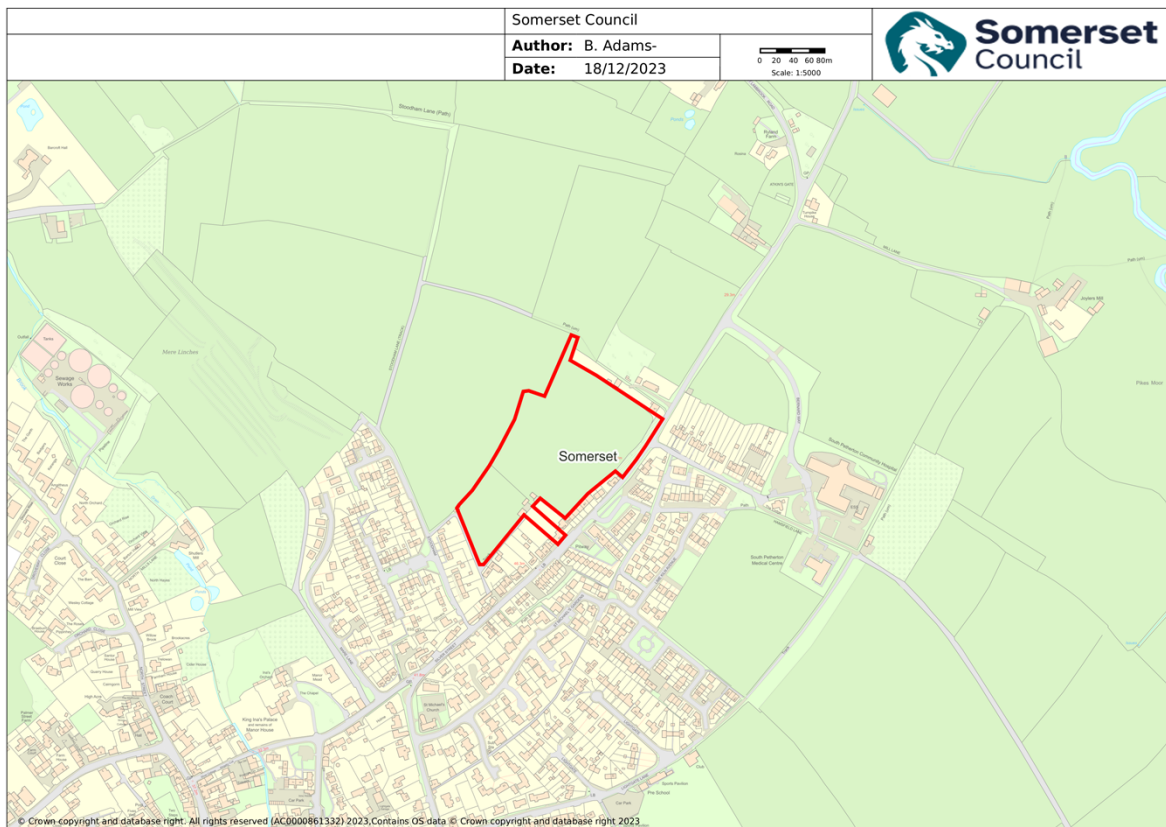
REASON FOR REFERRAL TO COMMITTEE

This application was deferred from the Planning Committee - South meeting of 30th January 2024 to allow for a landscape professional's appraisal of the applicants Landscape Visual Impact Assessment and the presence of a representative from the Highway Authority to attend the next committee meeting to assist the Committee.

An appraisal has been carried out and the Highway Authority have confirmed that a representative will be present.

In compliance with Somerset Council's Scheme of Delegation this is a major planning application and is required to be referred to the Planning Committee - South for determination on the basis that the officer recommendation is contrary to the Parish Council's views.

SITE DESCRIPTION AND PROPOSAL



The combined site spans approximately 3 hectares and is located in the village of South Petherton behind Silver Street. Positioned on the western/north-western side of Silver Street and northeast of Stoodham, the site is on the outskirts of the designated Development Area. It is a medium-sized, rectangular field with a southwest to northeast orientation, and the southwest end is narrower due to land taken for houses on Silver Street.

Bounded by Silver Street to the east, extending towards the next village of Martock, the site features open fields to the north, a disturbed-profile field to the north adjacent to Pitway Hill road, and another open field to the west leading to the residential road of Stoodham. To the south, residential properties off Stoodham lead back to Silver Street and the village centre.

The site, primarily used for agriculture and horse grazing, includes a few existing barns/storage units behind 51 & 51A Silver Street. The topography slopes upward from the southwest to the northeast, creating a steep bank down to Silver Street in the north-eastern section.

Surrounded by rural countryside to the north and northwest, the east, south, and southwest areas are residential with a mix of modern and traditional housing. South Petherton offers various amenities, including a hospital, doctors' surgery, pharmacy, recreation ground, sports clubs, shops, pubs, a supermarket, restaurants, library, vets, post office, churches, town hall, and school. Public transport is well-served, with bus stops along Silver Street and in the town centre providing links to larger towns like Taunton, Yeovil, and Ilminster through services like numbers 10C, 18, 4, 81.

In terms of planning designations, South Petherton is a Rural Centre and the site is situated outside but immediately adjacent to its Development Area, falls entirely within Flood Zone 1, and lacks listed buildings in its vicinity. The South Petherton Conservation Area is approximately 190m to the south-west. The site also falls within a Source Protection Zone, the buffer of a historic landfill zone, and the catchment area for phosphates that impact the Somerset Levels and Moors Ramsar/SPA.

The proposed development comprises the creation of a new access, construction of 40 dwellings, divided into 26 market houses (65%) and 14 affordable homes (35%). The Outline Application seeks consideration for the development's principle, including the number and mix of dwellings, affordable housing, and access. All other aspects are reserved for later consideration.

While the dwelling layout is indicative, it demonstrates the feasibility of achieving the

desired number and mix of units, along with appropriate landscaping and open space. The specific details of the proposal are outlined in the accompanying Design Statement. Key elements include the demolition of three existing storage buildings/barns in the southern part of the site, the erection of 26 market dwellings and 14 affordable homes, and the establishment of a new vehicular access point from Silver Street (northeast section) through excavation.

Additionally, two new pedestrian access routes are proposed: a footpath alongside the vehicular access from Silver Street and another with stairs and a ramp between numbers 51 and 51A Silver Street (south-eastern part) after demolishing a garage. The plan includes 12 car parking spaces for Silver Street residents (southern section adjacent to Silver Street) and three additional spaces for number 51 Silver Street. A replacement storage building/garage for 51 Silver Street is also planned. The development incorporates public open space, an ecological habitat area, and landscaping with planting.

HISTORY

19/02700/PREAPP - Mixed use development including employment units, self-build or custom-build plots and residential dwellings

Response provided: 14/07/2020

The response concludes the need for alignment with relevant planning policies, particularly in the absence of a 5-year supply of housing land. While supporting the residential and employment elements in principle, careful consideration of site adjacency, pedestrian linkages, and noise mitigation is urged. Specific recommendations regarding on-site public open space provision, highways assessments, heritage asset protection, and adherence to rights of way considerations have been outlined. Pending feedback from additional consultees, the scheme stands a favourable chance if it incorporates the suggested measures, though the officer's informal opinion underscores that it does not commit the authority to a definitive decision at this stage.

Appeal Ref: APP/R3325/W/19/3231105 - Dismissed on November 26, 2019

The aforementioned appeal pertained to the development of six dwellings accessed via Stoodham, connected to Silver Street through a T junction. Notably, this site is situated to the northwest and distinct from the one currently under review.

The Inspector, upon examination, expressed concerns about the safety of the

Stoodham and Silver Street junction, deeming it unsuitable for additional vehicular movements and subsequently dismissing the appeal. Additionally, the Inspector held the view that the proposed development had an adverse impact on the area's character.

It is crucial to highlight that the present application seeks access directly onto Silver Street, positioned at a significant distance from the Stoodham junction and possesses a distinct character from the six dwellings subject to the dismissed appeal. Consequently, it is asserted that the dismissed appeal lacks comparability due to these inherent differences.

POLICY

The South Somerset Local Plan (2006 - 2028) was adopted on the 5th March 2015. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the adopted local plan now forms part of the development plan. As such, decisions on the award of planning permission should be made in accordance with this development plan, unless material considerations indicate otherwise. Legislation and national policy are clear that the starting point for decision-making is the development plan, where development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.

Policies of the South Somerset Local Plan (2006-2028)
SD1, SS1, SS2, SS4, SS5, TA1, TA5, TA6, EQ1, EQ2, EQ3, EQ4

National Planning Policy Framework
Chapters 2, 4, 5, 8, 9, 11, 12, 14, 15, 16

South Petherton Neighbourhood Plan 2015 - 2028

National Planning Practice Guidance
Design, Natural Environment, Rural Housing, Planning Obligations

Policy-related Material Considerations
Somerset County Council Parking Strategy
Somerset County Council Highways Development Control - Standing Advice

National Design Guide

CONSULTATIONS

South Petherton Parish Council:

South Petherton Parish Council objects to the planning application for several reasons as summarised:

Non-Compliance with Neighbourhood Plan Policies:

The proposed development is not in alignment with South Petherton's Neighbourhood Plan policies, specifically TT3 (maintaining accessibility on local roads) and BEH3 (impact on rights of way and non-vehicular routes).

Access and Safety Concerns:

The new entrance contradicts the goal of providing safe accessibility on local roads. Issues with access, rights of way, and lack of pavements on routes to school will lead to increased pedestrian and vehicular traffic, compromising safety.

Rate and Scale of Development:

Development near South Petherton should ideally align with completion rates and design requirements specified in the Parish Design Guide.

The proposed rate of development and design materials are considered inconsistent with local standards.

Quality of Design:

The design materials suggested for the development are perceived as not in harmony with the local vernacular, contradicting the requirement for high-quality design.

Additional Concerns:

Loss of prime agricultural land.

Local infrastructure inadequacy to support increased demand on schools and GP surgeries.

Ecological impact on wildlife, including reported sightings of hares and badger setts near the boundary.

Highways safety concerns, particularly the creation of a dangerous crossroad with Hospital Lane.

Contradiction to Appeal Decision:

The objection asserts that the planning application is in direct contradiction to the appeal decision with reference to APP/R3325/W/19/3231105.

In summary, the objection is grounded in planning policy non-compliance, safety and access concerns, inconsistency with development standards, and potential adverse

impacts on the environment and local infrastructure..

Strategic Housing:

Strategic Housing requirements on this outline application.

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 14 units based on a development of 40 dwellings. The split should be as follows: 10 dwellings for social rent and 4 dwellings for First Homes (this is a higher number of intermediate as the NPPF requires 10% of the site overall to be provided for affordable home ownership).

The development is proposed to consist of a mix of 1 - 4 bedroom dwellings. We suggest the following mix which differs slightly to what is currently proposed. This is based on the new South Somerset Local Housing Needs Assessment 2021 (LHNA) and also considers the expressed demand on Homefinder Somerset for the district of South Somerset and South Petherton:

- 4 x 1 bedroom house, flat or bungalow
- 5 x 2 bedroom house or bungalow
- 4 x 3 bedroom house or bungalow
- 1 x 4 bedroom house (to be provided for social rent)

I have detailed below our prevailing minimum internal space standards which should also be adhered to for all affordable dwellings on the site:

- 1 bedroom flat 2 Person 47 sqm
- 2 bedroom flat 4 Person 66 sqm
- 2 bedroom house 4 Person 76 sqm (86 sqm if 3 storey)
- 3 bedroom house 6 Person 86 sqm (94 sqm if 3 storey)
- 4 bedroom house 8 Person 106 sqm (114 sqm if 3 storey)
- 4 bedroom parlour house 8 Person 126 sqm (134 sqm if 3 storey)

We would expect the affordable units to be pepper potted throughout the site, that the units are developed to blend in with the proposed housing styles and prefer the dwellings to be houses/bungalows or if flats have the appearance of houses. I would recommend that the affordable units are in clusters of no more than 7 with social rented properties in each cluster (the affordable dwellings currently seem to be in a single cluster). These affordable dwellings will form an integral and inclusive part of the layout.

Although the proposed dwellings comply with the minimum space standards detailed above. I note that the 3-bedroom dwellings are only due to accommodate 5 people (plots 12, 14, 15, 16). We would expect all bedrooms to be able to accommodate 2 people and so would ask that the internal layout is amended to ensure that 6 people can be accommodated in all 3-bedroom dwellings. I could not see any plans for the 1-bedroom affordable dwellings so was not able to look these.

We would expect the s106 agreement to contain appropriate trigger points to guarantee that some of the affordable housing provision is delivered in the event that the site gains permission but is only ever partially built out.

The s106 should also include a schedule of approved housing association partners for delivery of the affordable units:

Abri
LiveWest
Magna Housing
Stonewater Housing

LLFA

Based upon the information received, Somerset Council as the LLFA advises the LPA that the proposed development is considered acceptable for outline planning subject to conditions.

Planning Policy:

Summary of Planning Policy Consultation Response

Monitoring and Housing Data:

- The report outlines housing delivery in South Petherton from 2006 to 2022, with 309 dwellings delivered and 45 committed.
- With this application, the potential total rises to 394 dwellings, a 15% increase in the parish over the plan period (2006-2028).

Development Plan Compliance:

- The proposal aligns with South Somerset Local Plan 2006-2028 (Policy SS1) for Rural Centres, allowing permissive development adjoining Development Areas.
- Policy HG3 mandates 35% affordable dwellings, and Policy HG5 emphasises a mix of market housing, with the proposed 24 market and 12 affordable homes

complying.

- The proposed affordable housing mix does not fully align with the latest Local Housing Needs Assessment (2021).

Neighbourhood Plan and Heritage Considerations:

- The South Petherton Neighbourhood Plan supports development meeting criteria, including adherence to the Parish Design Guide and addressing local housing needs.
- Non-designated heritage assets along Silver Street raise the need for advice from the Council's Conservation Specialist.

Local Plan Review and Planning Balance:

- The emerging Local Plan Review is considered at an early stage, with limited weight attached, however work on the Review has now stopped.
- South Petherton, a Rural Centre, has already surpassed its Local Plan housing target.
- The tilted balance in paragraph 11 d) of the NPPF applies, given the Neighbourhood Plan's age, requiring consideration of all material considerations.

Housing Land Supply and Phosphate Issue:

- The Council demonstrates a housing land supply equivalent to 4.4 to 4.7 years, impacted by a phosphate-related situation.
- The tilted balance in NPPF is crucial, considering the nature and extent of the housing land supply shortfall.

Conclusion and Recommendation:

- The recommendation considers the context of paragraph 11 d) of the NPPF, acknowledging the weight given to Local Plan policies and the Neighbourhood Plan.
- The ongoing phosphate issue in the Somerset Levels and Moors catchment requires sufficient information for a proper assessment.

Public Open Space

A contribution of £2,805 per dwelling required to be secured through a s106 agreement.

Public Rights of Way

No objection subject to comments.

Highway Authority:

Summary of the Highway Authority's Response to Development Management Consultation for Planning Application 22/02118/OUT:

Overview: The Highway Authority has provided a detailed response to the outlined planning application for the erection of 40 dwellings in South Petherton. The council's comments cover various aspects, including pedestrian access, drainage, road construction, and visibility issues.

Key Points:

1. **Pedestrian Access:** The council notes the potential improvement in pedestrian access to the local public rights of way (PROW) network, suggesting a new link in the northern corner of the site.
2. **Travel Plan Statement:** The Travel Plan Statement is under assessment, and comments will be provided later. It is emphasized that details need to be secured through a Section 106 Agreement.
3. **Drainage:** The council raises no objection in principle to the proposed surface water management strategy but provides specific observations and recommendations related to drainage, gullies, and sewer considerations.
4. **Internal Layout:** Since no internal layout arrangement has been submitted, the full details of estate roads will need to be agreed upon during the Reserved Matters application process.

Conditions/Reasons:

If permission is granted, the Highway Authority recommends imposing conditions to ensure proper construction and maintenance. These include requirements related to road construction, gradients, visibility, parking spaces, turning space, disposal of surface water, and a construction management plan.

Specific Conditions / s106 Include:

1. The construction of roads, footways, and other elements must be completed to a specified standard before dwellings are occupied.
2. Detailed plans for various aspects, such as estate roads, footways, sewers, parking, and more, must be submitted and approved before certain development elements commence.
3. The gradient of the proposed access should not exceed a specified steepness.
4. Visibility must meet specific criteria to ensure safety, and a construction management plan must be approved.

5. A footway across the site frontage on Silver Street, measuring at least 2m wide, must be constructed before the first occupation.
6. The Travel Plan Statement is has been assessed and requires amendments which can be secured prior to the agreement of the s106 agreement.

The Highway Authority have reviewed the application following the presentation to the South Planning Committee of the 30th January 2024 and supplied a response 2nd February summarised as follows:

Assessments and Findings:

Travel Plan assessment was conducted.

Drainage and highway environment were found generally acceptable.

No collision data is present in the vicinity of the proposed new access.

Trip generation is estimated to be around 20 vehicles in peak hour, which is not considered severe.

Visibility splays are deemed acceptable at 49m.

Collision Data and Information:

Anecdotal suggestions of near misses were noted, but no recorded collisions were found.

Lack of collisions indicates that vehicle access and pedestrian safety aren't inherently dangerous at the proposed location.

Trip Generation Figures:

The expected vehicle movements are not considered significant.

Parking spaces for residents are provided, although they may be remote from the properties.

Comparison with a nearby refused development application (18/01481/OUT) was made, highlighting differences in visibility splays and safety concerns.

Access Details:

The new access road can meet standard visibility requirements.

A staggered junction is proposed, offset from Hospital Lane.

Suggestions for alternative junction configurations were considered, with objections raised against cross-roads due to higher collision risks.

Highway Authority Position:

Overall, the Highway Authority sees no reason to object to the proposal on highway grounds.

Conditions and agreements are requested to secure the access and ensure compliance with relevant regulations.

In conclusion, the Highway Authority, supports the proposed development, considering it acceptable in terms of highway safety and infrastructure.

Environmental Health:

No objection subject to conditions

Designing Out Crime

No objections subject to comments

Fire Service

Whilst we acknowledge this is a planning application, we take the opportunity to comment on the access and facilities for the Fire & Rescue Service. Please ensure that the requirement within ADB Volume 1: Dwellings Part 5 of the Building Regulations 2010 is complied with.

Education

We have the following observations on the education aspects of this proposal:-
A proposal of 40 dwellings in this location will generate the following number of pupils for each education type:

Early Years - 4 pupils

Infants - 6

Junior - 8

Secondary - 6

Education contributions will be required to provide additional places for the following early year setting:

South Petherton Infants Pre-School

In accordance with the current cost to build for early years of £17,941 per child, if this application is approved we would expect the following contributions to be agreed in a

s106.:

4 X 17,941= £71,764 for early years

Somerset Ecology Services:

No objections.

Approved the credit scheme and the HRA.

It is proposed that this development of 40 dwelling is served by a Graf Professional wastewater treatment plant with a phosphorous discharge rate of 0.4mg/l (with chemical dosing, adopted by Albion water). This, along with land use change, will result in a phosphorus load of 3.24 kgTP/yr. To mitigate for this increase 3.24 phosphate credits will be purchased from the Woodrow Farm Credit scheme.

The Appropriate Assessment has concluded that there will not be an adverse effect on the integrity of the Somerset Levels and Moors Ramsar subject to 3.24 Nutrient Credits being purchased by the applicant to mitigate for 3.24kgTP/yr of additional phosphorus loading resultant from the development which will subsequently discharge into the River Parrett catchment.

Archaeology:

The submitted geophysical survey and evaluation report show that there are archaeological features potentially relating to prehistoric mortuary practices on this site that will be impacted by the proposal.

For this reason, I recommend that the developer be required to archaeologically excavate the heritage asset and provide a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 205). This should be secured by the use of the following conditions attached to any permission granted.

"Programme of Works in Accordance with a Written Scheme of Investigation (POW)

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

publication of the results. The development hereby permitted shall be carried out in accordance with the approved scheme."

NHS:

The application has been reviewed from a primary care perspective and the response has been informed by the Health Contributions for GP Provision (<https://www.southsomerset.gov.uk/media/5308/south-somerset-health-contributionstechnical-note-nov-2021-finaldocx.pdf>) which was jointly prepared with NHS England.

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 South Petherton Medical Centre being approved prior to a final decision on this particular development, then the NHS position could change.

Therefore, whilst at this time there would be no need for a Section 106 contribution towards NHS Primary Care from this development, we would advise that the estimated sum of £580 per dwelling towards NHS Primary Care is factored in to any viability assessments.

Accordingly, the NHS reserve the right to review and respond again when any future planning applications are received by the Council. The NHS cannot guarantee that the response will be the same once all the factors surrounding any future application are considered.

Natural England:

No objection

On the basis of the submitted information Natural England has no objection for its use as phosphorus credits to enable new development within the River Parrett catchment.

Natural England is also satisfied with the methodology used for calculating the annual phosphorus savings that would be generated by the permanent removal of the

farmyard and its subsequent conversion to an area of woodland.

Wessex Water:

Many thanks for your enquiry on the above proposal. The proposed foul points of connection is deemed acceptable subject to planning consent and an application to connect. The planning statement and FRA clarify that groundwater flooding, river flooding, and sea flooding risks are all 'negligible'; and surface water flooding risk is 'very low'. The included Drainage Strategy also illustrates how the indicative scheme can be accommodated appropriately with the Ground Investigation results also indicating that the site can accommodate soakaways, is suitable for construction, and is at limited risk from contamination however, the attached drainage strategy contradicts these statements.

The onus falls on the developer to agree on surface water flow rates and methodology which is in line with advice from the LLFA acting as the statutory consultee for surface water management before engaging with Wessex Water on capacity within the receiving system. Considering this application is for outline approval; it is anticipated that the developer will get in touch with Wessex Water as the site progresses should the approach direct conveyance to our piped system.

REPRESENTATIONS

37 letters of consultation were undertaken. 60 letters of objection and 2 supporting representations have been received.

The objections to the planning applications can be summarised as follows:

Overburdened Facilities and Services:

- Concerns about the strain on local amenities such as schools, hospitals, and GP surgeries, which are already oversubscribed.
- Doubts about the capacity of existing facilities to handle the increased demand resulting from the proposed developments.

Traffic Congestion, Road Safety, and Infrastructure Challenges:

- Predictions of increased traffic along existing roads, leading to congestion, accidents, and hazards for pedestrians.
- Emphasis on the inadequacy of the village's infrastructure to support the proposed developments, including concerns about access roads, lack of footpaths, and potential impacts on emergency services.

Environmental Impact and Green Space Preservation:

- Objections related to the negative environmental consequences, such as increased noise pollution, loss of wildlife habitat, and destruction of greenfield sites.
- Calls for sustainable development practices with a focus on preserving local wildlife and farming land.

Community Well-being and Anti-Social Behaviour:

- Concerns about the impact on the overall livability of the village, including an increase in anti-social behaviour and a lack of police presence.
- Calls for the preservation of green spaces to maintain the rural character of the area.

Affordability and Social Housing:

- Recommendations for prioritising the construction of social houses over affordable ones, with concerns that affordable housing might end up being rented at high rates by wealthier individuals.

Lack of Consultation:

- Some objections point out that certain residents were not included in the developer's list of consultations, raising questions about the adequacy of community engagement.

Property Values and Landscape Character:

- Concerns about potential negative impacts on property values, views, and the character of the village due to the proposed housing developments.

Pedestrian Safety and Lack of Provision for Solar Panels:

- Issues related to pedestrian safety, especially concerning the proximity of the proposed access points to existing residences and the junior school.
- Attention to the absence of provisions for solar panels on new builds, advocating for sustainable development practices.

Contrary to Local Plan:

- Some objections claim that the proposed developments go against the policies outlined in the adopted Local Plan, particularly regarding road safety, access points, and the capacity of local schools.

Construction and Engineering Challenges:

- Lack of consideration for major engineering works needed to address level differences between the site and existing infrastructure.

- Anticipation of adverse effects on views, safety issues, and strain on village infrastructure due to traffic and pedestrian movements.

These objections collectively argue against the planning applications, citing a range of issues related to infrastructure, traffic, environmental impact, and community well-being. The overall sentiment is that the proposed development is not suitable for the village of South Petherton.

Summary of support

The letter of support for the housing development can be summarized as follows:

The housing development is seen as a crucial asset for supporting the local community by addressing the need for affordable and accessible housing. This is believed to play a significant role in attracting and retaining residents, contributing to the town's overall quality of life and making it a more desirable place to live. The creation of work units is also highlighted as beneficial for small businesses.

Furthermore, the letter suggests that housing development has the potential to stimulate economic growth. This is envisioned through the creation of construction and homebuilding jobs, along with generating additional tax revenue for the local government. The economic benefits are expected to support essential services and amenities like schools, parks, and transportation infrastructure.

While expressing overall support for the housing development, the letter emphasizes the importance of careful planning and community engagement. It acknowledges the need to consider potential impacts on the environment, traffic, and existing residents to ensure that the development is carried out in a way that benefits everyone.

CONSIDERATIONS

Principle of Development

The principle of development for the proposed project is guided by planning regulations, particularly Section 38(6) of the Planning and Compulsory Purchase Act 2004. The current Local Plan for the area is the adopted South Somerset Local Plan March 2015. South Somerset lacks a five-year supply of housing land, and the existing Development Plan is considered out-of-date, regarding restrictive housing land planning policy.

Due to the outdated Development Plan, the proposal falls under the presumption in

favour of sustainable development, as outlined in Paragraph 11 of the National Planning Policy Framework (NPPF). This means approving development proposals that align with an up-to-date plan or, in the absence of relevant policies, granting permission unless there are clear reasons for refusal based on Framework policies.

The proposed development includes the construction of 40 dwellings, a mix of market houses (65%) and affordable homes (35%). The layout is indicative at this stage, with details to be agreed at Reserved Matters stage. The proposal involves the demolition of existing storage buildings, the creation of new access points, provision of parking spaces, ecological habitat areas, landscaping, and planting. The development is considered to accord with the adopted Local Plan, policies SS1, SS2, and SS5, and Neighbourhood Plan Policy NE2, making it acceptable in principle.

Highways

The Highway Authority have raised no objection regarding the creation of the access.

The creation of the access requires substantial engineering work to the existing bank which would form an immediate change to the character of Silver Street.

The Highway Authority reviewed the application following the presentation to the South Planning Committee of the 30th January 2024 and supplied a response 2nd February concluding that the Highway Authority supports the proposed development considering it acceptable in terms of highway safety and infrastructure.

Scale and Appearance

The proposed development involves the construction of 40 dwellings on a 3-hectare site and the creation of a new access. The key aspects related to the scale and appearance are:

Creation of a new access point: The proposed development necessitates the establishment of a new access point, involving extensive engineering activities on the bank. This modification to the landscape along Silver Street raises concerns about the potential alteration to the character and visual aesthetics of the area. The envisioned engineering works would be prominently visible over a short distance, however Silver Street already features other access drives, such as the one leading to No 71 to the north of the proposed site and the newly constructed access to the Hospital which are useful comparables to assess the visual impact of the proposed access.

To illustrate the visual impact, the applicant has provided imagery depicting the new access point and its associated retaining walls. While it is undeniable that these alterations are conspicuous, it is crucial to balance the perceived harm against the benefits of providing housing in a sustainable location. In particular, the visual disruption caused by the new access must be carefully weighed against the overall advantages of the proposed housing development.

Considering the importance of housing in a sustainable location, it is acknowledged that the creation of the new access point may result in some visual impact. However, it is contended that this harm does not reach a level that would justify outright refusal of the proposal. The benefits of addressing housing needs in a sustainable manner outweigh the visual alterations along Silver Street, making the creation of the new access point an acceptable compromise.

Housing Density: The proposed development would result in a density of 13.3 dwellings per hectare. The density is considered appropriate, taking into account the more rural character to the north and aiming to reflect that of the residential areas to the south, east, and west.

Building Heights: The development primarily consists of two-storey homes with some bungalows. The buildings are intended to be in-keeping with the surrounding building heights.

Design and Character: The design is outlined in a comprehensive Design Statement, mentioning the use of various finishes such as brick, render, and cladding, with roof tiles and dark powder-coated aluminium windows. The proposed appearance is considered to be of high-quality design, in compliance with local and national design policies.

Site Layout: The scheme lays out 40 new dwellings primarily within the central part of the site. Landscape buffers, open space, and biodiversity areas are planned around the boundaries and at the eastern and western sides.

Access and Connectivity: The main vehicle access is proposed from Silver Street at the north-eastern part of the site, with an additional pedestrian-only access in the south-western part. The development aims to improve links and connectivity within South Petherton.

Parking: Adequate private and visitor parking is proposed for each dwelling, meeting County Parking Strategy standards. Additionally, a separate parking area is designated for existing residents along Silver Street which could provide a benefit in

reducing on street parking.

Landscaping: Both an Arboricultural Impact Assessment and a Landscape & Visual Impact Assessment have been conducted. The landscaping strategy includes extensive replanting, and the visual impact on the surrounding landscape is considered acceptable.

The supporting Landscape Visual Impact Assessment has, at the request of the Planning Committee - South, been appraised by a professional Landscape Architect who has concluded that:

Introduction: The LVIA methodology clear and appropriate.

Principle of Development: Considering the site's location and surrounding development, supports the principle of development on the site, seeing it as a logical extension of the village.

Landscape Character: The proposed scheme would change the character of the site from undeveloped to residential but believes it wouldn't cause undue harm to the landscape.

Visual Impact: While there will be changes in views for some local residents, the Landscape Architect doesn't consider visual impact a significant issue, especially with appropriate mitigation measures.

Layout: The Landscape Architect finds the layout logical overall but suggests improvements, such as retaining more space for tree planting and enhancing hedgerows.

Mitigation: Acknowledges the primary mitigation measures but suggests improvements in tree planting strategy, management of hedgerows, and quality of entrance areas.

Conclusion: The Landscape Architect concludes that the LVIA has properly assessed the scheme's effects, acknowledging some harms but deeming them generally acceptable within local levels.

In summary, the Landscape Architect supports the principle of development on the site, with some suggestions for improvements in layout, mitigation measures, and detailed design, emphasising the importance of addressing these points at the Reserved Matter stage.

While this is an outline application approving only access, given the feedback from the assessment, it is important to ensure that additional landscaping details for the vehicular entrance and the detailed design of the proposed pedestrian links to Silver Street are secured through a condition to be considered in the Reserved Matters application.

Affordable Housing: The proposal includes 35% affordable homes on-site, exceeding the emerging Local Plan requirement of 29%. The breakdown of affordable housing sizes aligns with local needs.

In summary, the proposed development aims to be in accordance with the Development Plan, providing a mix of housing types, addressing affordability, and incorporating design considerations to reflect the local area's character. The scale and appearance appear well-thought-out, with an emphasis on sustainability.

Residential Amenity

Amenity Impact on Existing Residents Along Silver Street:

The proposed development includes only 4 dwellings within the part of the site adjacent to Silver Street, with more than 40 meters of distance between the rear of these proposed homes and existing dwellings opposite.

A soft landscaped buffer zone or private gardens for existing residents along Silver Street (numbers 53-69) are proposed to mitigate any potential impact.

Landscape buffers and additional planting around the site aim to ensure that 40 dwellings can be accommodated without detriment to neighbouring amenity.

Amenity Levels for Future Occupiers:

The indicative layout of the scheme suggests that all proposed dwellings would meet and exceed national minimum space standards.

Each home is planned to have good-sized usable gardens to ensure adequate amenity levels for future occupiers.

Privacy Impact:

Although layout details are indicative at this stage, the Proposed Site Plan suggests

no development in the south-western part of the site, maintaining an undeveloped area.

For existing residents along Silver Street, only 4 dwellings are proposed in this part, with more than adequate distance and a proposed landscaped buffer zone.

The separation distance between the rear of the proposed homes and existing dwellings is stated to be in excess of 40m.

In conclusion, it is considered that careful consideration has been given to the impact on residential amenity and privacy. The proposed measures, such as buffer zones, landscaping, and appropriate distances between properties, aim to preserve existing residents' amenity and provide adequate privacy for both existing and future occupiers.

Affordable Housing

Strategic Housing have no objection to the proposed affordable housing in terms of numbers and tenures and request that this is secured by way of a s106 agreement.

The outline application for the proposed development has set out the strategic housing requirements, mandating 35% affordable housing. The split specified is 75:25 for Social Rent and First Homes, amounting to 14 units in total within a development of 40 dwellings. The proposed housing mix includes 1 to 4-bedroom dwellings, with suggested adjustments based on the 2021 South Somerset Local Housing Needs Assessment (LHNA) and demand from Homefinder Somerset. Minimum internal space standards have been outlined for each dwelling type. The expectation is for affordable units to be integrated throughout the site, resembling the overall housing styles, with a preference for houses or bungalows, and clustering in groups of no more than 7.

Strategic Housing emphasises the importance of accommodating 2 people per bedroom and proposes amendments to ensure all 3-bedroom dwellings can comfortably house 6 people. The s106 agreement is expected to incorporate trigger points for affordable housing provision, ensuring delivery even in the event of partial site development. Moreover, the agreement should specify approved housing association partners, including Abri, LiveWest, Magna Housing, and Stonewater Housing, for the implementation of affordable units.

Heritage

The Heritage Statement provides a comprehensive evaluation of potential impacts on heritage assets. The assessment considers several key elements:

Hamdon Hill Camp: The proposed development is evaluated to have a slight overall impact on the Scheduled Iron Age hillfort of Hamdon Hill Camp. This assessment considers the monument's very high significance and the negligible to minor magnitude of impact, primarily affecting panoramic views without noticeable effects on its immediate setting.

South Petherton Conservation Area: The overall impact on the South Petherton Conservation Area is deemed slight. The assessment takes into account the area's high significance as a medieval settlement and the negligible to minor impact magnitude. Local views remain unaffected, with potential peripheral changes to distant views from Hamdon Hill.

Nos. 31-35 Silver Street: The proposed development is assessed to have a neutral impact on these early to mid-19th century cottages, reflecting their low to medium importance as undesignated local heritage assets with no significant change anticipated.

Former Wheatsheaf Inn and Adjacent Cottages: The overall impact on this cluster of early to mid-19th century dwellings is assessed as slight, considering their low to medium significance and the negligible to minor impact on their setting.

No. 51 Silver Street: The impact on the setting of No. 51 Silver Street is considered slight, accounting for the low to medium importance of this undesignated heritage asset. The proposed demolition of a garage extension is expected to result in a noticeable change to the external appearance but is deemed a minor impact.

Mere Linches: The impact on the setting of Mere Linches is assessed as neutral, recognizing its medium significance as a series of cultivation lynchets with no anticipated change.

It is considered that the overall impact of the proposed development on nearby heritage assets and the South Petherton Conservation Area is slight. This assessment reflects the limited impact on the settings of specific designated and undesignated heritage assets, both in the immediate vicinity of the site and the wider surrounding area.

Flood Risk

The flood risk assessment for the site, conducted in accordance with the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG), indicates a very low baseline flood risk from various sources. The site, currently used for agriculture, is proposed for the construction of 40 residential dwellings, landscaped areas, an access road, and an ecological habitat area. The assessment identifies the following flood risks:

River (Fluvial) and Sea (Coastal/Tidal): The site is located within a fluvial Flood Zone 1, indicating a low probability of flooding. The Risk of Flooding from Rivers and Sea (RoFRS) map shows a very low risk of flooding from rivers and the sea.

Surface Water (Pluvial) Flooding: The site has a very low risk of pluvial flooding according to the Environment Agency's mapping.

Groundwater Flooding: GeoSmart's Groundwater Flood Risk (GW5) mapping confirms a negligible risk of groundwater flooding.

Other Flood Risk Factors: No other flood risk factors are present on the site.

The LLFA have indicated that while there are a number of matters that require clarification this can be assessed at reserved matters stage and are otherwise content.

Ecology

Ecology have indicated that it is content with the proposal subject to conditions.

The ecological assessment for the site reveals a diverse habitat composition. The 2.98-hectare site, mainly used for horse-grazed pasture, features habitats such as semi-improved grassland, tall ruderal vegetation, scrub, scattered trees, linear habitats (hedgerows), and buildings. Notably, five hedgerows, comprising a mix of native woody species, are identified as priority habitats. The predominant grassland is characterised by perennial rye-grass dominance with various forbs.

The assessment also highlights the absence of significant protected or notable plant species due to the current grazing regime. Invertebrates, amphibians, reptiles, and birds are found to have limited presence, and the report suggests no further surveys are required for these groups. The habitats may not be suitable for certain species due to grazing practices and habitat fragmentation.

Regarding bats, none were observed during the assessment, and no features suitable for roosting bats were identified in the existing structures or trees. Recommendations include a fingertip search for brown hairstreak eggs before vegetation clearance and a precautionary approach to adder mitigation. Overall, the ecological assessment provides a comprehensive understanding of the site's biodiversity, emphasizing the need for habitat preservation and cautious planning to mitigate potential impacts on local wildlife.

Conditions:

Species:

Provide specific mitigation strategies for identified species, such as brown hairstreak and birds.

Undertake a fingertip search for brown hairstreak eggs and translocate shrubs if needed.

Ensure vegetation clearance outside peak nesting season and check for active nests if clearance is necessary.

Implement a sensitive lighting strategy to minimize impact on bats.

Opportunities for Ecological Enhancement:

Erect bird and bat boxes on new houses or retained mature trees.

Use native or wildlife-benefitting shrubs in landscaping.

Augment botanical diversity in parkland through plug planting/over-seeding of native plants and grasses.

Somerset Levels and Moors - Phosphates

The Somerset Levels and Moors are designated as a Special Protection Area (SPA) under the Habitats Regulations 2017 and listed as a Ramsar Site under the Ramsar Convention. The Ramsar Site consists of a number of Sites of Special Scientific Interest (SSSIs) within what is the largest area of lowland wet grassland and wetland habitat remaining in Britain, within the flood plains of the Rivers Axe, Brue, Parrett, Tone and their tributaries. The site attracts internationally important numbers of wildlife, including wildfowl, aquatic invertebrates, and is an important site for breeding waders.

Natural England has written to various Councils in Somerset advising about the high levels of phosphates in the Somerset Levels and Moors that are causing the interest features of the Ramsar Site to be unfavourable, or at risk, from the effects of these

high levels. This is as a result of a Court Judgement known as the Dutch N case, which has seen a greater scrutiny of plans or projects by Natural England, regarding increased nutrient loads that may have a significant effect on sites designated under the Habitats Regulations 2017 (including Ramsar Sites).

The phosphate mitigation has been endorsed by SES and Natural England.

The mitigation strategy comprises of.

It is proposed that this development of 40 dwelling is served by a Graf Professional wastewater treatment plant with a phosphorous discharge rate of 0.4mg/l (with chemical dosing, adopted by Albion water). This, along with land use change, will result in a phosphorus load of 3.24 kgTP/yr. To mitigate for this increase 3.24 phosphate credits will be purchased from the Woodrow Farm Credit scheme.

The Appropriate Assessment has concluded that there will not be an adverse effect on the integrity of the Somerset Levels and Moors Ramsar subject to 3.24 Nutrient Credits being purchased by the applicant to mitigate for 3.24kgTP/yr of additional phosphorus loading resultant from the development which will subsequently discharge into the River Parrett catchment.

The mitigation strategy is to be secured by way of a s106 agreement.

Community Infrastructure Levy

As of 3rd April 2017, the Council adopted CIL (Community Infrastructure Levy), which is payable on all new residential development (exceptions apply) should permission be granted, an appropriate informative will be added, advising the applicant of their obligations in this respect.

CONCLUSION

In conclusion, the proposed development project, involving the construction of 40 dwellings with a mix of market and affordable housing, has undergone a thorough evaluation across various dimensions, including Highways, Scale and Appearance, Heritage, Residential Amenity, Affordable Housing, Flood Risk, Ecology, and Somerset Levels and Moors Phosphates. The planning application takes into account the outdated Development Plan, taking into account the presumption in favour of sustainable development outlined in the National Planning Policy Framework (NPPF). The project aligns with local planning policies and addresses the housing needs in South Somerset, which currently lacks a five-year supply of housing land.

The comprehensive assessment of the proposal, considering aspects such as visual impact, housing density, building heights, design, amenity impact, and ecological considerations, reveals a carefully balanced approach. While acknowledging potential visual alterations due to the creation of a new access point on Silver Street, the proposal demonstrates a commitment to sustainability. Measures such as buffer zones, landscaping, and adherence to minimum space standards contribute to preserving residential amenity and privacy for both existing and future occupants. Additionally, the affordable housing component complies with local requirements, emphasising Strategic Housing goals. Mitigation strategies for flood risk and phosphates, endorsed by relevant authorities, further strengthen the proposal's environmental considerations. Overall, the application represents a well-considered and balanced response to the local housing needs, incorporating design quality, and ecological responsibility.

The Council's lack of a five year housing land supply lends significant weight when considering the planning balance. In this case, the site is located in a sustainable location with access to a range of services and facilities. The proposal is not considered to result in such a significant and adverse impact upon visual amenity, heritage, residential amenity, highway safety, flood risk/drainage or ecology/biodiversity as to justify a refusal of planning permission. Therefore, in terms of the 'planning balance', it is considered that there are no adverse impacts that would 'significantly and demonstrably' outweigh the benefits of providing 40 dwellings in this sustainable location. The proposal is considered to be in accordance with Policies SD1, SS1, SS4, SS5, SS6, HG3, TA1, TA4, TA5, TA6, HW1, EQ1, EQ2, EQ3, EQ4, EQ5 and EQ7 of the South Somerset Local Plan 2006-2028, South Petherton Neighbourhood Plan and the aims and objectives of the NPPF.

RECOMMENDATION

Approve subject to conditions and a s106 agreement that secures:

Phosphate mitigation

Travel Plan

Affordable housing

35% affordable housing. The split specified is 75:25 for Social Rent and First Homes, amounting to 14 units in total within a development of 40 dwellings. The proposed housing mix includes 1 to 4-bedroom dwellings, with suggested adjustments based

on the 2021 South Somerset Local Housing Needs Assessment (LHNA) and demand from Homefinder Somerset. Minimum internal space standards have been outlined for each dwelling type. The expectation is for affordable units to be integrated throughout the site, resembling the overall housing styles, with a preference for houses or bungalows, and clustering in groups of no more than 7.

Include a schedule of approved housing association partners for delivery of the affordable units:

Abri

LiveWest

Magna Housing

Stonewater Housing

Education

4 X 17,941= £71,764 for early years

Public Open Space

A contribution of £2,805 per dwelling required to be secured through a s106 agreement.

01. The Council's lack of a five year housing land supply lends significant weight when considering the planning balance. In this case, the site is located in a sustainable location with access to a range of services and facilities. The proposal is not considered to result in such a significant and adverse impact upon visual amenity, heritage, residential amenity, highway safety, flood risk/drainage or ecology/biodiversity as to justify a refusal of planning permission. Therefore, in terms of the 'planning balance', it is considered that there are no adverse impacts that would 'significantly and demonstrably' outweigh the benefits of providing 40 dwellings in this sustainable location. The proposal is considered to be in accordance with Policies SD1, SS1, SS4, SS5, SS6, HG3, TA1, TA4, TA5, TA6, HW1, EQ1, EQ2, EQ3, EQ4, EQ5 and EQ7 of the South Somerset Local Plan 2006-2028, South Petherton Neighbourhood Plan and the aims and objectives of the NPPF.

SUBJECT TO THE FOLLOWING:

01. Approval of appearance, landscaping, layout, and scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the provisions of Article 3 of the Town and Country Planning (General Development 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. The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by S51 (2) Planning and Compulsory Purchase Act 2004).

04. The development hereby permitted shall be restricted to no more than 40 dwellings.

Reason: To avoid any ambiguity as to what is approved.

05. Unless otherwise indicated by other conditions attached to this decision, the development hereby permitted shall accord with the following approved plans in respect of the extent of application site to which this grant of outline planning permission relates and also the proposed access details:

Site Location Plan

1205 SAP XX 00 DR A 10102 SO 01 - Proposed Entrance - Site Plan

1205 SAP XX 00 DR A 10100 SO 18 - Proposed Site Plan

1205 SAP XX 00 DR A 20201 SO 02 - Site Entrance and Access Road Section

ARBORICULTURAL IMPACT ASSESSMENT- MARCH 2022

Flood Risk Assessment - 25-02-2022

Heritage Statement - August 2022

LANDSCAPE AND VISUAL IMPACT ASSESSMENT - March 2022

Method Statement for Forming Site Entrance

Planning Statement - July 2022

Preliminary Ecological Appraisal Report - May 2022

TRANSPORT STATEMENT - March 2022

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

06. The landscaping scheme submitted in accordance with condition 01 of this outline grant of planning permission shall include details of:
- (a) Planting plans (to a recognised scale) and schedules indicating the location, numbers of individual species, density, spacings, sizes, forms, root types/root volumes and size of proposed tree, hedge, and shrub. All planting stock must be specified as UK-Grown, unless otherwise previously agreed in writing by the Local Planning Authority.
 - (b) The method and specifications for operations associated with installation including ground preparation, the use of bio-degradable weed-suppressing geo-textile, tree pit design, staking/supporting, tying, guarding, strimmer-guarding and surface-mulching; and planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting.
 - (c) Written specifications including cultivation and other operations associated with tree, plant and grass establishment.
 - (d) Existing landscape features such as trees, hedges and shrubs which are to be retained and/or removed, accurately plotted (where appropriate).
 - (e) The position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge (banks)), where appropriate;
 - (f) An on-going management and maintenance plan of all the approved landscaping features; and
 - (g) A timetable for the implementation of the approved hard and soft landscaping scheme.

The approved hard and soft landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation (within the dormant planting season between November to February inclusively) and shall thereafter be protected, managed, and maintained in accordance with the approved scheme.

Reason: To clarify the level of detail of landscaping to form part of any subsequent application for reserved matters in order to safeguard and enhance the landscape character and visual amenity of the area; to help assimilate the development into its immediate surrounds; and to provide ecological, environmental and biodiversity benefits, having regard to Policies EQ2, EQ4 and EQ5 of the South Somerset Local Plan and relevant guidance within the NPPF.

07. Prior to commencement of development hereby permitted, the applicants or their agent or successors in title shall secure the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has previously been submitted to and approved in writing by the Local Planning Authority. The WSI shall include details of the archaeological excavation, the recording of any heritage asset, the analysis of evidence recovered from the site and publication of the results. The development hereby permitted shall be carried out in accordance with the approved scheme.

Reason: The agreement of archaeological works prior to the commencement of development is fundamental to enable the recording of any items of historical or archaeological interest, having regard to the requirements of Policy EQ3 of the South Somerset Local Plan and relevant guidance within the NPPF.

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

Reason: To enable the recording of any items of historical or archaeological interest, having regard to the requirements of Policy EQ3 of the South Somerset Local Plan and relevant guidance within the NPPF.

09. Prior to commencement of development and before any vegetative clearance, groundworks, entry of heavy machinery onto the site, or on-site storage of materials commences, the following conditions must be met:

- (a) A comprehensive scheme outlining measures for the protection of trees and hedgerows must be developed by an experienced and qualified arboricultural consultant, adhering to the specifications detailed in British Standard 5837: 2012 - 'Trees in relation to design, demolition, and construction.' The scheme, as outlined in section 6.3, should include a sequenced plan for supervisory monitoring during the installation and maintenance of protective measures. This plan should be supervised by a competent Arboriculturalist. The scheme must be submitted to and approved in writing by the Local Planning Authority.

- (b) The installation of the approved tree and hedgerow protection measures must be fully completed as per the details sanctioned in writing by the Local Planning Authority. Confirmation of completion, as stated in the approval, must be provided in writing to the Local Planning Authority within 21 days from the applicant/developer's notification of finishing the endorsed protection scheme.

The approved tree and hedgerow protection scheme must remain entirely installed throughout the construction period of the development, inclusive of any landscaping activities. Any movement, removal, or dismantling of these protective measures requires prior written consent from the Local Planning Authority.

Between 1st March and 31st August, there shall be no removal of hedgerows, trees, shrubs, or demolition of buildings or structures unless a competent ecologist has conducted a detailed examination for active birds' nests immediately before the vegetation clearance or building works commence. The ecologist must provide written confirmation to the Local Planning Authority that no harm will be caused to birds or that appropriate measures are in place to protect nesting bird interests on site. The submission of this written confirmation by the ecologist and obtaining written agreement from the Local Planning Authority is mandatory.

Plastic bird netting obstructing bird access to specific areas or features is strictly prohibited, as it can lead to bird entrapment.

Reason: The submission and agreement upon a comprehensive tree and hedgerow protection scheme by a qualified arboricultural consultant, followed by the complete implementation of approved protection measures before development commencement, are essential. These measures aim to safeguard existing landscape elements (trees and hedgerows), preserving visual amenity and biodiversity, aligning with Policies EQ2, EQ4, and EQ5 of the South Somerset Local Plan, and pertinent guidance within the NPPF

10. 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 throughout the lifetime of the development, in accordance with National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework.

11. No development shall commence, including any demolition, groundworks, or vegetation clearance, until a Construction Environmental Management Plan (CEMP), including a method statement detailing the working methods to be employed on site during the construction works (and preparation associated with construction works), has been submitted to and approved in writing by the

Local Planning Authority. Thereafter, throughout the construction period, the approved details within the CEMP shall be strictly adhered to.

The CEMP shall include the following:

- (a) Details of the phasing of construction traffic for the development, including expected numbers of construction vehicles per day, temporary highway vehicle and pedestrian routings, means of access, times and days of large vehicle movements to and from the site, and suitable off-highway parking for all construction related vehicles.
- (b) Construction vehicular routes to and from site including any temporary construction access points and haul roads required. This information should also be shown on a map of the route.
- (c) Measures to avoid traffic congestion impacting upon the Strategic Road Network.
- (d) A plan showing the location area(s) to be used for the parking of vehicles of site operatives, contractors and visitors during the construction phase. Any vehicles visiting or attending at the site shall not be parked on any access roads serving the site which would cause obstruction to the free passage of other vehicle users of said roads.
- (e) A schedule and location plan for the delivery, removal, loading and unloading of all plant, waste and construction materials to and from the site, including the times of such loading and unloading; details of how deliveries and removals, loading and unloading of plant and materials would not take place during peak-time hours of the highway network in the vicinity of the application site; and details of the nature and number of vehicles, temporary warning signs to be used, and measures to manage crossings across the public highway with guidance of a trained banksman.
- (f) Arrangements to receive abnormal loads or unusually large vehicles.
- (g) The hours of construction operations, and deliveries to and removal of plant, equipment, machinery and waste from the site. Such construction works and deliveries shall be carried out only between 08.00 hours and 18.00 hours Mondays to Fridays; 08.00 hours and 13.00 hours on Saturdays, and at no times on Sundays and Bank or Public Holidays, unless the Local Planning Authority gives prior written agreement to any changes in the stated hours. Procedures for emergency deviation of the agreed working hours shall be in place, the details of which shall be agreed with the Local Planning Authority.
- (h) Details of temporary site compounds including temporary structures/buildings, fencing and proposed provision for the storage of plant and materials to be used in connection with the construction of the development.

- (i) A scheme for recycling/disposing of waste resulting from any demolition and construction works. There shall be no burning of materials arising on site during any phase of demolition and site clearance works and during the construction process unless prior written approval is obtained from the Local Planning Authority.
- (j) The siting and design of wheel washing facilities and management of any subsequent run-off resulting from their use, together with the regular use of a road sweeper for the local highways.
- (k) Measures to control the emission of dust, mud/dirt, noise, vibration and external lighting (including security lighting) during the construction period. Regard shall be had to mitigation measures as defined in BS 5228: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites.
- (l) Details of any piling together with details of how any associated vibration will be monitored and controlled.
- (m) The location and noise levels of any site electricity generators.
- (n) Management of surface water run-off from the site in general during the construction period.
- (o) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice.
- (p) A scheme to encourage the use of Public Transport amongst contactors.
- (q) Contact telephone number/s and email address/es of the site manager(s) and/or other person/s associated with the management of operations at the site.
- (r) Methods of communicating the CEMP to staff, visitors and neighbouring residents and businesses and procedures for maintaining good public relations including complaint management, public consultation and liaison (including with the Highway Authority and the Council's Environmental Protection Team).

Reason: The agreement of details of a Construction Environmental Management Plan prior to the commencement of development is fundamental to ensure a satisfactory level of environmental protection; to minimise disturbance to residents; the prevention of harm being caused to the amenity of the area; and in the interests of highway safety during the construction process, having regard to Policies TA5, EQ2, EQ4 and EQ7 of the South Somerset Local Plan and relevant guidance in the NPPF.

12. The development hereby permitted shall not begin until a scheme to deal with contamination of land, controlled waters and/or ground gas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall

include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:

1. A Phase I site investigation report carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175 : 2011 Investigation of Potentially Contaminated Sites - Code of Practice and Land Contamination Risk Management (CLR11 Replacement)
2. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice and Land Contamination Risk Management (CLR11 Replacement) The report should include a detailed quantitative human health and environmental risk assessment.
3. A remediation scheme including remedial options appraisal detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation should be stated, such as site contaminant levels or a risk management action, and how this will be validated. Any on going monitoring should also be outlined.
4. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme submitted to and approved in writing by the Local Planning Authority.
5. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

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

13. No construction site machinery or plant shall be operated, no process shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 08.00-18.00 Monday to Saturday and not at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Local Planning Policy and in accordance with the provisions of Circular 11/95.

14. The development shall not be commenced until a scheme specifying the provisions to be made to control dust emanating from the site has been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Local Planning Policy.

15. There shall be no burning of any waste or other materials on the site, except in an incinerator, the details of which shall be approved in writing by the Local Planning Authority before the development is brought into use. The use approved shall be carried out strictly in accordance with the details agreed.

Reason: To ensure that, in accordance with Local Planning Policy, to ensure any concentration of air pollutants in the vicinity is minimised and/or a nuisance is not caused. The incinerator itself may need planning permission.

16. No deliveries shall be taken at or dispatched from the site outside the hours of 08:00-18:00 nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Local Planning Policy

17. No development shall commence, including any demolition, groundworks or vegetation clearance, until a Construction Environmental Management Plan (CEMP: Biodiversity) and a Risk Avoidance Measures Method Statement (RAMMS) have 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 buffer zones, etc.
- (d) Details of the pre-works walkover surveys (badger, otter, etc), as recommended in the EcIA provided by EAD (Dec 2022).
- (e) The location and timing of sensitive works to avoid harm to biodiversity features.

- (f) The times during construction when specialist ecologists need to be present on site to oversee works.
- (g) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- (h) 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's Biodiversity Officer and Landscape Officer (frequency to be agreed, for example, every 3 months during construction phases).
- (i) Use of protective fences, exclusion barriers and warning signs.
- (j) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The RAMMS shall detail a strategy to prevent adverse dust levels, run off from chemical liquids such as petroleum and detergents into the nearby watercourse which is adjacent to the application site along the southern boundary, and using bunded storage for example when refuelling vehicles and storing oil and fuel accordingly.

The approved details within the CEMP (Biodiversity) shall be strictly adhered to and implemented throughout the construction period, unless otherwise agreed in writing by the Local Planning Authority, and the development shall be implemented in accordance with the approved RAMMS strategy.

Reason: The agreement of details of a Construction Environmental Management Plan (Biodiversity) and a Risk Avoidance Measures Method Statement strategy prior to the commencement of development is fundamental to ensure a satisfactory level of environmental protection and prevention of harm being caused to the amenity of the area, having regard to Policies EQ2, EQ4 and EQ7 of the South Somerset Local Plan and relevant guidance in the NPPF, and In the interests of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006.

18. Within six weeks of vegetative clearance or groundworks commencing, a survey for badger setts will be carried out by an experienced ecologist. The results of these surveys will be reported to Local Planning Authority and subsequent actions or mitigation agreed in writing prior to the commencement of vegetative clearance or groundworks. Where a Natural England licence is required a copy will be submitted to the Local Planning Authority prior to works affecting the badger resting place commencing.

Reason: This condition must be a pre-commencement condition to safeguard badgers from the outset of the development, to comply with the Protection of Badgers Act 1992 and in accordance with policy South Somerset District Council Local Plan - Policy EQ4 Biodiversity

19. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The content of the LEMP shall include the following:
- a. Description and evaluation of features to be managed.
 - b. Ecological trends and constraints on site that might influence management.
 - c. Aims and objectives of management.
 - d. Appropriate management options for achieving aims and objectives.
 - e. Prescriptions for management actions.
 - f. Preparation of a work schedule (including an annual work plan capable of being
 - g. rolled forward over a five-year period).
 - h. Details of the body or organization responsible for implementation of the plan.
 - i. On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006 and in accordance with policy South Somerset District Council Local Plan - Policy EQ4 Biodiversity

20. The Development shall not commence until a Lighting Strategy for Biodiversity has been submitted to and approved in writing by the local planning authority. The strategy shall:

- (a) identify those areas/features of the site within that phase or sub phase that are particularly sensitive for bats, dormice and otters and that are vulnerable to light disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;
- (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 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels, showing that lighting will be directed so as to avoid light spillage and pollution on habitats used by light sensitive species, and will demonstrate that light levels falling on wildlife habitats do not exceed an illumination level of 0.5 Lux . Shields and other methods of reducing light spill will be used where necessary to achieve the required light levels.

Unless otherwise agreed in writing by the Local Planning Authority all external lighting shall be installed in accordance with the specifications and locations set out in the 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 NPPF, ODPM Circular 06/2005 and Policy South Somerset District Council Local Plan - Policy EQ4 Biodiversity

- 21. A Biodiversity Enhancement Plan (BEP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to first occupation [or specified phase of development]. Photographs of the installed features will also be submitted to the Local Planning Authority prior to occupation: The content of the BEP shall include the following:
 - 1) 20 Habitat 001 bat boxes or similar will be built into the dwellings (one on each of the 20 dwellings) at least four metres above ground level and away from windows of the west or south facing elevation

- 2) 20 Vivra Pro Woodstone House Martin nests or similar will be mounted directly under the eaves of the north elevation (one on each of the 20 dwellings)
- 3) Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site
- 4) Three log pile as a resting place for reptiles and or amphibians constructed on the southern boundary.
- 5) Tree and native shrub planting; All new shrubs must be high nectar producing to encourage a range of invertebrates to the site, to provide continued foraging for bats. The shrubs must also appeal to night-flying moths which are a key food source for bats. The Royal Horticultural Society guide, "RHS Perfect for Pollinators, www.rhs.org.uk/perfectforpollinators" provides a list of suitable plants both native and non-native. All new trees planted on site should ideally be from local native stock, such as field maple, ash, hornbeam, dogwood, spindle and beech.
- 6) 10 bee bricks built into the wall about 1 metre above ground level on the south or southeast elevation of the dwellings (one on each of the 10 dwellings).

REASON: In the interests of biodiversity in accordance with hte NPF and Policy South Somerset District Council Local Plan - Policy EQ4 Biodiversity

22. No removal of hedgerows, trees or shrubs, or works to or the demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or works to or demolition of buildings commences and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist and written agreement from the Local Planning Authority so obtained.

Under no circumstances should blocking bird access to certain areas and features in using plastic bird netting hung over the gaps and apertures be carried out, as this can lead to entrapment from birds caught in netting.

Reason: To provide adequate safeguards for nesting birds, which are afforded protection under the Wildlife and Countryside Act 1981 (as amended), having regard to Policy EQ4 of the South Somerset Local Plan and relevant guidance within the NPPF

23. The proposed access shall be constructed in accordance with details shown on the submitted plans, and shall be available for use before occupation. Once constructed the access shall be maintained thereafter in that condition at all times.

Reason: In the interests of highway safety further to Policies TA5 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

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

Reason: In the interests of highway safety further to Policies TA5 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

25. 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.

NOTE: 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.

Reason: In the interests of highway safety further to Policies TA5 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

26. No more than 25 dwellings of those permitted shall be occupied until the construction of cycleway and footpath connections within the and to the development site has been completed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: This condition aligns with sustainable development practices. Occupancy of dwellings beyond the initial 25 units is contingent upon the completion of the specified cycleway and footpath connections within the development. This measure supports highway safety and is in accordance with Policies TA5 and TA6 of the South Somerset Local Plan, as well as relevant guidance within the NPPF.

27. The dwelling hereby permitted shall not be occupied until parking spaces for the dwellings, and suitable turning heads have been provided in a position approved by the Local Planning Authority. The said spaces and turning facilities, 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 interests of highway safety and in accordance with Policies TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.

28. There shall be no obstruction to visibility greater than 600 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 59 metres either side of the access. Having regard to the size of vehicle to use the access during the construction phase, such visibility shall be fully provided before the development hereby permitted is commenced and shall thereafter be maintained at all times.

Reason: In the interests of highway safety and in accordance with Policies TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.

29. 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 (Biodiversity), approved pursuant to condition 16, have been completed to his/her satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to the Local Planning Authority for

approval before occupation of each phase or sub-phase of the development or at the end of the next available planting season, whichever is the sooner. 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 that Policy EQ4 of the South Somerset Local Plan has been complied with.

30. The proposed roads, including footpaths, footways 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 and in accordance with Policies TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.

31. All garaging, vehicular and bicycle parking and turning spaces shall be provided, laid out, properly consolidated, surfaced, drained and (where appropriate) delineated in accordance with plans to be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the dwellings hereby permitted to which they serve. Thereafter they shall be maintained and retained for such purposes of parking and turning of vehicles (including motorcycles and bicycles) incidental to the occupation and enjoyment of the dwellings and kept permanently free from any other forms of obstruction. Nor shall any proposed garages be used for, or in connection with, any commercial trade or business purposes.

Reason: To protect the visual and residential amenities of the site and surrounds and to ensure that adequate on-site parking and turning spaces are provided and thereafter retained to enable vehicles to turn on-site without having to reverse onto the County highway, in the interests of and for the safety of persons and vehicles using the development and the adjoining roads, having regard to Policies EQ2, TA1, TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.

32. No dwelling hereby permitted shall be occupied until electric vehicle charging points (EVCP's) rated at a minimum of 16 amps have been provided for each

dwelling within its associated garage and/or parking space. Such provision shall be in accordance with details indicating siting, numbers, design, rating and appearance of the EVCP's which shall be previously submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure provision of EVCP's for low emission vehicles as part of the transition to a low carbon economy, having regard to Policy TA1 of the South Somerset Local Plan and relevant guidance within the NPPF.

33. No dwelling hereby permitted shall be occupied until refuse and recycling storage areas have been provided to serve each dwelling in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Such details shall include the siting, area and means of hardening, draining, and screening of such refuse/recycling storage areas. The refuse/recycling storage areas shall thereafter be retained and maintained as such unless the Local Planning Authority gives prior written approval to any subsequent variations.

Reason: To provide adequate provision of on-site refuse and recycling storage to serve the proposed dwellings to ensure that any impact on visual and residential amenity is kept to a minimum, having regard to Policies TA5 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

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

Reason: To improve the sustainability of the dwellings in accordance with the South Somerset Local Plan Policy EQ1 and Paragraphs 134, 154 and 180 of the National Planning Policy Framework.

35. Prior to the commencement of development, detailed landscaping plans for the vehicular entrance to the site and the pedestrian link to Silver Street shall be submitted to and approved in writing by the Local Planning Authority. The landscaping plans shall include specific details regarding the design, materials, planting schemes, and any necessary alterations to ensure coherence and integration with the surrounding environment. These landscaping plans shall form part of the approved development and shall be implemented in full

accordance with the approved details prior to the occupation of any dwellings on the site.

Reason: To clarify the level of detail of landscaping to form part of any subsequent application for reserved matters in order to safeguard and enhance the landscape character and visual amenity of the area; to help assimilate the development into its immediate surrounds; and to provide ecological, environmental and biodiversity benefits, having regard to Policies EQ2, EQ4 and EQ5 of the South Somerset Local Plan and relevant guidance within the NPPF.

Informatives:

01. The Highway Authority have advised that the applicant will be required to secure an appropriate legal agreement/ licence for any works within or adjacent to the public highway required as part of this development, and they are advised to contact Somerset Council to make the necessary arrangements well in advance of such works starting.

All works within the highway will be designed in agreement with this Authority and contained within an appropriate Agreement under s278 Highways Act 1980, or s106 Town and Country Planning Act

NOTE: 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.

02. Pollution Prevention During Construction
Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:
- the use of plant and machinery
 - wheel washing and vehicle wash-down
 - oils/chemicals and materials
 - the use and routing of heavy plant and vehicles
 - the location and form of work and storage areas and compounds

- the control and removal of spoil and wastes.

Environment Management

Any oil or chemical storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area.

There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

Car Parking

The operator should install a petrol interceptor if the discharge serves any of the following areas to prevent pollution to the water environment:

- Car parks typically larger than 800m² in area or for 50 or more car parking spaces.
- Smaller car parks discharging to a sensitive environment.
- Areas where goods vehicles are parked or manoeuvred.
- Vehicle maintenance areas.
- Roads.
- Industrial sites where oil is stored or used.
- Refuelling activities.
- Any other area at risk from oil contamination.

Waste Management

Should this proposal be granted planning permission, then in accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction.

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/506917/waste-duty-care-code-practice-2016.pdf

If waste is to be used on site, the applicant will need to ensure they can comply with the exclusion from the Waste Framework Directive (WFD) (article 2(1) (c)) for the use of, 'uncontaminated soil and other naturally occurring material excavated in the course of construction activities, etc...'. Meeting these criteria means the material is not waste and permitting requirements do not apply. Where the applicant cannot meet the criteria, they will be required to obtain the appropriate waste permit or exemption from us.

A deposit of waste to land will either be a disposal or a recovery activity. The legal test for recovery is set out in Article 3(15) of WFD as:

- any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.
- We have produced guidance on the recovery test which can be viewed as (insert <https://www.gov.uk/guidance/waste-recovery-plans-and-permits#waste-recovery-activities>)

You can find more information on the Waste Framework Directive here: <https://www.gov.uk/government/publications/environmental-permitting-guidance-the-waste-framework-directive>

More information on the definition of waste can be found here: <https://www.gov.uk/government/publications/legal-definition-of-waste-guidance>

More information on the use of waste in exempt activities can be found here: <https://www.gov.uk/government/collections/waste-exemptions-using-waste>

Non-waste activities are not regulated by us (i.e. activities carried out under the CL: ARE Code of Practice), however you will need to decide if materials meet End of Waste or By-products criteria (as defined by the Waste Framework Directive). The 'Is it waste' tool, allows you to make an assessment and can be found here: <https://www.gov.uk/government/publications/isitwaste-tool-for-advice-on-the-by-products-and-end-of-waste-tests>

03. CIL

Please be advised that approval of this application by Somerset 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 2 - 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. (Form 6 - Commencement)

Please Note: It is the responsibility of the applicant to ensure that they comply with the National CIL Regulations, including understanding how the CIL regulations apply to a specific development proposal and submitting all relevant information. Somerset Council can only make an assessment of CIL liability based on the information provided.

You are advised to visit our website for further details Somerset CIL (<https://www.somerset.gov.uk/planning-buildings-and-land/south-somerset-cil/>) or email cil@somerset.gov.uk

04. Biodiversity Net Gain

This is a large development and consideration should be given to making contributions for environmental gains, either on or off-site. This aspiration already in the NPPF is now further supported by the 25 Year Environment Plan. This sets an expectation for development including housing and infrastructure, by all organisations and individuals, that will help deliver Biodiversity Net Gain.

05. Birds

The developer/applicant is reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the 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.

In the event that vegetation removal will be taking place then further consultation must be sought prior to this.

Bats

The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the 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.

This page is intentionally left blank

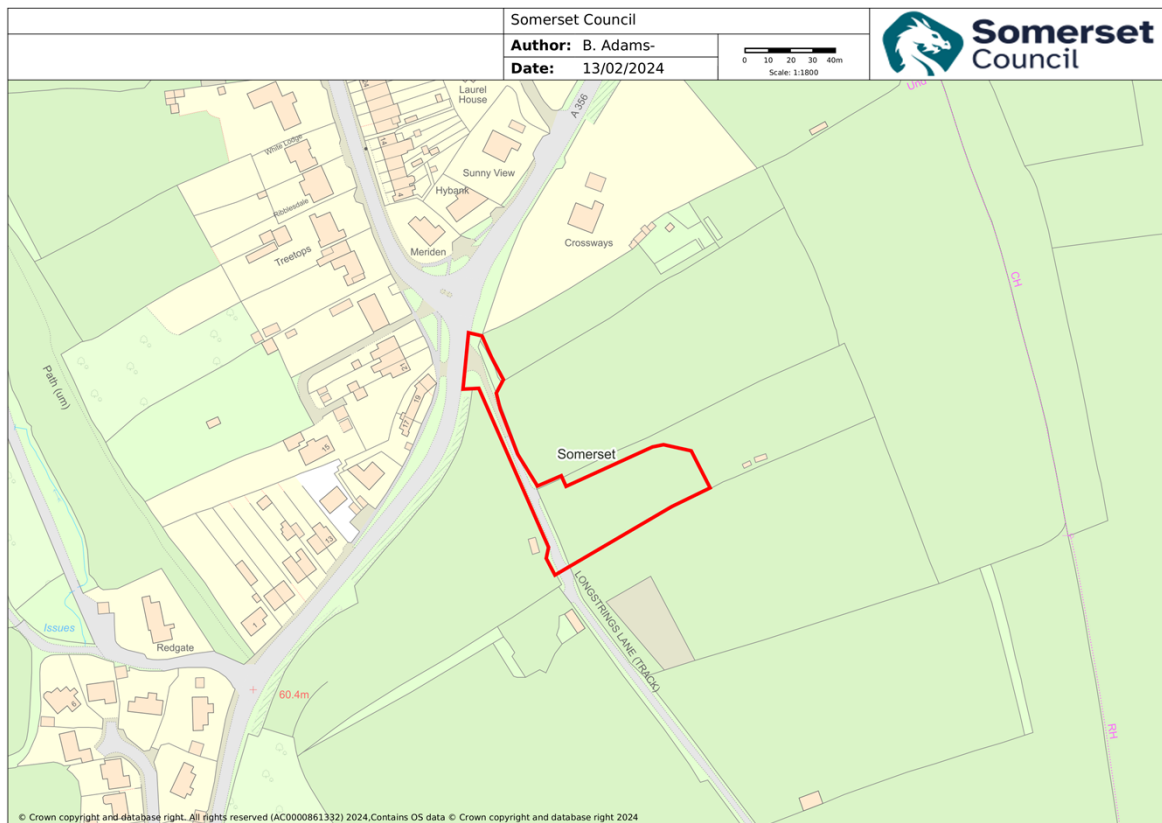
Officer Report On Planning Application: 23/02730/REM

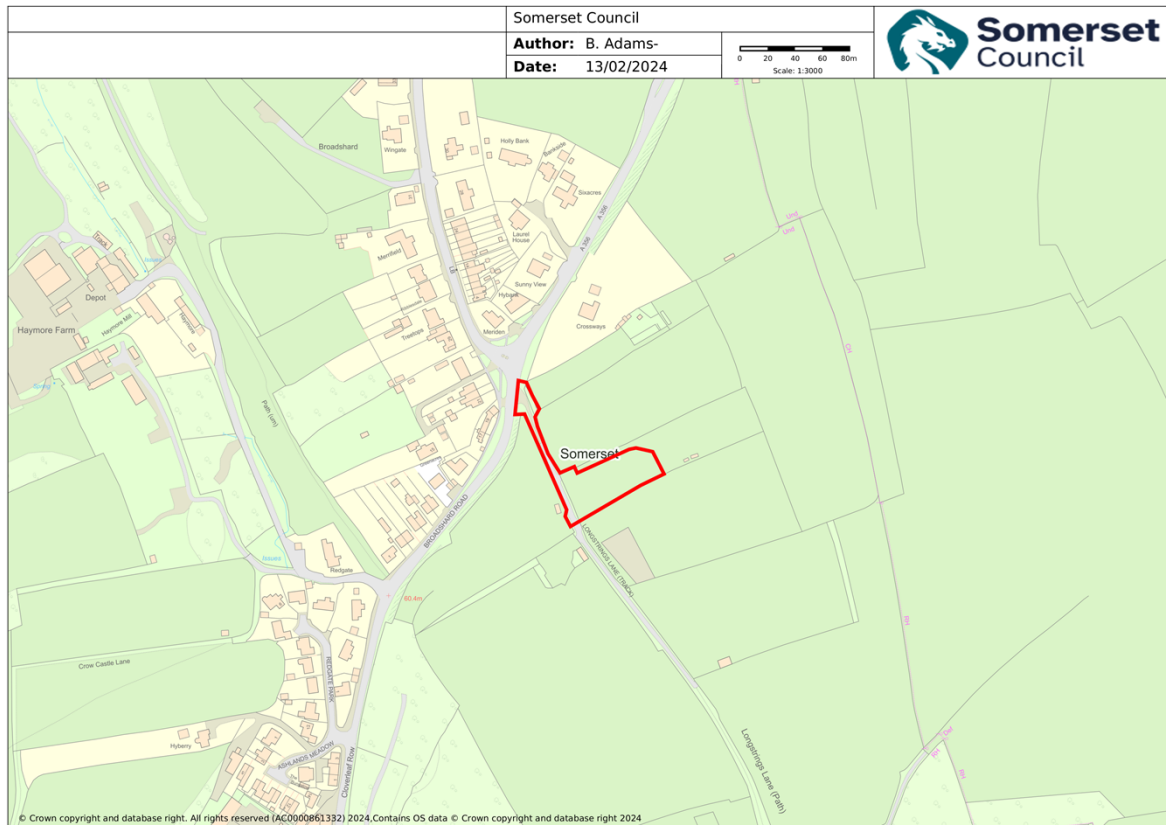
Proposal:	Reserved Matters application for approval of appearance, layout and scale of approval 19/02921/OUT for the erection of 2 dwellings.
Site Address:	Holly Tree Farm, Longstrings Lane, Crewkerne, Somerset, TA18 7EA
Parish:	Crewkerne
CREWKERNE Division	Cllr Steve Ashton and Cllr Mike Best
Recommending Case Officer:	Catherine Tyrer (Principal Specialist)
Target date:	22nd December 2023
Applicant:	Mr Brett Jacobs
Agent: (no agent if blank)	
Application Type:	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

This application was referred to the Chair and Vice Chair of Planning South Committee as the officer's recommendation is contrary to the views of the Parish Council and has been called to Committee.

SITE DESCRIPTION AND PROPOSAL





SITE DESCRIPTION

The site consists of an open field, located in the countryside beyond the settlement limits of Crewkerne. The site is accessed via Longstrings Lane, which joins the A359 approximately 60 metres to the north. The site's western boundary runs alongside Longstrings Lane, but is otherwise bound on all sides by agricultural land. Site levels rise from the western end of the site to the east.

Outline planning permission was granted in March 2020 for the erection of 2 dwellings, with all matters reserved except for access and landscaping. It was subject to a S106 agreement requiring the provision of at least 1 self-build dwelling and maintenance of access.

PROPOSED DEVELOPMENT

This application is the resubmission of an earlier application that was refused (and a subsequent appeal dismissed). The application has been amended to remove a previously proposed orchard store building, amend the roof form of the proposed Plot 1 along with some amendments to the parking arrangements.

The application seeks reserved matters approval for the appearance, layout and scale relating to the two dwellings. An orchard is proposed on the northern section of the site. A circulatory, loop road is proposed to the north of the proposed dwellings, with two visitor parking spaces within the orchard.

It is understood the houses would be custom self-build and designed to be capable of multi-generational living.

Plot 1

A 3-storey detached dwelling, with a "wrap around" external balcony at first floor level and a "wrap around" balcony at second floor level with external staircase/fire escape. Materials are a mixture of natural local stone and metal euro clad panels. It would have a large reception hall, utility hall, recreation room, sitting room and study at ground floor, a living and kitchen dining room at first floor. At second floor level there would be 4 bedrooms and a dayroom, with fire escape.

It would be served by car parking to the rear. The area to the front of the property appears to be designated as amenity space.

Plot 2

Part single/part 2-storey dwelling with wrap around balcony/terrace. It would have a lounge, dining room and utility/WC at ground floor level with 3 bedrooms and study at first floor level. It has parking to the rear, and the area to the front of the property appears to be designated as amenity space. Materials are a mixture of natural local stone and euro clad panels.

HISTORY

The site has a lengthy and fairly complex history, but previous decisions of most relevance to the proposal are as follows.

22/00654/REM- Reserved Matters application for approval of appearance, layout and scale of approval 19/02921/OUT the erection of 2 dwellings. - Refused for the following reasons: i. design/form; ii. Amenity of future occupiers; iii. Store building and failure to comply with outline; iv. Phosphates; and v. highways/PROW). Appeal dismissed - on basis that the submitted details for the reserved matters application (namely the orchard store) not authorised by the outline permission (other matters and reasons for refusal not considered).

19/02921/OUT - outline application for the erection of 2-dwellings with all matters reserved except for access and landscaping - permission granted, subject to conditions. [NB: the application was recommended for refusal by officers, but overturned by the Area West Committee in April 2020 and granted]

18/00619/OUT - Outline application for residential development for up to 4 dwellings. Appeal against non-determination (Reference: APP/R3325/W/18/3209790) was dismissed by the Planning Inspectorate. The Inspector concluded that the proposal would result in unacceptable harm to highway safety, as well as to the character of the area.

In relation to the proposal's visual impact, the appeal decision states:

"22. The appeal site comprises a fairly narrow L-shaped parcel of land in a setting characterised by undulating fields and hedgerows on the outskirts of Crewkerne. Little built development is evident and, whilst not a formally designated landscape, the area has an attractive and rural character. The site is fairly contained within the landscape which limits the extent of public views although it is readily visible from the Longstrings Lane public right of way.

23. The LPA's evidence identifies the site as lying in an area of moderate visual sensitivity with a moderate-low capacity to accommodate development. In this regard, I saw that even with sensitive landscaping the development of up to four houses together with driveways, parking and the usual domestic paraphernalia would have an urbanising effect on this part of the countryside.

24. On the basis of the submitted evidence, I therefore consider the development would have a harmful effect on the landscape..."

16/03209/OUT - The erection of 4 No. dwellings (outline) - Refused for the reasons relating to:

- use, scale and siting would introduce an incongruous form of development contrary to the established layout of development in the area, resulting in significant harm to local landscape character and general visual amenity.
- sub-standard junction of Longstrings Lane and Broadshard Road, would be prejudicial to highway safety.
- restricted width and poor connectivity of approach road to the wider settlement is considered unsuitable to serve as a means of access for the traffic likely to be generated by proposed development.

The subsequent appeal (Reference: APP/R3325/W/18/3209790) was dismissed on the grounds that the proposal would result in unacceptable harm in relation to the

public highway and the character of the site and surrounding countryside.

17/00762/PAMB - Prior approval for the change of use of agricultural buildings for 2 No. dwellings - Refused. Appeal dismissed (Reference: APP/R3325/W/17/3185851).

15/05725/PAMB - Prior approval for the change of use of agricultural buildings for 2 No. dwellings - Refused. Appeal dismissed.

14/05510/PAMB - Prior approval for the change of use of agricultural buildings for up to 2 No. dwellings - Refused.

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning applications should be 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).

Policies of the South Somerset Local Plan (2006-2028)

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 Marketing 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

EQ5 - Green Infrastructure

EQ7 - Pollution Control

National Planning Policy Framework

Chapter 2 - Achieving Sustainable Development

Chapter 5 - Delivering a Sufficient Supply of Homes

Chapter 12 - Achieving Well-Designed Places

Adopted Somerset County Council Parking Strategy

Somerset County Council Highways Development Control - Standing Advice

CONSULTATIONS

Comments summarised, but full copies are available on the planning register.

Crewkerne Town Council: Support

Development is smaller than permitted. No visual impact for neighbouring properties

Wessex Water: Not able to respond.

Somerset Ecology Services: Evidence submitted to show development meets small scale thresholds (including Holly Tree Farm Phosphates and Nutrient Neutrality - (undated) sent to SES on 14th December 2022; Percolation test results - Below Ground Solutions Ltd. (undated) sent to SES on 23 August 2023; and Declaration of performance certificate) .

The interim guidelines state that small discharges from PTPs or Septic Tanks to ground (i.e. less than 2m³ per day) within the Ramsar catchment will present a low risk of a significant effect where the location of the drainage field and PTP meet the Proposed thresholds criteria a-h. SES satisfied that the proposal will result in discharges of less than 2m³ per day and that the proposed locations of the drainage field and PTP meet the Proposed thresholds criteria a- h.

The interim guidelines also state that a PTP discharging into a drainage field needs to be appropriately designed, including acceptable year-round percolation rates for it to work effectively. A percolation test ensures the drainage field effectively removes pollutants and then determines the size of the drainage field required.

A percolation test has been performed of the proposed location of the drainage field. The results of the percolation test indicate an average V_p value of 48. This value lies within the required range under the Building Regulations 2010, which specify an average V_p value of between 12 and 100. This suggests that the proposed location of the drainage field will effectively remove pollutants and SES therefore consider this acceptable.

Based on the loadings above this equates to the requirement of a 51.2 linear meter drainage field, based on trenches being excavated at 0.9m width. As this can be accommodated within the development design, SES therefore consider this acceptable.

The application proposes to install an Tricel Novo UK6-50 PTP which has an unknown phosphate removal efficiency. Natural England accepts a phosphate discharge rate of 9.7mg/l for PTPs without known phosphate removal rates. The Declaration of performance certificate is attached to this email. SES consider this acceptable.

Further to discussions with Natural England, it is therefore concluded that the proposed application, with associated low levels of Phosphate production, is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore a Likely Significant Effect alone and in combination 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.

To ensure the provision of the above scheme for the disposal of foul drainage a foul drainage condition required [with wording suggested by SES] and an informative.

Public Right Of Way Officer: - no response

[but it is noted that in response to previous application the PROW Team had noted public footpath CH33/13 runs along the proposed access to the site (Longstrings Lane). Advised that LPA needs to be confident the applicant can demonstrate they have an all-purpose vehicular right to the property along path CH33/13. If they are unable to and permission is granted, the LPA could potentially be encouraging criminal activity through permitting driving on a public path without lawful authority.

At the time of writing, there is a pending application to modify the Definitive Map and Statement (Mod ref: 615), which seeks to up[grade the public footpath to a restricted byway.

Any proposed works must not encroach on a PROW and informatives should be attached to any planning permission.]

Highway Authority:

No objection subject to conditions.

REPRESENTATIONS

Comments summarised, but full copies are available on the planning register.

The application was advertised by way of a site notice and press notice and a letter sent to local residents.

8 representations received.

1 objection:

- Dangerous entrance.

7 in support of the proposed development:

- Development is less than that permitted
- Not visible in wider views
- Approach to sustainability and energy efficiency to be applauded.
- Council being difficult because of CLR site
- Doesn't make sense to promote damaging development on one side of the town, but not a small inconspicuously located development for people to live in.
- Lots of amenity space
- Well thought out development

ASSESSMENT

Principle of Development

The principle of the residential development, to which this reserved matters application relates has been accepted by the grant of the outline planning permission.

This reserved matters application is limited to consideration of the following matters, which are addressed in the sections below: layout, scale, appearance and landscaping.

Scale, Appearance, Layout and Landscaping

SSDC Local Plan policy EQ2 requires that "*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*".

The NPPF places great emphasis on design and requires the "...creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" (para 126). The NPPF is clear that development that is not well designed should be refused (para 134).

In relation to the previously refused and subsequently dismissed scheme, the Inspector stated that:

"Little built development is evident and, whilst not a formally designated landscape, the area has an attractive and rural character. The site is fairly contained within the landscape which limits the extent of public views although it is readily visible from the Longstrings Lane public right of way.

It is noted that some of the plans are not particularly clear, but it is considered there is sufficient information to assess the proposals. If the application was being approved, clearer plans would have been requested or a condition requiring additional information attached to any planning permission.

The principle of a development of two dwelling houses and a development of up to 1,000sq.m has been accepted through the outline planning permission, and it is accepted that this would allow two dwellings of some considerable scale. It is also recognised that the proposed dwellings would provide a floorspace significantly smaller than that permitted through the outline. Despite this, the design, scale, massing and form of Plot 1, is not considered acceptable or appropriate to the site or its setting. A three-storey dwelling in this location, which is separated from the nearest parts of the settlement by adjoining fields, would be unduly prominent and visible from adjoining public rights of way and other public vantage points; it would cause considerable harm to the landscape character of the area. The scale and massing of Plot 2 is not considered to be excessive, and is considered to be acceptable.

CGI images of the proposed dwellings have been provided, but these do not appear to be accurate view representations (or "verified views"), so it is not clear whether they provide an accurate representation of what is proposed in terms of how they fit within the context.

The previous application made reference to the proposed design seeking to resemble a barn conversion, which now is described as being influenced by nearby rural industrial buildings (namely textile and mill buildings). However, it is not considered that this has been achieved. On the contrary, the scale, form, massing of plot 1 and the design of both dwellinghouses proposed (but particularly Plot 1) are considered to

be distinctly suburban/urban in nature and are not considered appropriate for the rural setting.

Various examples of three storey buildings have also been provided within the Design Statement that accompanies the application, presumably to explain the justification for a 3-storey building on the site as proposed. However, many of the examples provided appear to be in a more urban/town centre context, on housing estates, or are historic buildings such as converted Mill's, farm buildings or manor houses and do not seem to reflect the design approach being taken. As such, these examples are not directly relevant to the context or the building proposed, to which this application relates and therefore have no bearing on consideration of this application.

While the Design Statement suggests that the "*raised platforms are intended to be representative of walkways and gantries of historic mills/industrial and agricultural buildings*", again it is not considered that this has been achieved. The inclusion of the multiple balconies and fire escape stairs serving Plot 1 and the large balcony serving Plot 2, as proposed, adds to the suburban/urban design. External staircases have been loosely indicated (in the form of what appears to be unattached floating steps) on the elevation plans with little detailing, but in reality, when supporting structures and railings etc are added, they are likely to result in incongruous and bulky additions. It is considered that Plot 1 more resembles a small block of suburban flats rather than a rural barn conversion or mill building.

The roof form of Plot 1 has been amended since the previous proposed scheme, which does result in a more coherent form. However, the fenestration and detailing, particularly of Plot 1, does not seem well thought out, with a mix of horizontal and vertical form windows arbitrarily placed within the elevations.

Reference is made to insulation, energy efficiency and the use of solar panels, an approach which would be supported.

In terms of materials, it is agreed that the use of natural stone would be preferable to reconstituted stone. Likewise panels of metal cladding may be acceptable on an appropriately designed building, and if a "barn conversion" design was being pursued could help in creating the illusion of traditional large barn openings etc.

A loop road is proposed, but it is not clear why such excessive road infrastructure is needed, or what purpose it serves. The areas to the front of the properties have been redesigned as private amenity areas, and the plans indicate that the existing boundary hedge would be retained. It is recognised that boundary treatments could be conditioned.

As it stands the application proposes a development which is out of keeping with the site's "attractive and rural character" and would result in development which is poorly designed and would be incongruous, unduly prominent and out of keeping with the local area character. As a result, it would have a detrimental impact on landscape character and visual amenity, contrary to policy EQ2 of the SSDC Local Plan 2006-2028 policy EQ2 and the advice contained within the NPPF.

Amenity

Policy EQ2 of the Local Plan states that development proposals should protect the residential amenities of neighbours, and that new dwellings should provide acceptable amenity space.

There are no immediately neighbouring properties, and as such it is not considered that the proposal would result in unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy, or access to light.

Given the rural location, were the proposed scheme considered to be acceptable, it is acknowledged that a condition could be imposed to secure a scheme of external lighting to prevent unacceptable light pollution from the development.

The proposed dwellings do have access to a shared orchard, which the Design and Access Statement describes as providing a shared amenity space, although it is separated from the dwellings by an access loop road. The more traditional private "amenity area" to the rear of the proposed dwellings appears to be dominated by car parking, so offers limited associated amenity areas. It is noted that amenity areas are now proposed to the front of the property, which while rather compromised, does provide a useable amenity. There are large balconies surrounding the properties, which would also provide some external amenity area. For these reasons it is considered the previous reason for refusal relating to access to amenity space has been overcome and it is not considered a refusal on this basis would be justified.

The proposed dwellings would provide an adequate amount and layout of internal living space the relationships between the units would not be such as to result in unacceptable harm to the amenities of future occupiers.

Overall, there is not considered to a conflict with policy EQ2 in terms of residential amenity for existing or future occupiers

Highway Safety

Policy TA5 of the Local Plan states that the nature and volume of traffic and parked vehicles generated by a proposal should not compromise the safety and/or function of local or strategic road networks. A representation has been received regarding concerns that the scheme would not provide a safe access onto the public highway. However, the access and principle of the proposed development has been accepted and established through the grant of the outline planning permission.

Concerns were raised during the previous application regarding the location of parking having the potential to result in a large amount of manoeuvring onto the PROW CH 33/13, which runs along Longstrings Lane. The scheme has been amended with parking to the rear, which overcomes this previous reason for refusal. The proposed development is considered to be acceptable in highways terms and accords with policies TA5 and TA6.

It is noted that the drawings do not show the location of electric vehicles charging points or cycle parking, but it is accepted that if the proposals were acceptable this could be conditioned.

Surface Water Drainage

Policy EQ1 of the Local Plan concerns flood risk and drainage arrangements in relation to new development.

Wessex Water did not comment on this application, but it is noted that in its response to the previous application, it commented that surface water must be disposed of via the SuDS Hierarchy which is subject to Building Regulations. A connection to the public surface water sewer will only be considered where infiltration methods are proven unviable.

The site is located in Flood Zone 1, which is at the lowest risk of flooding. A condition is attached to the outline consent, and although it is noted that the trigger point has not been included, this could be dealt with by way of a further condition attached to any reserved matters approval. As such, it is considered that compliance with policy EQ1 could be achieved.

Ecology

Policy EQ4 of the Local Plan states that proposals for development will protect the biodiversity value of land and buildings.

The application was approved in June 2021 and at the time, it was noted that an ecology assessment had not been carried out. It is however, noted that a number of conditions are attached to the original outline consent to ensure the protection of UK protected and priority species, so it is not considered that this reserved matters application introduces a conflict with policy EQ4 of the SSDC Local Plan.

Somerset Levels and Moors Ramsar

The application is located within the catchment of the Somerset Levels and Moors Ramsar site and following recent advice from Natural England may now require a Habitats Regulations Assessment (HRA), or, where applicable, screening to rule out a likely significant effect on the Ramsar. The submission therefore needs to demonstrate how the proposal achieves nutrient neutrality in order to comply with The Conservation of Habitats and Species Regulations 2017 and The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

The Interim guidelines on small-scale thresholds and nutrient neutrality principles (May 2021) have been agreed between SES and Natural England in lieu of the national guidance. It is noted that the application is supported by evidence pertaining to these Interim guidelines, specifically to the small-scale thresholds of likely significant effects in relation to Package Treatment Plants (PTPs).

The interim guidelines state that small discharges from PTPs or Septic Tanks to ground (i.e. less than 2m³ per day) within the Ramsar catchment will present a low risk of a significant effect where the location of the drainage field and PTP meet the Proposed thresholds criteria a-h. SES has confirmed it is satisfied that the proposal will result in discharges of less than 2m³ per day and that the proposed locations of the drainage field and PTP meet the Proposed thresholds criteria a- h.

The interim guidelines also state that a PTP discharging into a drainage field needs to be appropriately designed, including acceptable year-round percolation rates for it to work effectively. A percolation test ensures the drainage field effectively removes pollutants and then determines the size of the drainage field required. A percolation test has been performed of the proposed location of the drainage field. The results of the percolation test indicate an average Vp value of 48. This value lies within the required range under the Building Regulations 2010, which specify an average Vp value of between 12 and 100. This suggests that the proposed location of the drainage field will effectively remove pollutants and SES therefore consider this acceptable.

Based on the loadings above, this equates to the requirement of a 51.2 linear meter drainage field, based on trenches being excavated at 0.9m width. As this can be accommodated within the development design, SES therefore consider this acceptable. The application proposes to install an Tricel Novo UK6-50 PTP which has an unknown phosphate removal efficiency. Natural England accepts a phosphate discharge rate of 9.7mg/l for PTPs without known phosphate removal rates. The Declaration of performance certificate was provided. SES consider this acceptable.

Further to SES discussions with Natural England, it is therefore concluded that the proposed application, with associated low levels of Phosphate production, is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore a Likely Significant Effect alone and in combination 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. were planning permission to be granted, a condition and associated informative could be used to secure this.

Recommendation

For the reasons set out above, this application is recommended for **REFUSAL**, for the following reason:

The proposed development, by virtue of the design, layout, form, scale and massing would result in development which would be incongruous, unduly prominent and out of keeping with the local area character. As a result, it would have a significant detrimental impact on landscape character and the appearance of this rural area, contrary to policy EQ2 of the SSDC Local Plan 2006-2028 and the advice contained within the NPPF.

27 February 2024

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 (19 January 2024).

Application No:	Not applicable
Address:	Land at Stable Cottage, Coker Court, East Coker BA22 9JW (also described as land adjacent Lyneham Bungalow)
Description:	Enforcement notice - Without planning permission: (a) the unauthorised erection of a timber stable building consisting of 3 stables and a tack room, 2 timber shed buildings and a further large timber building; and (b) the unauthorised change of use of the land from agriculture to a mixed use of agriculture, storage or domestic items and equestrian use.
Application Decision by:	Officer delegated.
Appeal Decision:	Allowed.

Application No:	Not applicable
Address:	Willets & Paulls Copse, Chilworthy Lane, Peasmarsh, Ilminster TA10 0SH
Description:	Enforcement notice - Without planning permission (1) the material change of use of the land from forestry to a mixed use of forestry and domestic leisure use by the siting of a trailer mounted timber structure, wooden compost toilet and importation and deposit of hardcore, and (2) the unauthorised operational development consisting of a wooden compost toilet building, structures used for the storage of items such as a tractor, quad bike and wood chipper and other associated equipment and the laying of a hardstanding area.

Application Decision by: Officer delegated.
Appeal Decision: Dismissed (but allowed in parts).

Application No: Not applicable
Address: 10 Victoria Avenue, Chard TA20 1HE
Description: Enforcement notice - without planning permission, the erection of an independent dwelling.
Application Decision by: Officer delegated.
Appeal Decision: Dismissed.

The Inspector's decision letters are shown on the following pages.



Appeal Decisions

Site visit made on 13 November 2023

by Mr James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2024

Appeal A Ref: APP/R3325/C/23/3315003

Appeal B Ref: APP/R3325/C/23/3315004

Land at Stable Cottage, Coker Court, East Coker BA22 9JW

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended.
- The appeals are made by Mr Jeremy Purkiss (Appeal A) and Mrs Louise Purkiss (Appeal B) against an enforcement notice issued by South Somerset District Council.
- The notice was issued on 8 December 2022.
- The breach of planning control as alleged in the notice is "Without planning permission: (a) the unauthorised erection of a timber stable building consisting of 3 stables and a tack room, 2 timber shed buildings and a further large timber building; and (b) the unauthorised change of use of the land from agriculture to a mixed use of agriculture, storage or domestic items and equestrian use.
- The requirements of the notice are to: (i) Remove the unauthorised timber stable building, the 2 sheds and the other large timber building from the land; (ii) Remove all materials associated with the removal at 1) above including all domestic items that had been stored in the unauthorised buildings; (iii) Return the use of the land to agriculture; and (iv) Cease all use of the land for equestrian use and domestic storage.
- The period for compliance with the requirements within 3 months from the date the notice takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (c) and (f) of the Town and Country Planning Act 1990 as amended (1990 Act).

Summary decisions: The enforcement notice is quashed.

Validity of Notice

1. The matters alleged in the enforcement notice (EN) comprise the erection of four separate "buildings", being a timber stable building, two timber shed buildings and a further large timber building. The plan attached to the EN did not identify the relevant structures.
2. During my site visit, there were more structures present within the appeal site than specified in the EN. Nonetheless, the "timber stable building" consisting of three stables and a tack room could be identified. It also seemed reasonably clear that the reference to "2 timber shed buildings" related to two adjacent sheds towards the north-west of the appeal site.
3. However, in addition to these structures, there was a poultry shed along the south-western boundary of the site. There was also a timber wood store along the south-eastern boundary. Both of these are constructed from timber. Given these structures are not shown on the plan attached to the EN, it is unclear which of these structures the reference to "a further large timber building" in the EN was intended to relate to. The reasoning for issuing the notice offers no help or clarity in this regard.

4. The Council's appeal statement is also unhelpful on this point. Within the site description of the statement, reference is made to a "timber building for chicken/geese". Later in the statement, it says "one of the structures was described as a log store/wood shed". Even when read alongside the Council's evidence, it is therefore unclear whether the EN is seeking to enforce against the poultry shed or the wood store.
5. The requirements of the EN require the removal of the "unauthorised timber stable building, the 2 sheds and the other large timber building from the land". Given the ambiguity in respect of the "large timber building", it follows that the appellants cannot be certain whether they are required to remove the poultry shed or the timber store.
6. I wrote to the parties to seek clarity on this issue, and the Council responded to say that the EN should have captured all of the structures mentioned above. Given this response, it remains unclear which of the structures within the appeal site the "further large timber building" was intended to relate to. I am therefore unable to modify the allegation or the associated requirements to ensure the correct structure is identified.
7. Moreover, if I were to modify the allegation and the requirements of the notice to include all of the aforementioned structures, the appellants would be required to remove more structures from the appeal site than originally required by the notice. This would clearly cause prejudice. I am therefore unable to correct the allegation in this way, or modify the associated requirements, without causing injustice to the appellants.
8. From the Council's response to my questions, it also appears that they intended to take a comprehensive approach to enforcement across the whole of the appeal site. In turn, if I were to remove reference to the uncertain buildings from the allegation and the requirements completely, and only consider the EN insofar as it relates to the stable building and the two timber sheds, then this would be inconsistent with the Council's approach. I have therefore not pursued this option further, noting that my findings do not affect the Council's rights under section 171B(4) of the 1990 Act.

Conclusion

9. For the reasons given, I conclude that the enforcement notice does not specify with sufficient clarity the alleged breaches of planning control, nor the steps required for compliance. It is not open to me to correct the error in accordance with my powers under section 176(1)(a) of the 1990 Act, since injustice would be caused were I to do so. The enforcement notice is therefore invalid and will be quashed. In these circumstances, the appeals on the grounds set out in section 174(2)(b), (c) and (f) of the 1990 Act do not fall to be considered.

Formal Decision

10. The enforcement notice is quashed.

James Blackwell

INSPECTOR



Appeal Decision

Site visit made on 9 January 2024

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/R3325/C/23/3318156

Land At Willetts and Pauls Copse, Chilworthy Lane, Peasmarsh, Ilminster, Somerset TA10 0SH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Kerry Bale against an enforcement notice issued by South Somerset District Council.
- The notice was issued on 2 February 2023.
- The breach of planning control as alleged in the notice is: Without planning permission (1) the material change of use of the land from forestry to a mixed use of forestry and domestic leisure use by the siting of a trailer mounted timber structure, wooden compost toilet and importation and deposit of hardcore, and (2) the unauthorised operational development consisting of a wooden compost toilet building, structures used for the storage of items such as a tractor, quad bike and wood chipper and other associated equipment and the laying of a hardstanding area.
- The requirements of the notice are to:
 - i. remove the mobile wooden structure, wooden compost toilet building and other wooden structures from the land; and
 - ii. remove all building related materials including all construction timber, aggregates, hard-surfacing, glass double glazing units, plastics, machinery and domestic paraphernalia (this list is not exhaustive, and all unauthorised materials) must be removed from the land; and
 - iii. cease using the land for any purpose other than the authorised forestry use.
- The period for compliance with the requirements is: two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (d) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The Appeal succeeds in part. The Notice is upheld with corrections, as set out in the Formal Decision below.

Preliminary matters

1. The notice identifies various forms of operational development, including "structures used for the storage of items". I saw at my site visit that there is a single timber structure on the Appeal Site that is used for storage, and I note that this is the basis on which both parties have made their written representations, describing it as a "wooden implement store". There is also a timber tree house on the Appeal Site which, for the avoidance of doubt, is not attacked by the Notice and so is not a subject of this appeal.
2. The report by the Council's Tree Officer, which was appended to the Council's Statement of Case, identifies two areas of hardstanding within the Appeal Site: one at the entrance, and one functioning as a base for the trailer-mounted

structure. However, the breach of planning control alleged at paragraph 3(2) of the Notice refers to "...the laying of a hard standing area" in the singular, and at paragraph 4 the Council's reasons for issuing the Notice refer to "the hard-standing area", also in the singular. The Plan attached to the Notice serves only to identify the extent of the Land, and is not annotated to show the location of any of the alleged operational development. In my judgement the only reasonable interpretation of the Notice is that it addresses a single "hard standing area", which is the area at the entrance to the Appeal Site. That is the basis on which the parties have presented their respective cases. I shall also proceed on that basis.

The appeal on ground (b)

3. The ground of appeal is that the matters alleged by the Notice have not occurred. The Appellant's case is that the trailer-mounted structure and wooden compost toilet are used for the purpose of forestry. She and her husband, the co-owner of the Appeal Site, work in the woodland at weekends: they use the trailer-mounted structure for rest periods, and as a place for the children to play. A Statutory Declaration provided by the Appellant's husband states that the trailer-mounted structure and wooden compost toilet were brought to the Appeal Site in June 2021 "to provide facilities when we were working on the Property in accordance with good forestry practice."
4. I do not doubt that the Appellant and her husband are committed to the upkeep of the woodland. But I have not been provided with any information about the nature and extent of the work they carry out there at weekends, or the amount of time they spend on it. Further, a Planning Contravention Notice issued by the Council in 2022 explained that it is an offence knowingly or recklessly to give information, in response to that notice, which is false or misleading in a material particular. The Appellant's response to that PCN stated that the use of the land was "recreational – i.e. walking, spending time there when we aren't working, enjoying family time where the children can play." It also stated that the trailer-mounted structure was used as "somewhere to get warm, have something to eat and drink whilst using the woodland recreationally."
5. I saw at my site visit that the trailer-mounted structure, which is a two-storey timber cabin with a pitched roof, is sited in a clearing that has been laid to grass and is enclosed by a wooden fence. Other domestic paraphernalia, such as gas bottles, and outdoor seating beneath a canopy, stands alongside the structure. This part of the Appeal Site is very different in character to the surrounding land; it has the appearance of a well-kept domestic garden, rather than ancient woodland.
6. Drawing all of this together, I conclude that while it is likely that the work carried out by the Appellant and her husband at weekends can be classed as forestry, the Appellant's own evidence shows that they are also using the Appeal Site for recreational leisure purposes. The appeal on ground (b) therefore fails.

The appeal on ground (c)

7. The ground of appeal is that the matters alleged by the notice do not constitute a breach of planning control. The Appellant's case on this ground is that no

material change of use has taken place, and the structures and hardstanding alleged by the Notice can be considered Permitted Development.

8. It is fair to note that a mobile structure sited on the land, and used solely for purposes connected with the lawful use of the Appeal Site for forestry, would not require planning permission. However, in this case, the accommodation provided by trailer-mounted structure goes beyond providing a rest area for those engaged in forestry work, as it is also used by the Appellant and her family for leisure purposes. The siting of this mobile structure within a lawn-like clearing, and the construction of the wooden compost toilet nearby, have facilitated the acknowledged recreational use of the land. The character of this use is distinct from the lawful use of the land for forestry, and is not merely ancillary to that lawful use. I conclude that the Appeal Site now has a mixed use for forestry and domestic leisure, and this change of use was material.
9. Turning to the question of Permitted Development rights, the Town and Country Planning (General Permitted Development) Order 1995 as amended ("the GPDO") classes certain forms of development, when carried out on land used for the purposes of forestry, as Permitted Development - provided that it is "reasonably necessary for those purposes". A further proviso is that the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to various specified matters: the development must not begin until the local planning authority confirms that prior approval is either given or is not required, or else fails to respond within 28 days.¹
10. In this case, no applications for prior approval were made before the development began. Since the development does not comply with the relevant conditions of the GPDO, it cannot be classed as Permitted Development. The Appellant has drawn my attention to a barn erected on an existing area of hardstanding in nearby Clay Copse which, like the Appeal Site, is designated as Ancient Woodland². That barn is a great deal larger than the structures on the Appeal Site, but the important difference is that an application was duly made for prior approval and, in accordance with the requirements of the GPDO, the Council issued a notice confirming that prior approval was not required. The barn was therefore Permitted Development.
11. The Appellant contends that had a prior approval request been submitted for the development here at issue, it would likely have been granted. But whether or not that is the case, the fact remains that it is not possible to apply the GPDO retrospectively. The wooden compost toilet, the wooden implement store and the hardstanding at the entrance cannot now constitute Permitted Development. I conclude that the development alleged by the notice does constitute a breach of planning control, so the appeal on ground (c) fails.

The appeal on ground (d)

12. The ground of appeal is that by the time the Notice was issued, it was too late for the Council to take enforcement action. The Appellant contends that the wooden implement store was constructed by the previous owners in 2018, and that the hardstanding was laid by the County Council or Town Council, to facilitate the delivery of waste during use as a landfill site between 1969 and

¹ Conditions set out at Paragraph E.2 of Class E, Part 6, Schedule 2 to the GPDO.

² Ref 15/01944/AGN

1970. For operational development of this type, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.³ To succeed on this ground, then, the Appellant would need to demonstrate that the wooden implement store and the hardstanding had been substantially completed by 1 February 2019.

13. The Appellant has provided a Statutory Declaration made by Mr K J Robbins, who farms the land to the north-east of the Appeal Site. He states that he has been familiar with the Appeal Site for over fifty years, and throughout that time there has been hardstanding at the entrance; the wooden implement store was added by the previous owners, shortly after their purchase of the Appeal Site in December 2017. There is also a Statutory Declaration from Ms N A Thompson, who states that she has accessed the Appeal Site and walked her dogs on and around it for at least the last ten years. She states that there has been hardstanding at the entrance throughout the time she has known the Appeal Site, and that the wooden implement store was added by the previous owners, shortly after their purchase in December 2017.
14. The Appellant has also provided a copy of the Estate Agent's particulars, which were compiled prior to her purchase of the Appeal Site in March 2021. These describe, among other things, "a stoned hard standing for parking" and "a home built shelter". The photographs included in the particulars do not show the hard standing, but one of them provides a view of the wooden implement store, in the same position as it was at the time of my site visit.
15. The Council has not provided any information that contradicts, or otherwise undermines, the Appellant's evidence concerning the wooden implement store. The photograph in the Estate Agent's particulars establishes that it was already in place before the Appellant and her husband bought the Appeal Site in 2021, and the sworn evidence of Mr Robbins and Ms Thompson is that it was constructed "shortly after" the previous owners bought the Appeal Site in 2017. I conclude that on the balance of probabilities, it is more likely than not that construction of the implement store was completed prior to 1 February 2019.
16. As to the hardstanding at the entrance, the Council has provided "street view" images of the Appeal Site, dated May 2009 and March 2011, taken from Google Maps. The surface of the area of land inside the gate is not visible in these images. The gate, and the area beyond, appears somewhat overgrown with vegetation (particularly in the 2009 image), but this is not inconsistent with the Appellant's contention that the hardstanding was laid to facilitate the use of part of the Appeal Site for landfill, which then ceased in 1970.
17. The Council has also provided photographs, taken at its Officer's visit in 2021, of the area inside the gate showing recently laid aggregate. The Appellant does not dispute laying the aggregate, but the sworn evidence of both Mr Robbins and Ms Thompson, by reference to a plan showing an area at the entrance roughly equivalent to that visible on the ground, is that hardstanding was already present in this area. This is corroborated by the Estate Agent's particulars, which indicate that a "stoned hard standing for parking" was present before the Appellant bought the site.

³ S.171B(1) of the 1990 Act (as amended).

18. Taking all of this evidence into account I accept that, on the balance of probabilities, hardstanding at the entrance to the Appeal Site was in place before the relevant date of 1 February 2019. Since the Appellant's aggregate was laid on top of what was originally there it constitutes improvement to an existing area of hardstanding, rather than the construction of a new one, and so does not amount to development.
19. For these reasons, I conclude that the four-year period for taking enforcement action against the wooden implement store and the hardstanding had expired before the notice was issued. The appeal on ground (d) succeeds in this respect, and I shall correct the notice to remove references to those forms of development.

The appeal on ground (a)

20. The ground of appeal is that planning permission should be granted, in whole or part, for the matters alleged by the notice. The main issue is the effect of the development on the natural environment and character of the Appeal Site, which is designated Ancient Woodland, and is also the subject of a Tree Preservation Order. Paragraph 186 of the Government's *National Planning Policy Framework* (NPPF) advises that "development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists."
21. The Appellant contends that significant portions of the woodland have been previously despoiled by tipping, the detritus of which is evident on site, and that since the woodland has been subject to previous significant and harmful human disturbance its credentials as Ancient Woodland are questionable. However, Natural England and the Forestry Commission's "standing advice" for planning authorities⁴ explains that the existing condition of the Ancient Woodland is not a reason to give planning permission for development: a woodland in poor condition can be improved with good management. The NPPF's definition of Ancient Woodland includes areas where the former native tree cover has been felled and replaced by planted trees, as is the case here on the former landfill area within Paul's Copse.
22. The Appellant has explained that the siting of the trailer-mounted structure and the wooden compost toilet did not involve the felling of any trees, and has submitted a professional Tree Vitality Assessment which concludes there are no key indicators of physiological stress observed within the trees immediately adjacent to the compost toilet or the trailer-mounted structure. But it is important to be clear that it is not only the trees that are necessary to a woodland eco-system.
23. Much of the value of Ancient Woodland lies in its "unimproved" soil, ground flora and understorey shrub, and it is these crucial components which have been adversely affected by the development here at issue. The undisputed evidence of the Council is that the clearing in which the trailer-mounted structure is now sited was cleared and planted with rye grass, with a level area cut and filled using a digger, and hard surfacing laid. This has resulted in the compacting of soil, and the loss of a considerable area of native shrub and

⁴ *Ancient woodland, ancient trees and veteran trees: protecting them from development* (2018) Forestry Commission and Natural England

ground flora. The construction of the wooden compost toilet has had less of an impact, as it is mounted on timber bearers, but has still resulted in some compaction of soil and the preclusion of re-growth.

24. The Appellant has suggested that permission could be granted for the continued use of the Appeal Site for forestry and leisure/amenity use at weekends only. While it may be possible to impose a condition limiting the times of any leisure use, the problem is the *nature* of such use, and the difficulties of ensuring it does not adversely affect the Ancient Woodland. Granting permission for an element of "domestic leisure" would encompass activities akin to those carried out in residential gardens, many of which would be harmful to the woodland eco-system: for example, the trampling of ground at outdoor family gatherings, and the use of outdoor seating and play equipment.
25. The Appellant has also suggested that since the development here at issue could be replaced using Permitted Development Rights, there is little point in requiring its removal. However, as discussed above, the relevant Permitted Development Rights are limited to operational development that is "reasonably necessary" for the purposes of forestry. On the basis of the evidence currently before me, I am not satisfied that the development here at issue meets that requirement. While it will of course remain open to the Appellant to make a prior approval application for development that can be shown to be "reasonably necessary", that application would need to be determined on its merits.
26. I conclude that the material change of use of the land from forestry to a mixed use of forestry and domestic leisure use, facilitated by the siting of a trailer-mounted timber structure and wooden compost toilet, is detrimental to the eco-system and character of this designated Ancient Woodland. No "wholly exceptional reasons" have been identified that would justify the development. It conflicts with the objective of Policy EQ4 of the South Somerset Local Plan 2006-2028, which states that development will not be allowed to proceed unless it can be demonstrated that it will not result in any adverse impact on the integrity of national and international wildlife and landscape designations. It is also at odds with Local Plan Policy EQ6, which seeks to protect and enhance the district's woods and forests and protect Ancient Woodland.
27. In summary, the material change of use and associated operational development is contrary to the provisions of the adopted Local Plan, and there are no other material considerations of sufficient weight to overcome this conflict with Development Plan policy. Nor are there any conditions which could be imposed to make the development acceptable in planning terms. The appeal on ground (a) fails, and the deemed application for planning permission is refused.

The appeal on ground (g)

28. The ground of appeal is that the period specified for compliance with the requirements of the Notice falls short of what should reasonably be allowed. The requirements originally included the removal of the wooden implement store and the hardstanding at the entrance to the Appeal Site, but as a consequence of the success of the appeal on ground (d), those elements will be deleted. The remaining requirements are to remove the trailer-mounted structure and wooden compost toilet, together with building materials and domestic paraphernalia, and to cease the unauthorised use of the land for

domestic leisure. In my judgment, a period of two months should be ample time to comply with these remaining requirements, which are straightforward and do not require any specialist expertise or equipment. The appeal on ground (g) fails.

Conclusion

29. For the reasons given above I conclude that the appeal on ground (d) in respect of the wooden implement store and hardstanding should succeed, because at the date the Notice was issued, the time for taking enforcement action against them had expired. The appeal on grounds (b), (c), (a) and (g) fail. I shall correct the Notice to reflect the success of the appeal on ground (d), prior to upholding it, and refuse to grant planning permission on the deemed planning application.

Formal Decision

30. It is directed that the Notice is corrected by

- at paragraph 3(1), deleting the comma after the words "...timber structure" and replacing it with the word "and" ; then deleting the words "and importation and deposit of hardcore";
- at paragraph 3(2), deleting the words "structures used for the storage of items such as a tractor, quad bike and wood chipper and other associated equipment and the laying of a hard standing area";
- at paragraph 5(i), deleting the comma after the phrase "mobile wooden structure" and replacing it with the word "and"; then deleting the words "and other wooden structures"; and
- at paragraph 5(ii), deleting the words "aggregates, hard-surfacing".

Subject to these corrections the appeal is dismissed, the Enforcement Notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Jessica Graham

INSPECTOR

This page is intentionally left blank



Appeal Decisions

Site visit made on 16 January 2024

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Appeal A Ref: APP/E3335/C/23/3328871

Appeal B Ref: APP/E3335/C/23/3328872

10 Victoria Avenue, Chard TA20 1HE

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended. The appeals are made by Mr David Pape (Appeal A) and Mrs Mon Pape (Appeal B) against an enforcement notice issued by Somerset Council.
 - The notice was issued on 3 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an independent dwelling.
 - The requirements of the notice are: (i) Demolish the unauthorised independent dwelling and; (ii) Remove from the land all blockwork, roofing tiles, doors, windows and other materials which have been used to construct and in the construction of the unauthorised dwelling and; (iii) Remove from the land all utilities and services associated with the unauthorised dwelling and; (iv) Remove from the land all domestic paraphernalia and all other materials associated with the construction of the unauthorised dwelling. (v) Restore the land to the condition it was prior to the construction of the unauthorised dwelling.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) & (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.
-

Decisions

1. The appeals are dismissed and the enforcement notice is upheld.

Application for costs

2. An application for costs in relation to Appeal A was made by Mr David Pape against Somerset Council. This application is the subject of a separate Decision.

Preliminary Matter

3. Since there is no deemed planning application arising from an appeal on ground (a) and the appropriate fee has not been paid, planning merits considerations are not relevant to my deliberations. This means that matters concerned with the reasons for issuing the enforcement notice, including whether there is accordance with the policies in the Development Plan and any perceived similarity between the unauthorised development and other developments in the locality, are not before me in these appeals. Furthermore, the Council's investigation which led up to the notice being issued and its investigations in relation to other suspected breaches of planning control in the locality are not matters which I can consider.

Ground (c) appeals

4. The ground of appeal is that the matter alleged in the notice does not constitute a breach of planning control. It is for the appellants to show why their appeals should succeed on this ground, the relevant test of the evidence being on the balance of probability.
5. The appeal property contains a two-storey, semi-detached dwelling. The dwelling has a back garden of ample proportions which widens out towards the rear boundary to partly wrap around the rear garden of an adjoining dwelling. The notice attacks the erection of a freestanding single storey building, described as a dwelling, in the part of the back garden further from the appellants' dwelling. During my visit, I observed that around a third of the floorspace in the structure is used by the appellants as a garage for motor vehicles and as a workshop. The remaining floorspace is taken up by residential living accommodation which includes a living area, kitchen and utility room together with two bedrooms and a bathroom. At the time of my visit, the living accommodation was vacant.
6. The erection of a building involves the undertaking of building operations, falling within the definition of development in s55 (1) of the 1990 Act. Planning permission is required for the carrying out of any development of land, having regard to s57 (1) of the 1990 Act. Planning permission is granted in Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for certain development within the 'curtilage' of a dwelling. This includes at Class E the provision of a building or enclosure, swimming or other pool 'required for a purpose incidental to the enjoyment of the dwelling as such', where the size and locational limitations in paragraphs E.1 to E.3 are satisfied.
7. To be within the curtilage, land should serve the purpose of a dwelling in a reasonably necessary or useful manner. Although some of the land on which the building is located previously formed part of the back garden of an adjoining residential property, it is not necessarily excluded from now being in the curtilage of the appellants' dwelling. What amounts to the curtilage is not fixed and may alter over time. The land in question now forms part of the appellants' back garden. It is not physically separate from and is part and parcel of one enclosure with the rest of the land attached to the appellants' dwelling. I am given to understand that the land in question has been in the appellants' ownership for several years. Having previously been used for residential purposes incidental to a dwellinghouse use, the function of the land is unchanged. Therefore, as a matter of fact and degree, in my view the building is wholly located within the curtilage of the appellants' dwelling.
8. The garage and workshop elements of the building might reasonably be regarded as uses that are incidental to the enjoyment of the use of the appellants' dwelling. However, the presence of living, sleeping, kitchen and bathroom facilities means that the building contains the facilities required for independent day-to-day living, this being the defining characteristic of a dwellinghouse for planning purposes. I appreciate that the appellant did not set out to create a separate residential planning unit, as it was originally intended that an elderly relative would have occupied the living accommodation. Nevertheless, development cannot fall within Class E if all or part of the building is itself a dwelling or its use is for the provision of primary

dwellinghouse purposes. The Government's Technical Guidance¹ makes it clear that in terms of erecting a building under Class E, a purpose incidental to a dwelling would not cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

9. The distinction however between primary and incidental uses for the purposes of Class E relates only to the justification for erecting a building in the first place and does not govern subsequent changes of use. An existing building within the curtilage of a dwelling may be put to any use which is part and parcel of, or incidental to, the dwellinghouse use, including a use as ancillary living accommodation. The facts and circumstances in this appeal thus differ significantly from those in established case law referred to² as well as in the recent appeal decisions referenced³, which relate to the conversion of existing lawful ancillary outbuildings to residential annexes, not the erection of a new building.
10. Consequently, even if all the relevant size and locational limitations in paragraphs E.1 to E.3 of Class E had otherwise been satisfied, including those relating to the height of the building and the distance from the curtilage boundary at paragraph E.1 (d), what has been erected at the property is a dwelling for planning purposes and so cannot benefit from the planning permission granted by the GPDO. Erection of a dwelling does not fall within the scope of the development granted planning permission by Class E. No grant of express planning permission for erecting a dwelling at the property was drawn to my attention. The definition in s171A (1) of the 1990 Act of a breach of planning control includes the carrying out of development without the required planning permission.
11. Therefore, the appellants have been unable to show that the matter alleged in the notice does not constitute a breach of planning control; the available evidence shows otherwise and the ground (c) appeals fail.

Ground (f) appeals

12. The ground of appeal is that the requirements of the notice are excessive.
13. An enforcement notice can have the purpose of remedying the breach of planning control, including by seeking the restoration of the affected land to its condition before the breach took place, or it can seek to remedy any injury to amenity caused by the breach. The notice did not state which of those purposes that it sought to achieve. Nevertheless, by requiring nothing short of the demolition of the dwelling the purpose of the notice must be to remedy the breach. Complying with the notice requirements would restore the property to its condition before the breach took place.
14. I am acutely mindful of the likely adverse consequences of upholding the notice with the stated requirements in relation to the appellants' personal circumstances. However, in the context set out above varying the notice so that the requirements fell short of demolishing the dwelling in its entirety, for example to only require removal of facilities such as the kitchen and bathroom,

¹ Permitted development rights for householders: Technical Guidance MHCLG 2019.

² *Uttlesford DC v SSE & White* [1992] JPL 171.

³ Appeal Refs: APP/R5510/X/18/3206551 & APP/W0340/W/22/3291473.

would result in the breach or elements of it being sustained. Since in that eventuality the property would not be restored to its condition prior to the unauthorised development taking place, the purpose of the notice would not be achieved. Moreover, as there are no planning considerations arising in the absence of a ground (a) appeal the notice cannot be varied to attack its substance. Given that nothing would fall short of demolishing the dwelling whilst still remedying the breach, there is no obvious alternative to the notice requirements.

15. Therefore, in my view the notice requirements are not excessive, they represent a proportionate remedy being the minimum steps necessary to restore the property to its condition prior to the breach taking place. The ground (f) appeals also fail.

Conclusions

16. For the reasons given above I consider that the appeals should not succeed.

Stephen Hawkins

INSPECTOR



Costs Decision

Site visit made on 16 January 2024

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Costs application in relation to Appeal Ref: APP/E3335/C/23/3328871 10 Victoria Avenue, Chard TA20 1HE

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs David Pape for a full award of costs against Somerset Council.
 - The appeal was against an enforcement notice alleging without planning permission, the erection of an independent dwelling.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals are normally expected to meet their own expenses. However, the Planning Practice Guidance (PPG) chapter on appeals advises that costs may be awarded where a party has behaved unreasonably and that behaviour has caused another party to incur unnecessary or wasted expenditure in the appeal process (paragraphs 028 and 030). At paragraph 031, the PPG advises that unreasonable behaviour can be either procedural-relating to the process, or substantive-relating to the issues arising from the merits of the appeal.
3. The applicant sought a full award of their costs, on procedural and substantive grounds. The application was made in writing in accordance with the PPG at paragraph 035. An award of costs is sought on the basis that the Council acted unreasonably in its actions leading up to the issuing of the enforcement notice and that, because the building erected was 'permitted development,' the Council has been unable to substantiate their case at appeal.
4. At paragraph 047, the PPG provides a non-exhaustive list of examples of unreasonable behaviour relating to the procedures in an appeal. These include lack of co-operation with the other party or parties, delay in providing information or other failure to adhere to deadlines, failing to provide relevant information within statutory time limits, resulting in an enforcement notice being quashed without the issues on appeal being determined, withdrawing an enforcement notice without good reason and providing information that is shown to be manifestly inaccurate or untrue.
5. Paragraph 048 of the PPG stresses that a Council must carry out an adequate investigation prior to issuing an enforcement notice. A Council will be at risk of an award of costs being made if it is concluded that an appeal could have been avoided by more diligent investigation that would have either avoided the need to serve the notice in the first place or ensured that it was accurate.

6. At paragraph 049, the PPG provides a non-exhaustive list of examples of unreasonable behaviour relating to the substance of the matter at appeal. These include failing to produce evidence to substantiate each reason for refusal on appeal, acting contrary to or not following well-established case law and not reviewing their case promptly following the lodging of an appeal.
7. I have no doubt that the applicant disagrees profoundly with the Council's approach to this matter, which led to the issuing of the notice. Nevertheless, from the initial investigation the Council clearly concluded that the development carried out amounted to the erection of a dwelling. The planning merits of erecting a dwelling at the appeal property have been fully explored in two planning appeals in recent years. The building erected may well differ significantly in terms of its external appearance from what was proposed in those schemes, but it is still a dwelling for planning purposes. The Council is not bound to enter into protracted negotiations prior to issuing an enforcement notice where it is considered that no practical purpose would be served by doing so, for example where, as in this case, they consider that submitting a retrospective planning application would not remedy the breach or the associated planning harm.
8. The information supporting the Council's case at appeal was submitted in accordance with the relevant deadlines and there is no sound reason to believe that it is fundamentally inaccurate. The Council set out why they considered that the matter alleged in the notice was not 'permitted development.' Whilst not sharing all of the Council's findings, I nevertheless reached a similar overall conclusion on the basis of the available evidence and the Council was able to substantiate their case at appeal.
9. Therefore, there is little before me which clearly shows that the Council have acted in a manner similar to any of the examples of unreasonable behaviour referred to above relating to the appeal procedures, the matters leading up to the issuing of the notice or the substance of the case. Nor is there any other firm evidence which clearly suggests that the Council have otherwise acted unreasonably in the appeal. It follows that the conditions for an award of costs in the PPG at paragraph 030 have not been met.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Stephen Hawkins

INSPECTOR