

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

1. Recommendation

1.1 That permission be GRANTED subject to conditions.

2. Executive Summary of key reasons for recommendation

2.1 The proposed development is considered to be compliant in principle with the adopted development plan when taken as a whole. The design, scale and materials of the glamping pods are considered to be acceptable and the impact on the landscape from the whole scheme is not considered to be materially harmful. The

impact on neighbouring residential amenity is considered to be mitigated through measures secured through planning conditions and as discussed in the main body of the report. The impact on highway safety and flood risk are not considered to be reasons for refusing the application nor would the impact on ecology be materially harmful, subject to the attachment of conditions

3. .Planning Obligations and conditions and informatives

3.1 Conditions

3.1.1 Temporary planning permission – 3 years

3.1.2 Standard plans condition

3.1.3 Ecological clerk of works to be appointed

3.1.4 Bird nesting condition

3.1.5 Hedgerows and trees to be protected

3.1.6 Flood resistant floor levels

3.1.7 External materials condition

3.1.8 Car parking condition

3.1.9 Measures to prevent overlooking

3.1.10 Flood Evacuation Management Plan to be approved

3.1.11 Landscaping condition

3.1.12 External lighting condition

3.1.13 Ecological enhancement measures

3.1.14 Holiday occupation of glamping pods

3.1.15 Noise Management Plan condition

3.2 Informatives

3.2.1 Proactive statement

3.2.2 Nesting birds informative

3.2.3 Environment Agency informative

3.3 Obligations

3.3.1 No planning obligations required.

4. Proposed development, site and surroundings

4.1 Details of proposal

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

4.2 Sites and surroundings

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

5. Planning (and enforcement) history

5.1 No planning history relevant to this planning application.

6. Environmental Impact Assessment

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

7. Habitats Regulations Assessment

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

8. Consultation and Representations

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

8.1 Date of consultation: 23 May 2023

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

8.3 Press Date: N/A

8.4 Site Notice Date: 13 May 2022

8.5 Statutory Consultees

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

<p>Environment Agency</p>	<p>While we still have reservations about the analysis and commentary presented in the updated Flood Risk Assessment (FRA), our position considers the availability of flood modelling information, the location of the proposed development within the site and the proposed mitigation measures.</p> <p>We can therefore now WITHDRAW our earlier objection, provided the Local Planning Authority (LPA) is satisfied the requirements of the Sequential Test under the National Planning Policy Framework (NPPF) are met, and subject to the inclusion of the following condition within the Decision Notice:</p> <p>CONDITION: The finished floor levels of proposed glamping pods shall be set at least 0.6m higher than existing external ground levels.</p> <p>REASON: To reduce the risk of flooding to the proposed development and future occupants.</p> <p>The following informatives and recommendations should be included in the Decision Notice.</p> <p>The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning or visit</p>	<p>Discussed at Section 10.6 of the report</p>
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<https://www.gov.uk/sign-up-for-flood-warnings>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email, or text message. Anyone can sign up.

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

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

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

The Council's Emergency Planners should be consulted in relation to flood emergency response and evacuation arrangements for the site. We strongly recommend that the applicant prepares a Flood Warning and Evacuation Plan for

	<p>future occupants. We do not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users.</p>	
Wessex Water Authority	No objections	Discussed at Section 10.7 of the report

8.6 Internal Consultees

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

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

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

8.7 Local Representations

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

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

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

9. Relevant planning policies and Guidance

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

As a result of local government reorganisation Somerset Council was established from the 1 April 2023. The Structural Change Order agreeing the reorganisation of local government requires the Council to prepare a local plan within 5 years of the 1 April 2023 and the Council will be bringing forward a Local Development Scheme to agree the timetable for the preparation of the local plan and scope in due course.

Relevant policies of the development plan in the assessment of this application are listed below:

West Somerset Local Plan to 2032

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

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

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

Neighbourhood Plans:

No neighbourhood plan in force in this area

Supplementary Planning Documents:

District Wide Design Guide, December 2021

Other relevant policy documents:

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

National Planning Policy Framework

10. Material Planning Considerations

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

10.1 The principle of development

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

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

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

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

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

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

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

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

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

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

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

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

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

10.3 Access, highway safety and parking provision

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

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

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

10.4 The impact on neighbouring residential amenity

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

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

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

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

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

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

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

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

harmful overlooking of Rose Cottage would not occur.

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

10.5 The impact on ecology and biodiversity

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

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

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

10.6 Flood risk

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

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

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

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

10.6.4 In terms of the Sequential Test, it needs to be acknowledged that the pods themselves would be within Flood Zone 1, with small part of the northern most pod within Flood Zone 2. There may be other sites where glamping pods could be sited that are entirely outside Flood Zone 2, but they would not be subject to effective management and control by the main business that the pods would be offered in conjunction with the Babbling Brook. The pods need to be sited near to the public house so that they can be managed and controlled as part of the existing business that they would essentially extend. The applicant is not known to own other land in the local area that is outside Flood Zone 2 and can be used to site the glamping pods. The Sequential Test is considered to have been satisfied. Subject to the attachment of the condition recommended by the Environment Agency, the proposed development complies with Policy CC2 of the adopted Local Plan.

11 Local Finance Considerations

11.1 Community Infrastructure Levy - N/A

12 Planning balance and conclusion

12.1 The general effect of Paragraph 11 of the NPPF is that, in the absence of relevant or up-to-date development plan policies, the balance is tilted in favour of the grant of permission, except where the policies within the NPPF that protect areas or assets of particular importance provides a "clear reason for refusing the development proposed" or where the benefits of the proposed development are "significantly and demonstrably" outweighed by the adverse impacts when assessed against the policies in the NPPF taken as a whole.

12.2 The report sets out that Officers consider the proposal to be compliant in principle with the adopted development plan when taking into account the 2021 Anstey Farm appeal decision (reference APP/W3330/W/21/3280061) that has steered the consideration on holiday accommodation to be around the compliance or non-compliance with the Local Plan when taken as a whole and giving particular weight to Policy EC9.

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

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

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

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

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

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

Appendix 1 – Planning Conditions and Informatives

Recommended Conditions

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

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

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

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

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

(A2) DrNo BAB-102 Rev I Site Plan

(A3) DrNo SK 100 Proposed Floor Plan and Sections

(A3) DrNo SK 101 Proposed Elevations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ecological enhancements, and an implementation timetable. The approved landscaping plan shall be carried out in accordance with the approved implementation timetable. Any trees or plants which within a period of 20 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

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

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

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

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

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

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

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

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

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

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

Recommended Informatives

- 1 In accordance with Paragraph 38 of the National Planning Policy Framework 2021, the Council has worked in a positive and creative way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
- 2 The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop until the young have fledged or then advice is sought from a suitably qualified and experienced ecologist at

the earliest possible opportunity.

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

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

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

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

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