

You are requested to attend a meeting of the Planning Committee to be held in West Monkton Primary School, Bridgwater Road, Bathpool, Taunton (Main School Hall) on 25 April 2018 at 18:15.

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### Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Planning Committee held on 31 January and 28 February 2018 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests  
To receive declarations of Disclosable Pecuniary Interests or personal or prejudicial interests, in accordance with the Code of Conduct, in relation to items on the agenda. Such interests need to be declared even if they have already been recorded in the Register of Interests. The personal interests of Councillors who are County Councillors or Town or Parish Councillors will automatically be recorded in the minutes.
- 5 52/17/0044 Erection of first floor extension and single storey extension on the north east elevation and summer house in the rear garden of 2 Trendle Road, Taunton (Retention of part works undertaken)
- 6 42/14/0069 OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT POINTS OF ACCESS) FOR A RESIDENTIAL AND MIXED USE URBAN EXTENSION AT COMEYTROWE/TRULL TO INCLUDE UP TO 2000 DWELLINGS, UP TO 5.25 HECTARES OF EMPLOYMENT LAND, 2.2 HECTARES OF LAND FOR A PRIMARY SCHOOL, A MIXED USE LOCAL CENTRE, AND A 300 SPACE 'PARK AND BUS' FACILITY ON LAND AT COMEYTROWE/TRULL - - reporting back on issues relating to affordable housing as a result of viability issues, with all other matters remaining as previously agreed by Members of the Planning Committee.
- 7 Latest appeals and decisions recieved

Bruce Lang  
Assistant Chief Executive

19 July 2018

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

Except at meetings of Full Council, where public participation will be restricted to Public Question Time only, if a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk)



The meeting rooms at both the Brittons Ash Community Centre and West Monkton Primary School are on the ground floor and are fully accessible. Toilet facilities, with wheelchair access, are available.

Lift access to the Council Chamber on the first floor of Shire Hall, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are available through the door to the right hand side of the dais.



An induction loop operates at Shire Hall to enhance sound for anyone wearing a hearing aid or using a transmitter.

**For further information about the meeting, please contact Democratic Services on 01823 219736 or email [r.bryant@tauntondeane.gov.uk](mailto:r.bryant@tauntondeane.gov.uk)**

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**Planning Committee Members:-**

Councillor R Bowrah, BEM (Chairman)  
Councillor M Hill (Vice-Chairman)  
Councillor J Adkins  
Councillor M Adkins  
Councillor W Brown  
Councillor S Coles  
Councillor J Gage  
Councillor C Hill  
Councillor S Martin-Scott  
Councillor I Morrell, BA LLB  
Councillor S Nicholls  
Councillor J Reed  
Councillor N Townsend  
Councillor P Watson  
Councillor D Wedderkopp

## Planning Committee – 31 January 2018

Present: - Councillor Bowrah (Chairman)  
Councillor Mrs Hill (Vice-Chairman)  
Councillors Mrs Adkins, M Adkins, Coles, C Hill, Martin-Scott,  
Morrell, Nicholls, Sully, Townsend, Watson and Wedderkopp

Officers: - Matthew Bale (Area Planning Manager), John Burton (Major Applications Co-ordinator) Tim Burton (Assistant Director-Planning and Environment), Francis Wadsley (Planning Officer), Martin Evans (Solicitor, Shape Partnership Services) and Tracey Meadows (Democratic Services Officer)

Also present: Bryn Kitching (Area Planning Manager), Julie Moore (Monkton Heathfield Project Team Leader),

Councillors Berry, Cavill and Horsley.

Mrs A Elder, Chairman of the Standards Advisory Committee.

(The meeting commenced at 6.15 pm)

### 5. Apologies/Substitutions

Apologies: Councillors Brown and Mrs Reed

Substitutions: Councillor Sully for Councillor Mrs Reed

### 6. Declarations of Interest

Councillor Bowrah declared that he was a member of Wellington Town Council and application No. 43/17/0110 had been discussed at various meetings. He declared that the Vice-Chairman would take the chair for this item.

### 7. Applications for Planning Permission

The Committee received the report of the Area Planning Manager on applications for planning permission and it was **resolved** that they be dealt with as follows:-

(1) That **the detailed plans be approved** for the under-mentioned development:-

**43/17/0110**

**Application for approval of reserved matters following outline application 43/11/0104 for the erection of 119 No. dwellings with**

**associated access, scale, appearance and layout at Phase 3 on land at Longforth Farm, Wellington**

**Conditions**

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

- SW096-PD-752 Floor Plans & Elevations plots Garage;
- SW096-PD-751 Floor Plans & Elevations plots Garage;
- SW096-PD-750 Floor Plans & Elevations plots Garage;
- SW096-PD-503 Floor Plans & Elevations plots 368-369;
- SW096-PD-502 Floor Plans & Elevations plots 350-351;
- SW096-PD-501 Floor Plans & Elevations plots 348-349, 364-365, 366-367;
- SW096-PD-500 Floor Plans & Elevations plots 370-371;
- SW096-PD-145 Floor Plans plots 385-386;
- SW096-PD-144 Elevations plots 385-386;
- SW096-PD-143 Rev A Floor Plans plots 390-395;
- SW096-PD-142 Rev A Elevations plots 390-395;
- SW096-PD-141 Floor Plans plots 396-401;
- SW096-PD-140 Elevations plots 396-401;
- SW096-PD-139 Floor Plans & Elevations plots 326;
- SW096-PD-138 Floor Plans & Elevations plots 331, 359, 417;
- SW096-PD-137 Floor Plans & Elevations plots 317, 360;
- SW096-PD-136 Rev A Floor Plans & Elevations plots 334, 353, 353, 378, 406, 410, 416, 418;
- SW096-PD-135 Rev A Floor Plans & Elevations plots 316, 321, 347, 354, 384;
- SW096-PD-134 Rev A Floor Plans & Elevations plots 329, 412, 415;
- SW096-PD-133 Rev A Floor Plans & Elevations plots 31, 324, 405, 414;
- SW096-PD-132 Rev A Floor Plans & Elevations plot 333;
- SW096-PD-131 Rev B Floor Plans & Elevations plot 424;
- SW096-PD-130 Rev A Floor Plans & Elevations plot 330;
- SW096-PD-129 Rev A Floor Plans & Elevations plot 328;
- SW096-PD-128 Rev A Floor Plans & Elevations plots 325, 429;
- SW096-PD-138 Rev A Floor Plans & Elevations plots 325, 429;
- SW096-PD-127 Rev A Floor Plans & Elevations plot 327;
- SW096-PD-126 Rev A Floor Plans & Elevations plots 408, 411, 430;
- SW096-PD-125 Rev A Floor Plans & Elevations plots 377, 413;
- SW096-PD-124 Rev A Floor Plans & Elevations plot 343;
- SW096-PD-123 Rev A Floor Plans & Elevations plot 344;
- SW096-PD-122 Rev A Floor Plans & Elevations plot 337, 343;
- SW096-PD-121 Rev A Floor Plans & Elevations plots 312, 428;

- SW096-PD-120 Floor Plans & Elevations plots 335, 383;
- SW096-PD-119 Rev A Floor Plans & Elevations plots 358, 376, 409, 419;
- SW096-PD-118 Floor Plans & Elevations plots 332;
- SW096-PD-117 Rev A Elevations plots 322;
- SW096-PD-116 Floor Plans plots 318-319, 356-357;
- SW096-PD-115 Elevations plots 318-319, 356-357;
- SW096-PD-114 Floor Plans plots 335-336, 345-346;
- SW096-PD-113 Floor Plans & Elevations plots 335-336, 345-346;
- SW096-PD-112 Floor Plans & Elevations plot 320;
- SW096-PD-111 Floor Plans & Elevations plot 323;
- SW096-PD-110 Floor Plans & Elevations plots 338, 352, 407;
- SW096-PD-109 Rev A Floor Plans & Elevations plots 361, 387;
- SW096-PD-108 Floor Plans & Elevations plots 339, 340;
- SW096-PD-107 Floor Plans & Elevations plots 341-342;
- SW096-PD-106 Floor Plans & Elevations plots 341-342;
- SW096-PD-105 Rev A Floor Plans & Elevations plots 313-314, 379-382, 388-289;
- SW096-PD-100 Floor Plans & Elevations plots 372-373, 374-375;
- SW096-PD-101 Elevations plots 402-404;
- SW096-PD-102 Floor Plans plots 402-404;
- SW096-PD-103 Elevations plots 425-427;
- SW096-PD-104 Floor Plans plots 425-427;
- SW096-EN-3293 Rev A Proposed Planning Levels Sheet 3 of 3;
- SW096-EN-3292 Rev B Proposed Planning Levels Sheet 2 of 3;
- SW096-EN-3291 Rev B Proposed Planning Levels Sheet 1 of 3;
- SW096-EN-3290 Rev B Proposed Planning Levels overview;
- SW096-EN-3010 Rev B Section 38 Adoption;
- SW096-EN-3002 Rev D Refuse Vehicle Tracking;
- SW096-EN-3001 Rev E Junction and Forward Visibilities;
- SW096-SL-902C Refuse and Parking Strategy;
- SW096-SL-060C Means of Enclosure;
- SW096-SL-020C Material Layout;
- SW096-SL-001C Site Layout;
- SW096-SL-001c-COL Site Layout;
- SW096-PD-062A Street Scene;
- SW096-PD-061A Street Scene;
- SW096-PD-060A Street Scene;
- SW-LS-012B Landscape Concept;
- SW0996-LS012b Landscape Concept and Phase 3;
- SW096-En-3292 Rev B Misc Engineering Planning Levels Sheet 2;
- SW096-EN-3291 Rev B Misc Engineering Planning Levels Sheet 1;
- EN-3290B Misc Engineering and Planning Levels Overview;

- SW096-PD-131 Floor Plans and Elevations;
- SW096-SL-902C Refuse and Parking Strategy;
- SW096-SL-060c Means of Enclosure;
- SW096-SL-020c Materials Layout;
- SW096-SL-001c Site Layout;

- (b) Prior to the commencement of the development hereby permitted a detailed schedule of works for the laying out and planting of the new orchard including the translocation of existing dead and alive trees from the existing orchard and a timing of works shall be submitted to, and approved in writing by, the Local Planning Authority. The detailed schedule of works and timings shall be strictly adhered to in the carrying out of the works;
- (c) (i) A landscaping scheme shall be submitted to, and approved in writing by, the local Planning Authority prior such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted; (ii) The scheme shall be completely carried out within the first available planting season from the date of occupation of 50% of the dwellings hereby approved; (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species;
- (d) Prior to the occupation of the dwellings hereby approved, a lighting design taking into account the need to protect bats shall be submitted to, and approved in writing by, the local planning authority. The strategy shall:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used to access key areas of their territory, for example, for foraging; and
  - b) show how and where external lighting will be installed (through the provision of lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory; 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;
- (e) The materials specified within the drawings hereby approved shall be used in the carrying out of the development hereby permitted unless otherwise agreed in writing by the Local Planning Authority. The facing materials for each plot shall be installed prior to the occupation of that plot and shall thereafter be maintained as such;



- (f) The development hereby permitted shall not be commenced until details of a strategy to protect wildlife has been submitted to, and approved in writing by, the Local Planning Authority for phase 3 of the development. The strategy shall be based on the advice of Clarkson Woods's updated Ecological survey dated June 2017 and the Bat survey report dated May 2017 and include:

Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;  
Details of the timing of works to avoid periods of work when species could be harmed by disturbance. Measures for the enhancement of places of rest for the wildlife. An updated Construction Environmental management Plan (CEMP) and Landscape Spring Ecological Management plan (LEMP)  
Details of lighting for Phase 3; Once approved the works shall be implemented in accordance with the approved details and timing of the works unless otherwise approved in writing by the Local Planning Authority and thereafter the resting places and agreed accesses for bats and nesting birds shall be permanently maintained. The development shall not be occupied until the scheme for the maintenance and provision of the new bat and bird boxes and related accesses have been fully implemented;

- (g) Prior to the construction of plots 329, 332, 338, 348-352, 361-363, 364-370, 385-389, full details of the proposed measures of achieving the required sound reduction performance as set out in Table 5.1 to the submitted Acoustic Report shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be implemented prior to the occupation of the plot to which it relates and shall thereafter be maintained as such;
- (h) Prior to the occupation of unit 389-404 a 2m high acoustic fence shall be erected along the western site boundary in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. The fence shall thereafter be maintained as such;

- (2) That **planning permission be granted** for the under-mentioned developments:-

**03/17/0004**

**Relocation and formation of agricultural access with erection of an agricultural building for livestock and storage with associated yard and landscaping on land west of Cobhay, Milverton**

- (a) The development hereby permitted shall be begun within three years of the date of this permission:-
- (b) The development hereby permitted shall be carried out in accordance with the following plans:-

- (A3) DrNo 303B-PL-01 Proposed Barn Location Plan;
  - (A3) DrNo 303B-PL-02 A Proposed Barn Floor Plan;
  - (A3) DrNo 303B-PL-03 A Proposed Barn Elevations & Section A-A;
  - (A3) DrNo 303B-PL-04 A Proposed Barn Block & Roof Plan;
  - (A3) DrNo 303B-PL-05 A Proposed Barn Street Elevations;
- (c) Prior to the erection of the building hereby permitted a detailed landscaping scheme which shall include numbers, density and size of all new trees and shrubs to be planted and a programme for their implementation shall be submitted to, and approved in writing by, the Local Planning Authority. The landscaping scheme shall also identify the northern and western boundary hedgerows to be maintained at a height of 3m; For a period of five years after the completion of the landscaping scheme, the trees and shrubs shall be protected, (including the maintenance of the boundary hedgerows to a height of 3 metres) and maintained in a healthy weed free condition and any trees or shrubs which cease to grow, shall be replaced with others of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority;
- (d) Prior to the use of the development hereby permitted the proposed access over at least the first 10 metres of its length, as measured from the edge of the adjoining carriageway, shall be properly consolidated and surfaced not loose stone or gravel, in accordance with details which shall have been submitted to, and approved in writing by, the Local Planning Authority. Once constructed the access shall thereafter be maintained in that condition at all times;
- (e) Any entrance gates erected shall be hung to open inwards, shall be set back a minimum distance of 10 metres from the carriageway edge and shall thereafter be maintained in that condition at all times;
- (f) Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to, and approved in writing by, the Local Planning Authority. Such provision shall be installed before the site is first brought into use and thereafter maintained at all times;
- (g) At the proposed access there shall be no obstruction to visibility greater than 300 mm above the adjoining road level within the visibility splays shown on the submitted plan Drawing No. 303B-PL-04 Revision A dated July 2017. Such visibility splays shall be constructed prior to the commencement of the development hereby permitted and shall thereafter be maintained at all times;
- (h) Before any internal or external lighting is installed, erected, placed or operated on the site, details shall have been first submitted to, and approved in writing by, the Local Planning Authority. Details should include the lighting (manufacturer's specifications), number(s) of lights and

their siting. The proposals shall be accompanied by drawings showing the light spill (lux diagrams) from the proposed lighting. The works shall thereafter be carried out and maintained in accordance with the approved details and in no circumstances shall external illumination be operated on the site other than in accordance with the approved scheme;

- (i) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification, no development of the type described in Schedule 2, Part 6, Class A of the 2015 Order other than that expressly authorised by this permission shall be carried out within the field without the further grant of planning permission;
- (j) Prior to the erection of the building hereby permitted details for the surface water drainage works to serve the development shall be submitted to, and approved in writing by, the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to the use of the building. The works shall thereafter be retained in that form;
- (k) Prior to the use of the development hereby permitted commencing the existing access to the north west of the application site shall be closed up, details of which shall have previously been submitted to, and agreed in writing with the Local Planning Authority and shall thereafter be maintained in accordance with the approved details;
- (l) The applicant shall undertake all the recommendations made in Quantock Ecology's hedgerow assessment report dated August 2017; The works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the Local Planning Authority;
- (m) Prior to the building hereby permitted being brought into use a scheme for the treatment of effluent shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be thereafter fully complied with in the operation of the building;

(Notes to applicant:- (1) Applicant was advised that in accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council had worked in a positive and pro-active way with the applicant and had negotiated amendments to the application to enable the grant of planning permission; (2) Applicant was advised on Biodiversity (i) Most resident nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended); (ii) It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation; (3) Applicant was advised that any proposals submitted for condition 8 should show that there was no light spill outside the area surrounding the building.)

**25/17/0031**

**Construction of first floor with erection of a two storey extension to the front of Brookside View, Wiveliscombe Road, Norton Fitzwarren**

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

- (A4) DrNo 5083\_PL\_001 Proposed Site Location Plan;
- (A1) DrNo 5083\_PL\_101 Rev A Proposed Elevations;
- (A1) DrNo 5083\_PL\_100 Rev A Proposed Floor Plans;
- (A4) Dr No 5083\_PL\_002 Rev A Proposed Block Plan;

(Notes to applicant:- (1) Applicant was advised that in accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council had worked in a positive and pro-active way with the applicant and had negotiated amendments to the application to enable the grant of planning permission; (2) Applicant was advised that there was always a possibility that any building or structure may be used by bats and nesting birds. We would therefore like to draw you attention to the following; (i) The applicant and contractors should be aware that all bats are fully protected by law under the Wildlife and Countryside Act 1981 (as amended) and under European legislation. Should a bat or bats be encountered whilst work is being carried out on the property, work should cease immediately and advice should be sought from the Government's advisers on wildlife, Natural England. When working on the property special care should be taken when roof tiles or slates are removed (advise removing by hand and checking underside for bats before stacking, particularly the ones over the gable ends and ridge tiles.) Eaves and external cladding may also provide roost opportunities for bats and should be disturbed with care. As a further precaution, undertaking roof work during the months of March - May or September - November will avoid the main hibernation and breeding seasons when bats are most sensitive to disturbance. Bats should preferably not be handled (and not unless with gloves) but should be left in place, gently covered, until advice is obtained; (ii) most resident nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended); (iii) it should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation.)

**8. Erection of 20 No. dwellings with associated public open space, landscaping and external works on land at Stonegallows (Phase 2 Abbeyvale), Bishop's Hull (05/17/0054)**

Reported this application.

**Resolved** that subject to the applicant entering into a Section 106 Agreement to secure the following:-

- (1) 25% Affordable Housing;
- (2) Additional play equipment at Kinglake – Wicksteed Basket Spinner, including installation and relocation/extension of perimeter fencing;
- (3) Maintenance of the surface water drainage features;
- (4) An agreed travel plan;

the Assistant Director – Planning and Environment be authorised to determine the application in consultation with the Chairman or Vice-Chairman and, if outline planning permission was granted, the following conditions be imposed:-

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

- (A3) DrNo BHL 130 Rev P1 Location Plan;
- (A2) DrNo D11 75 P6 Tree Protection Plan;
- (A3) DrNo 501-1 Rev P3 Hanbury Housetype Design Sheet 1 Elevations & Floor Plans;
- (A3) DrNo 501-1 Rev P3 Hanbury Housetype (AFF) Design Sheet 1 Elevations & Floor Plans;
- (A3) DrNo 502-1 Rev P3 Hatfield Housetype Design Sheet 1 Elevations & Floor Plans;
- (A3) DrNo 503-1 Rev P3 Rosebury Housetype Design Sheet 1 Elevations & Floor Plans;
- (A3) DrNo 504-1 Rev P3 Clayton Housetype Design Sheet 1 Elevations & Floor Plans;
- (A3) DrNo 506-1 Rev P2 Souter Housetype Design Sheet 1 Elevations & Floor Plans;
- (A3) DrNo 507-1 Rev P2 Alnwick Housetype Design Sheet 1 Elevations & Floor Plans;
- (A1) DrNo 120 Rev P4 Phase 2 Planning Layout;
- (A1) DrNo 121 Rev P4 Phase 2 Materials Plan;
- (A1) DrNo 122 Rev P1 Phase 2 Affordable Housing Distribution Plan;
- (A1) DrNo 125 Rev P1 Street Scenes;
- (A1) DrNo 126 Rev P1 Phase 2 Storey Height Plan;
- (A1) DrNo 2100 Rev P04 Section 38 Layout;
- (A1) DrNo 1003 Rev P01 Flood Flow Routing Plan;;
- (A1) DrNo 1002 Rev P01 Impermeable Area Plan
- (A1) DrNo 1001 Rev P01 Drainage Strategy Plan;
- (A1) DrNo 2101 Rev P03 Highway Layout;

- (A1) DrNo 2102 Rev P02 Vehicle Tracking Layout;
- (A1) DrNo 2402 Rev P05 External Levels Layout;

- (b) 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;
- (c) Before any part of the permitted development is commenced, the hedges to be retained on the site shall be protected by a chestnut paling fence( or similar) 1.5 m high, placed at a minimum distance of 2.0 m from the edge of the hedge and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soils levels around the base of the hedges so retained shall not be altered;
- (d) Prior to the commencement of the development hereby permitted, a full badger survey shall be carried out. The findings of the survey together with any proposed mitigation required shall be submitted to, and approved in writing by, the Local Planning Authority. The approved mitigation shall be strictly adhered to and maintained for the duration specified in the approved report;
- (e) The applicant shall undertake all the recommendations made in Tor ecology's report dated June 2017, and provide mitigation for bats and birds as recommended; The works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the Local Planning Authority. The development shall not be occupied until the scheme for the maintenance and provision of the new bird and bat boxes and related accesses have been fully implemented. Thereafter the resting places and agreed accesses shall be permanently maintained;
- (f) Prior to the occupation of the dwellings hereby permitted a 1.8m high post and mesh fence shall be erected along the hedge line to form a trim line for the hedge in accordance with details that shall have been submitted to, and approved in writing by, the Local Planning Authority beforehand. The fence shall thereafter be maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority;
- (g) (i) The landscaping/planting scheme shown on drawing 300 Rev B shall be completely carried out within the first available planting season from the date of commencement of the development; (ii) For a period of five years after the completion of the development, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees

or shrubs that cease to grow, shall be replaced by trees or shrubs of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority;

- (h) The developer shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to commencement of development and thereafter maintained until the use of the site discontinues;
- (i) Prior to their construction, full details of the proposed estate road, footways, footpaths, tactile paving, cycleways, 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 submitted to, and approved by, the Local Planning Authority in writing. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority;

The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in accordance with the approved details 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;

The approved details shall be fully implemented in accordance with the approved details prior to the occupation of the 16<sup>th</sup> dwelling and shall thereafter be maintained as such;

**9. Proposed employment site consisting of 1 No. B1 commercial building and amenities (48/17/0043)**

Reported this application.

**Resolved** that subject to the applicant entering into a Section 106 Agreement to secure the following:-

- (1) S106 Travel Plan;

The Assistant Director – Planning and Environment be authorised to determine the application in consultation with the Chairman or Vice-Chairman and, if outline planning permission was granted, the following conditions be imposed:-

- (a) The development hereby permitted shall be begun within three years of the date of this permission:-
- (b) The development hereby permitted shall be carried out in accordance with the following approved plans :-
- (A3) DrNo 17-16.01 Rev A Location & Block Plan;
  - (A1) DrNo 17-16.03 Rev H Proposed Site Layout Plan;
  - (A1) DrNo 17-16.04 Rev C Proposed Site Sections;
  - (A2) DrNo 17-16.08 Rev B Block D Proposed Plans, Elevations & Section;
  - (A3) DrNo 201 Rev P1 Drainage Plans;
  - (A3) DrNo 301 Rev P2 Access Road Details;
  - (A3) DrNo 302 Rev P2 Access Road Sections 1 of 2;
  - (A3) DrNo 303 Rev P2 Access Road Sections 2 of 2;
  - (A3) DrNo 304 Rev P1 Road Construction Details;
  - (A3) DrNo 305 Rev P1 Site Entrance Layout;
- (c) Prior to the construction of the buildings samples of the materials to be used in the construction of the external surfaces of the development shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such;
- (d) (i) A landscaping scheme shall be submitted to, and approved in writing by the local Planning Authority prior to a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted; (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development; (iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species;
- (e) Prior to occupation of the building(s) works for the disposal of sewage and surface water drainage shall be provided on the site to serve the development, hereby permitted, in accordance with the approved details. The works shall be retained in that form;
- (f) No deliveries or vehicle movements, other than staff arriving and leaving, to and from the premises, shall take place within the site outside the hours of 7.30hrs – 19.00hrs Monday – Friday, or 8.00hrs – 13.00hrs on Saturdays and shall not take place on Sundays, Bank or Public Holidays;
- (g) No business operations, other than within the building, including staff arriving and leaving the premises, shall take place within the site outside



the hours of 6.00hrs – 22.00hrs Monday – Friday, or 8.00hrs – 13.00hrs on Saturday and shall not take place on Sundays, Bank or Public Holidays;

- (h) The use of the building shall not be commenced until space has been laid out, drained and surfaced within the site in accordance with the approved plan for the parking, turning, loading and unloading of vehicles, and such areas shall not thereafter be used for any purpose other than the parking, turning, loading and unloading of vehicles associated with the development;
- (i) Prior to the use commencing the cycle parking shall be provided on site in accordance with the approved details and shall be maintained thereafter in connection with the use hereby granted;
- (j) The waste storage facilities shown on the approved plan shall be constructed and fully provided prior to the use of the building commencing, and shall thereafter be retained for those purposes;
- (k) There shall be no storage of materials and waste other than in the designated areas shown on the approved plan;
- (l) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking and re-enacting the 2015 Order with or without modification), no fences or means of enclosure shall be erected on the site other than that expressly authorised by this permission shall be carried out without the further grant of planning permission;
- (m) The Travel Plan approved for this development shall be implemented within two months of the development being first used or occupied. A transport mode and travel pattern survey shall thereafter be conducted not less than every 12 months for a minimum period of five years from the first use or occupation of the development and shall examine the contribution that can be made by cycling, public transport, car sharing, the provision and control of car parking, teleworking, and emergency taxi cover. A person shall be identified as a co-ordinator and point of contact for the purposes of the Plan. The Travel Plan shall be carried out as approved. The Local Planning Authority shall be notified of the results of the survey not later than the end of each calendar year;
- (n) Notwithstanding the provisions of Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) the windows to be installed in the north elevation of all of the blocks shall be constructed with tinted glass. The details of the tinted glass shall be submitted to, and agreed in writing by, the Local Planning Authority prior to its installation and shall thereafter be so retained;
- (o) Prior to the use of the building commencing, the details of external lighting shall be submitted to and approved in writing by the Local Planning

Authority. The external lighting shall be carried out in accordance with the approved details and thereafter maintained as such; Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no other external lighting shall be erected without the benefit of planning permission;

(p) The development hereby permitted shall not be commenced until details of a strategy to protect and enhance the development for wildlife has been submitted to, and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Richard Green Ecology's Preliminary Ecological appraisal dated August 2017, and include:

1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
2. Details of the timing of works to avoid periods of work when nesting birds could be harmed by disturbance;
3. Measures for the enhancement of places of rest for reptiles, bats and, nesting birds;

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

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

(q) Development shall be constructed in accordance with the levels shown on the approved plans;

(r) No development shall commence unless a Construction Traffic Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:

- Construction vehicle movements;
- Construction operation hours;
- Construction vehicular routes to and from site;
- Construction delivery hours;
- Expected number of construction vehicular per day;
- Car parking for contractors;
- Specific measures to be adopted to mitigate construction impacts in pursuance of the Environment Code of Construction Practice;
- A scheme to encourage the use of Public Transport amongst contractors; and
- Measures to avoid traffic congestion impacting upon the Strategic Road Network;

**10. Application for Outline Planning Permission with all matters reserved, except for access, for a residential development of up to 71 No. dwellings with associated access and infrastructure on land off Burges Lane, Wiveliscombe (49/17/0060)**

Reported this application.

**Resolved** that subject to the applicant entering into a Section 106 Agreement to secure the following:-

- (1) Affordable housing – provision of 25% of the dwellings for affordable housing, of which 60% based on social rent and 40% intermediate model;
- (2) Travel Plan – Implementation of an agreed (pre completion of the S106 Agreement) Travel Plan including all necessary fees, safeguarding sums and implementation and monitoring framework;
- (3) Additional play equipment to be provided on the existing public open space developed as part of phases 1 and 2;

The Assistant Director – Planning and Environment be authorised to determine the application in consultation with the Chairman or Vice-Chairman and, if outline planning permission was granted, the following conditions be imposed:-

- (a) Approval of the details of the (a) layout (b) scale (c) appearance (d) internal access roads and (e) landscaping of the site (hereinafter call 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced;

Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of two years from the date of this permission. The development hereby permitted shall be begun not later than the expiration of two years from the 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;

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

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

- DrNo 13115/1030 C Location Plan;
- DrNo 13115/4010 B Access and Movement Parameter Plan;

- (c) No work shall commence on the development hereby permitted until details of the proposed accesses to Burgess Lane and Heathstock Hill have been submitted to, and approved in writing by, the Local Planning Authority. Such works for each access shall then be fully constructed in

accordance with the approved plan(s), to an agreed specification, before any dwelling served by that access is first occupied and thereafter retained as such;

- (d) The applicant shall ensure that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to the commencement of development, and thereafter maintained until construction work discontinues;
- (e) 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 first occupation and thereafter maintained at all times;
- (f) 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;
- (g) The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway;
- (h) The development hereby permitted shall not be brought into use until that part of the service road that provides access to it has been constructed in accordance with the approved plans;
- (i) None of the dwellings hereby permitted shall be occupied until the developer has applied for a Traffic Regulation Order(s) (TRO) involving the movement of the 30 mph zone and any necessary infrastructure work on Heathstock Hill, and a second TRO to restrict on street parking near the newly installed junction onto Ford Street/ Heathstock Hill. Both TROs shall then be advertised and if successful implemented at the developer's expense to the satisfaction of the Local Planning Authority prior to first occupation or as agreed by the Local Planning Authority;

- (j) 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;
- (k) The parking spaces in any garages that may be approved shall at all times be kept available for the parking of vehicle/s and shall be kept free of obstruction for such use. Such garages shall not be converted into additional living accommodation without a further grant of planning permission;
- (l) The development hereby permitted shall not be carried out other than in complete accordance with the recommendations and biodiversity enhancements set out in the Extended Phase 1 Habitat report dated August 2017. All existing hedgerows bordering and within the site shall be fully protected by fencing prior to any works taking place. During the period of construction of the development the existing soil levels around the base of retained hedgerows shall not be altered. Specific measures to protect all retained hedgerows intended to be within gardens shall be submitted to, and agreed in writing as part of the detailed landscaping measures to be submitted as part of the application for Reserved Matters approval;
- (m) No development or phase of development hereby permitted, including any site clearance or vegetation removal, shall commence until a bat and dormouse mitigation and enhancement strategy has been submitted to, and agreed in writing by, the local planning authority. The strategy is to be informed by the surveys set out in the email from GS Ecology to Larry Burrows dated 19 January 2018. The measures in the strategy shall thereafter be implemented in full accordance with the submitted details unless otherwise agreed in writing by the local planning authority and thereafter retained as such;
- (n) Prior to the occupation of 75% of the total number of dwellings on the site the proposed allotments shall be delivered and completed and made available for use in accordance with a written scheme and plan to include matters of layout and levels etc. to be submitted to, and agreed in writing with the Local Planning Authority;

(Note to applicant:- Applicant was advised that there would be a requirement to secure appropriate legal agreement(s) for any works, within or adjacent to the public highway required as part of this development, and they are advised to contact Somerset County Council to make the necessary arrangements well in advance of such works starting. The developer is further advised of the stated shortcomings of the Transport Assessment submitted with the application. The Highway Authority may require further clarification and details submitted as part of any application for approval of reserved matters.)

**11. E/0154/24/12 – Untidy site at 12 Town Close, North Curry**

Reference Minute No 10/2017 reported that further clearance had taken place on the site since the last visit. A new fence had been erected on the boundary with the open countryside and the garden was very tidy.

As set out in the report it was felt that proceeding with a prosecution was not appropriate at the present time.

Officers had considered alternative courses of action that could result in the clearance of the site should it become untidy again to remedy the harm to the residential amenity of neighbours.

**Resolved** that if the site becomes untidy again it would be brought back to committee.

**12. Appeals**

Reported that two decisions had been received details of which were submitted.

(The meeting ended at 9.42 pm)

## **Planning Committee – 28 February 2018**

Present: - Councillor Bowrah (Chairman)  
Councillor Mrs Hill (Vice-Chairman)  
Councillors Brown, Coles, Gage, C Hill, Nicholls, Mrs Reed, Mrs Smith,  
Sully, Townsend and Watson

Officers: - Bryn Kitching (Area Planning Manager), Martin Evans (Solicitor, Shape Partnership Services) and Tracey Meadows (Democratic Services Officer)

Also present: Councillors Berry and Habgood.

Mrs A Elder, Chairman of the Standards Advisory Committee.

(The meeting commenced at 6.15 pm)

### **13. Apologies/Substitutions**

Apologies: Councillors Martin-Scott, Morrell and Wedderkopp

Substitutions: Councillor Sully for Councillor Martin-Scott  
Councillor Mrs Smith for Councillor Wedderkopp

### **14. Minutes**

The minutes of the meetings of the Planning Committee held on the 6 December 2016 and the 10 January 2018 were taken and were signed.

### **15. Public Question Time**

Mr Michael Oliver, a Galmington resident stated that it was over two years since the committee resolved to approve the Comeytrowe Consortium application. The lack of progress with the application places the housing delivery strategy of the council in jeopardy. The committee and the community it served deserved to be informed in the public arena about precisely what all of the issues are that were holding up the determination of the application.

The following questions were put to the committee.

#### **Question 1**

Would the committee formally request that a progress report on the application is presented within the next two months and that the report detailed all of the issues that were delaying the determination of the application?

## **Road Safety Details**

By now I had expected the planning application to be approved and I would be here asking that you instruct officers to secure changes to the proposals in the interests of highway safety.

Remembering that the Safety Audit recommended that the A38 ghost island priority junction should not be built, if it is the least that should be done would be to ban the right turn out onto the A38 from the Park and Bus facility and construct additional kerbing to physically secure that banned turn. The deletion of the Park and Bus proposals would obviously improve overall road safety at this location. It would also reduce overall development costs.

From recollection, the planning application and environmental statement are silent about construction traffic. The section of Trull Road between Compass Hill and Galmington Road is particularly unsuitable for HGVs. Without restrictions in place perhaps 10,000 HGVs will use the road to facilitate construction of the second (south east) phase of the proposals during years 6 to 10 of the construction programme. Ensuring that the first phase's spine road from the A38 extends to Honiton Road as soon as ever possible and that no construction traffic could use Trull Road and Honiton Road until it does will place construction traffic on more suitable roads than Trull Road and Galmington Road.

I have a particular concern about the safety of pedestrians and cyclists as they use the section of Trull Road at and between Galmington Road and Broadlands Road. The existing mini-roundabout operates very efficiently whilst the proposed signals set back all give-way markings quite some distance decreasing the junction's efficiency, as will the all-red time of the system. Of greater concern is what I believe to be the inevitable increase in speed of vehicles as they travel down Trull Road when its lights are on green. Crossing Trull Road to and from Broadlands's Road is dangerous enough as it is with limited visibility for pedestrians in particular. The introduction of a 20 mph speed limit on this section of the road appears to me to be highly desirable in existing conditions and an absolute necessity if the mini roundabout is to be replaced with a signalised junction.

It may be that the apparent impasse about the proposals will facilitate a re-think that could address the above road safety concerns, or alternatively, they could be negotiated after the current proposals are approved but before they are completed.

## **Question 2**

Would the committee please have regard to my road safety concerns and instruct officers to do all they can to secure my suggested remedies, either in negotiations to change the current proposals, or once they have been approved?



In response the Solicitor, Shape Partnership Services stated that in regards to the two questions raised by Mr Oliver he had spoken to both Mr Tim Burton, Assistant Director Planning & Environment and Mr John Burton, Major Applications Co-ordinator regarding the application and could confirm that an update would be received on the application within the next two months as requested by Mr Oliver.

Mr Oliver also raised an issue regarding the S106 Agreement. This was being looked at and the aim was to put some information onto the website regarding the terms of the S106 Agreement.

In terms of Road Safety and highway works, whilst permission had not yet been issued, the Committee considered and determined the details of the highway works at the time. Whilst your concerns were noted, you could raise the detail and design of the junction with the Highway Authority directly.

The committee's decision of two years ago still stands.

## **16. Declarations of Interest**

Councillor Sully declared that he was the Ward Member for application No. 25/17/0026. He also declared that he had written an article on the application in the Norton News, he felt that he had not 'fettered his discretion.'

## **17. Applications for Planning Permission**

The Committee received the report of the Area Planning Manager on applications for planning permission and it was **resolved** that they be dealt with as follows:-

- (1) That **the detailed plans be approved** for the under-mentioned development:-

### **25/17/0026**

**Application for approval of reserved matters following outline approval 25/12/0032 for the erection of 227 No. dwellings, greenways, the western LEAP, landscaping, infrastructure, highways, parking and road access on land parcels H1, H1A, H2 and H3 at Langford Mead, Norton Fitzwarren**

### **Conditions**

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

- (A1) DrNo 1730-P3-03 Rev F On Plot Planting Plan Sheet 1 of 2;
- (A1) DrNo 1730-P3-04 Rev F On Plot Planting Plan Sheet 2 of 2;
- (A1) DrNo 1730-L-05 Rev F LEAP;

- (A1) DrNo 1730-P3-02 Rev F Green Infrastructure Plan;
- (A1) DrNo 1730-P3-01 Rev F General Arrangement Plan;
- (A3) DrNo 1730-A-04 Tree Protection Plan;
- (A3) DrNo 35 Rev C Floor Plans & Elevations;
- (A1) DrNo 32-1 Rev A Screen Wall & Fencing Details;
- (A3) DrNo 31-1 Bin & Cycle Store Details Elevations & Floor Plans;
- (A3) DrNo 31-2 Bin & Cycle Store Details Sheet 2 Elevations & Floor Plans;
- (A3) DrNo 31-3 Bin & Cycle Store Details Sheet 3 Elevations & Floor Plans;
- (A3) DrNo 31-4 Bin & Cycle Store Details Elevations & Floor Plans;
- (A3) DrNo 30-2 Garage Floor Plans & Elevations Sheet 2;
- (A3) DrNo 30 Garage and Floor Plans & Elevations Sheet 1 (Sales Complex);
- (A0) DrNo 29 Rev D Material Layout;
- (A0) DrNo 28 Rev E Boundary Treatment;
- (A1) DrNo 27 Illustrated Perspectives;
- (A3) DrNo 26-01 Rev A Street Scenes;
- (A3) DrNo 26-02 Rev A Street Scenes;
- (A3) DrNo 25 Rev A House Type H4B1273 Floor Plans & Elevations;
- (A3) DrNo 24 Rev B Location Plan;
- (A3) DrNo 22-3 Rev B House Type H4B1348 V3 Elevations & Floor Plans;
- (A3) DrNo 22-2 Rev B House Type H4B1348 V2 Elevations;
- (A3) DrNo 22-1 Rev B House Type H4B1348V1 Floor Plans;
- (A3) DrNo 21-2 House Type H4B1209 V2 Floor Plans & Elevations;
- (A3) DrNo 21-1 Rev B House Type H4B1209 V1 Floor Plans & Elevations;
- (A3) DrNo 20-2 Rev B House Type H4B1203V2 Floor Plans & Elevations;
- (A3) DrNo 20-1 Rev B House Type H4B1203V1 Floor Plans & Elevations;
- (A3) DrNo 19 Rev A House Type H4B1149 Floor Plans & Elevations;
- (A3) DrNo 18 Rev A House Type H4B1044 Floor Plans & Elevations;
- (A3) DrNo 17-4 House Type H3B1002V4 Floor Plans & Elevations;
- (A3) DrNo 17-3 House Type H3B1002V3 Floor Plans & Elevations;
- (A3) DrNo 17-2 Rev B House Type H3B1002V2 Floor Plans & Elevations;
- (A3) DrNo 17-1 Rev B House Type H3B1002V1 Floor Plans & Elevations;

- (A3) DrNo 16-2 House Type H3B965 V2 Floor Plans & Elevations;
- (A3) DrNo 16-1 Rev B House Type H3B965 V1 Floor Plans & Elevations;
- (A3) DrNo 15 Rev B House Type H3B920 Floor Plans & Elevations;
- (A3) DrNo 14 Rev B House Type H3B904 Floor Plans & Elevations;
- (A3) DrNo 13-2 House Type H3B947 V2 Floor Plans & Elevations;
- (A3) DrNo 13-1 Rev B House Type H3B947 V1 Floor Plans & Elevations;
- (A3) DrNo 12 Rev B House Type H2B835 Floor Plans & Elevations;
- (A3) DrNo 11-3 House Type H3B791 V3 Floor Plans & Elevations;
- (A3) DrNo 11-2 House Type H3B791 V2 Floor Plans & Elevations;
- (A3) DrNo 11-1 Rev B House Type H3B791 V1 Floor Plans & Elevations;
- (A3) DrNo 10-3 House Type H2B753 V3 Floor Plans & Elevations;
- (A3) DrNo 10-2 Rev A House Type H2B753 V2 Floor Plans & Elevations;
- (A3) DrNo 10-01 Rev B House Type H2B753 V1 Floor Plans & Elevations;
- (A3) DrNo 09-2 House Type H2B637 V 2 Floor Plans & Elevations;
- (A3) DrNo 09-01 Rev B House Type H2B637 V1 Floor Plans & Elevations;
- (A1) DrNo 08-2 Rev B H2B660, 664 & 680 Elevations;
- (A1) DrNo 08-1 Rev B H2B660, 664 & 680 Floor Plans;
- (A3) DrNo 07-2 Rev B House Type H1B550 Elevations;
- (A3) DrNo 07-1 Rev B House Type H1B550 Floor Plans;
- (A3) DrNo 06-2 Rev A House Type H1B539 & 605V2 Floor Plans & Elevations;
- (A3) DrNo 06-1 Rev B House Type H1B539 & 605V1 Floor Plans & Elevations;
- (A3) DrNo 05 Rev B House Type H1B538 & 615 Floor Plans & Elevations;
- (A0) DrNo 03 Rev M Planning Layout;
- (A0) DrNo 03-1 Rev L Coloured Planning Layout;
- (A0) DrNo 17121/8 Rev B Refuse Vehicle Tracking;
- (A0) DrNo 17121/3 Rev A Kerbing & Surfacing Plan;
- (A3) DrNo 17121/1 Rev C Drainage & Levels Strategy;
- (A0) DrNo 03 Rev M Planning Layout;
- (A0) DrNo 03-1 Rev L Coloured Planning Layout;
- (A0) DrNo 28 Rev E Boundary Treatment;

- (b) Prior to the commencement of the development hereby permitted a detailed schedule of works for the laying out and planting of the new orchard including the translocation of existing dead and alive trees from the existing orchard and a timing of works shall be submitted to, and approved in writing by, the Local Planning Authority. The detailed schedule of works and timings shall be strictly adhered to in the carrying out of the works;
- (c) The Locally Equipped Area for Play shall be laid out in accordance with the details shown on drawing 1730-L05 rev F and shall be implemented and made available for use to the public prior to the occupation of the 150<sup>th</sup> dwelling hereby permitted and shall thereafter be maintained as such, remaining permanently available and open to the general public;
- (d) (i) The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of occupation of the 100<sup>th</sup> dwelling hereby permitted; (ii) For a period of five years after the completion of the development, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow, shall be replaced by trees or shrubs of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority;
- (e) Prior to their installation, full details of the proposed 'green screens' shall be submitted to, and approved in writing by, the Local Planning Authority. All private boundary treatments for the dwellings hereby approved shall be implemented in accordance with the details shown on the drawings hereby approved prior to the occupation of the dwelling to which they relate and shall thereafter be maintained as such. The green screens shall be maintained in accordance with condition 1 (ii) as part of the landscaping scheme;
- (f) The external materials specified on drawing 29 Rev D shall be used in carrying out the development hereby approved and shall thereafter maintained as such unless otherwise agreed in writing by the Local Planning Authority;

(2) That the following application **be deferred** for the reason stated:-

**36/17/0028**

**Change of use of public house and curtilage to 1 No. residential dwelling at Rose and Crown Inn, Woodhill Road, Stoke St Gregory**

**Reason** – The application should be deferred for 6 months pending clarification on marketing in particular viewings and offers received. Investigation of alternative uses and the opportunity for the Parish Council to submit a business plan.

## **18. Appeals**

Reported that one appeal and one decision had been received details of which were submitted.

(The meeting ended at 8.06 pm)

52/17/0044

MR TORQUIL ROSS-MARTIN

**Erection of first floor extension and single storey extension on the north east elevation and summer house in the rear garden of 2 Trendle Road, Taunton (Retention of part works undertaken)**

Location: 2 TRENDLE ROAD, TAUNTON, TA1 4NB

Grid Reference: 320915.123034

Full Planning Permission

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## **Recommendation**

**Recommended decision: Conditional Approval**

### **Recommended Conditions (if applicable)**

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

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

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

- (A4) Location Plan
- (A4) Site Plan
- (A4) Proposed First Floor Plan
- (A4) Proposed Front Elevation
- (A4) Proposed Ground Floor Plan
- (A4) Proposed Rear Elevation
- (A4) Proposed Side Elevation
- (A4) Front and Side Elevations of Summerhouse

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

### **Notes to Applicant**

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

## Proposal

This application seeks to retain an existing summer house measuring 4m by 3m and a height of 3m in the rear garden, erect a first floor extension above the existing single storey to the side and erect a single storey flat roof extension to the front of this extension.

Initially, the flat roof extension projected further to the side of the property and was shown to be a garage. Concerns have been raised with the Applicant in terms of the size, design and lack of space to park a vehicle off the road in front of the garage. This has been overcome by reducing the size of the extension and it will no longer be used as a garage.

## Site Description

2 Trendle Road is a semi-detached property built on a corner plot on the junction of Treadle Road and New Barn Park. To the side of the dwelling there is a single storey pitched roof extension where it is proposed to erect the first floor, to the front a flat roof porch.

The garden is open plan with a pair of garages built alongside but outside the rear boundary. One of these garages is within the ownership of the Applicant and the other the neighbouring property. Along the rear boundary a summer house has been erected; it is 3m in height by 4m x 3m.

## Relevant Planning History

52/92/0007 Erection of single storey extension

Approved

## Consultation Responses

*COMEYTROWE PARISH COUNCIL* - The proposed garage is totally out of place at right angles to the existing property and to approach it would be from a bend in the road with limited visibility. It is out of character with the surrounding area and properties and would have detrimental impact street scene and the proposed approach and driveway would be of insufficient space to park a vehicle.

The summerhouse is totally out of character with the area and surrounding properties due to its size and location in the street scene. The corner of the building is too close to the edge of the pavement where the boundary and site line wall has been removed to accommodate the building's forward relocation, and we believe the measurements to be incorrect on the plan. The two garages behind are now completely hidden and any vehicle leaving the drive of these two garages are now blind to pedestrians and oncoming traffic.

The Council have no comments to make on the first floor extension.

The Parish Council have been reconsulted on the amended plans and still oppose the summerhouse. Although not opposing the proposed ground floor extension, the Council would rather see a pitched roof instead of the flat roof. In addition, a

condition should be added so that the utility room could not be converted to a garage in the future.

*PLANNING ENFORCEMENT* - No comments received.

*SCC - TRANSPORT DEVELOPMENT GROUP* - Refer to standing advice

## **Representations Received**

4 Trendle Road - supports the application - The summer house is a real visual improvement on the wall and the unkempt hedge that it has replaced. It does not affect safe exiting from my garage. The danger is caused by cars parked on the corner of Newbarn Park and Trendle Road. As this is a corner plot the proposed extension should not be a problem.

4 letters of objection - raising concerns that the summerhouse does not enhance the area and affects visibility for people leaving the pair of garage to the rear. The first floor is an over development of the site and the garage will also have a negative impact and will impair visibility and the driveway in front of the garage is too short to have cars parked on it.

## **Planning Policy Context**

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

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

Relevant policies of the development plan are listed below.

DM1 - General requirements,  
D5 - Extensions to dwellings,

This takes into account the recent adoption of the SADMP.

## **Local finance considerations**

### **Community Infrastructure Levy**

Not payable in this instance

## **Determining issues and considerations**



The first floor extension will be constructed above a modest sized extension already positioned at the side of the property; it has no adverse impact on the street scene, it is subservient and will be in-keeping with the main dwellinghouse.

Concerns have been raised with the Applicant with regards to the extension which was shown to be a garage in terms of size and the lack of space in front the garage to be able to park a car in front. The Applicant has reduced the size and whilst it will be positioned in front of the existing extension it no longer projects to the side. Whilst flat roof extensions are not generally acceptable in design terms on the front of a property, in this instance flat roof extensions are a characteristic feature of the Newbarn Park estate with all the properties opposite 2 Trendle Road having integral garages with a small area of flat roof projecting to the front. In this regard, it would not be deemed to be consistent in design terms if a pitched roof was built over this ground floor extension.

The third element of this application is the retention of the detached wooden summerhouse in the rear garden. Concerns have been raised due to its location alongside the parking space which lies in front the garages to the rear and that it will cause a restriction in visibility. The existing hedge already reduces the visibility as would have the screen wall that has been removed. Any users of the garages and fore court to the front would be aware of the need to leave the site with caution given the position and pedestrians would be able to see a vehicle reversing as the pavement has straightened out from the bend in Newbarn Park Road.

Whilst the Parish Council still object to the amended plans, they have requested that a condition be imposed to restrict the extension to a garage in the future. It is considered that this is un-necessary given the size of the extension and that it is too small to park a car in. Should it be converted for the use of bicycle or motorbike parking, this would not encroach onto the highway whilst waiting to access the garage as it would have if it had remained as a garage as per this application.

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

**Contact Officer: Mrs S Melhuish**

# Taunton Deane Borough Council

Planning Committee – 25<sup>th</sup> April 2018

## Planning Officer's Report and Recommendations

### **Applicant:**

TAYLOR WIMPEY UK, MACTAGGART & MICKEL LTD, BOVIS HOMES LTD AND SUMMERFIELD DEVELOPMENT LTD

### **Description of Development**

OUTLINE PLANNING APPLICATION WITH ALL MATTERS RESERVED (EXCEPT POINTS OF ACCESS) FOR A RESIDENTIAL AND MIXED USE URBAN EXTENSION AT COMEYTROWE/TRULL TO INCLUDE UP TO 2000 DWELLINGS, UP TO 5.25 HECTARES OF EMPLOYMENT LAND, 2.2 HECTARES OF LAND FOR A PRIMARY SCHOOL, A MIXED USE LOCAL CENTRE, AND A 300 SPACE 'PARK AND BUS' FACILITY ON LAND AT COMEYTROWE/TRULL

**This matter is the responsibility of Executive Councillor Roger Habgood**

**Report Author: John Burton, Planning Manager, Place and Energy Infrastructure**

## **1 EXECUTIVE SUMMARY / PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to set out for Members the details of the viability exercise that has been undertaken in connection with the application for planning permission that has been previously considered by Members in November 2015 and January 2016. Members will recall that they resolved to approve the application at their meeting on 27<sup>th</sup> January 2016, subject to the conditions and subject to the applicant entering into a Section 106 Agreement to secure, amongst other items, 25% affordable housing. The Assistant Director (Planning and Environment) was authorised to determine the application in consultation with the Chairman or Vice-Chairman, but on the clear understanding that if it did not prove possible to agree all of the obligations, the matter would need to be reported back to the Committee for further consideration.
- 1.2 Since the matter was considered by Members, the Applicants have formally submitted a Viability Assessment (in March 2017) to support their assertion that, with a policy-compliant 25% level of affordable housing, the tenure mix set out in the adopted Supplementary Planning Document (SDP) is jeopardising the viability of the overall proposal when infrastructure delivery, CIL and proposed S.106 Agreement obligations are taken into account. This has been the subject of negotiations and debate in the intervening period. Based on an independent examination of the facts and figures, Officers are now satisfied as to the amount of affordable housing and the appropriate tenure split, that the development can afford.

- 1.3 Members are now asked to review the information provided, debate the issues involved and make a decision on whether the application should be granted planning permission in light of the changed circumstances.

## **2 RECOMMENDATION AND REASONS**

- 2.1 The decision to GRANT OUTLINE PLANNING PERMISSION be delegated to the Assistant Director Planning and Environment subject to the planning conditions recommended below and planning obligations under s106 to secure the following items to the Council's satisfaction:

- 17.5% affordable housing with a tenure split of 60% affordable rent and 40% intermediate housing to be transferred to a Registered Provider or such other person/body approved in writing by the Housing Enabling Lead.
- Highway works comprising bus priority measures near school and at Silk Mills roundabout
- Heatherton Park Crossroads safety scheme
- Galmington/Trull Road improvements
- Provision of park and bus and associated junction works
- Comeytrove Lane Access junction including works to Comeytrove Manor Farm
- Honiton Road access junction
- Travel Plan and Car Club benefits
- Improvements to bus services serving the site
- Timing of spine road
- Provision of on- site play equipment and sports facilities.

- 2.2 The following conditions, are an updated version of those considered and agreed by Members at their meeting on 27<sup>th</sup> January 2016.

**Recommended Conditions** (subject to minor change to allow for negotiations on or amendment to any conditions previously written as pre-commencement conditions).

1. Approval of the details of the layout, scale, appearance, and landscaping of each phase of the Development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase is commenced and the development of that phase shall (unless otherwise agreed with writing by the local planning authority) be carried out as approved. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of three years from the date of this permission. The development hereby permitted shall be begun, not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the local planning authority in accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by

S51 (2) Planning and Compulsory Purchase Act 2004).

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

(A2) DrNo 9604 Rev K Green Infrastructure Parameter Plan  
(A2) DrNo 9603 Rev H Access and Movement Parameter Plan  
(A1) DrNo 9602 Rev K Scale Parameter Plan  
(A2) DrNo 9601 Rev I Density Parameter Plan  
(A2) DrNo 9600 Rev L Land Use Parameter Plan  
(A0) DrNo 9010 Rev M Site Location Plan  
(A0) DrNo 9003 Rev B Existing Topographical Survey  
(A1) DrNo 9001 Rev A Site Location Plan (Wider Area)

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

3. An application for approval of reserved matters shall not be submitted until there has been submitted to and approved in writing by the local planning authority a phasing and place-making strategy covering (where relevant) the phasing of the delivery of housing, infrastructure, transport links and community facilities within the Development. The Phasing Strategy shall set out information on how the delivery of these elements will be integrated through green infrastructure to ensure that a cohesive and high quality place is created. The strategy should identify any potential opportunities for the consultation with or the involvement of the local community or other stakeholders in the delivery and/or maintenance of community facilities. Thereafter each application for approval of reserved matters shall include an explanation of how the development of the phase or sub phase it covers relates the phasing strategy of the overall Development.

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

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

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

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

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

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

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

7. Applications for the approval of reserved matters shall be accompanied by a statement explaining how they accord with the Parameter Plans, Masterplan Principles Document and with the applicable approved Detailed Masterplan and Design Guide, Appearance Palette, Neighbourhood Masterplan or Design Brief or (where relevant) explaining why they do not.

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

8. No development shall take place in an Archaeological Mitigation Area (those areas hatched in pink in Figure J2: Outline Archaeological Mitigation Area Plan drawing number SDP 782/115 which appears at Appendix 13.5 to the Environmental Statement) or in its immediate vicinity until a written scheme of archaeological investigation for that Archaeological Mitigation Area has been submitted to and approved in writing by the Local Planning Authority. Thereafter the written scheme of archaeological investigation shall be implemented in accordance with its terms unless otherwise agreed by the local planning

authority.

REASON: Areas of the site have been identified as of possible archaeological interest and therefore as requiring further archaeological investigation in accordance with section 12 of the National Planning Policy Framework and Policy CP8 of the adopted Taunton Deane Core Strategy.

9. Each application for approval of reserved matters shall include a hard and soft landscaping scheme for the phase or sub phase of the Development to which it relates. The hard and soft landscaping scheme shall include for the phase or sub phase to which it relates details of the landscaping; details of the surface treatment of the open parts of the site; a programme of implementation; and a planting schedule include numbers, density, size, species and positions of all new trees and shrubs. The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the development phase.

REASON: To ensure provision of an appropriate landscaping scheme, and to ensure that the proposed development does not harm the character and appearance of the area in accordance with Policies CP8 and DM1 of the Taunton Deane Borough Council Core Strategy.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development. whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 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, unless the local Planning Authority gives written consent to any variation.

REASON: To ensure provision of an appropriate landscaping scheme, and to ensure that the proposed development does not harm the character and appearance of the area in accordance with Policies CP8 and DM1 of the Taunton Deane Borough Council Core Strategy.

11. Prior the commencement of each phase of the Development a foul water drainage strategy for that phase shall be submitted to and approved in writing by the local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker. The foul water drainage strategy shall include appropriate arrangements for the points of connection and the capacity improvements required to serve the phase to which it relates. The foul water drainage strategy shall thereafter unless otherwise agreed in writing by the Local Planning Authority, be implemented in accordance with the approved details.

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

Strategy.

12. The first application for approval of reserved matters shall be supported by an updated outline surface water drainage strategy for the whole site covered by this outline permission based on the Flood Risk Assessment (Ref. 24721/020 and dated May 2015). This strategy (including the design) shall be submitted to and agreed in writing by the Local Planning Authority and shall incorporate measures to manage flood risk and water quality utilising sustainable drainage techniques.

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

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

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

REASON: The application has insufficient details to determine if drainage matters are to be properly addressed. It is not possible at this time to know if the development of the site would have an adverse impact on flood risk elsewhere which might be contrary to the principles set out in section 103 of the National Planning Policy Framework, section 2 of the Technical Guidance to the National Planning Policy Framework and policies CP8 and DM1 of the adopted Taunton Deane Core Strategy. This condition is therefore required in order to prevent the increased risk of flooding and minimise the risk of pollution of

surface water by ensuring the provision of a satisfactory means of surface water control and disposal during and after development.

14. No phase or sub phase of development shall commence (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan for that phase or sub phase has been submitted to and approved in writing by the local planning authority. In discharging this condition the following information shall be supplied:
- (a) Locations for the storage of all plant, machinery and materials including oils and chemicals to be used in connection with the construction of that phase or sub phase;
  - (b) Construction vehicle routes to and from site including any off site routes for the disposal of excavated material;
  - (c) Construction delivery hours;
  - (d) Expected number of construction vehicles per day;
  - (e) Car parking for contractors;
  - (f) A scheme to encourage the use of Public Transport amongst contractors; and
  - (g) Measures to avoid traffic congestion impacting upon the Strategic Road network.
  - (h) Details of all bunds, fences and other physical protective measures to be placed on the site including the time periods for placing and retaining such measures;
  - (i) The control and removal of spoil and wastes;
  - (j) Measures to prevent the pollution of surface and ground water arising from the storage of plant and materials and other construction activities;
  - (k) The proposed hours of operation of construction activities;
  - (l) The frequency, duration and means of operation involving demolitions, excavations, drilling, piling, and any concrete production;
  - (m) Sound attenuation measures incorporated to reduce noise at source;
  - (n) Details of measures to be taken to reduce the generation of dust; and
  - (o) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice

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

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

15. Before each phase of the Development is commenced the following shall in respect of that phase be submitted to and approved in writing by the local planning authority:
- (a) a plan showing the location of and allocating a reference number to each existing tree on the part of the site within that phase which has a stem with a diameter, measured over the bark at a point 1.5 metres



above ground level, exceeding 75 mm, showing which trees are to be retained, the crown spread of each retained tree and which are to be removed;

- (b) details of the species, height, trunk diameter at 1.5m above ground level, age, vigour, canopy spread and root protection area of each tree identified in the plan prepared pursuant to paragraph (a);
- (c) Details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
- (d) Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, [within the crown spread of any retained tree or of any tree on land adjacent to the site;
- (e) Details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

The development of that phase shall thereafter be carried out in accordance with the approved scheme unless otherwise agreed in writing by the local planning authority. In this condition “retained tree” means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

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

16. The development of a phase of the Development shall not be commenced until a scheme for prevention of pollution during the construction of that phase has been approved by the Local Planning Authority. The scheme should include details of the following:
- (a) Site security.
  - (b) Fuel oil storage, bunding, delivery and use.
  - (c) How both minor and major spillage will be dealt with.
  - (d) Containment of silt/soil contaminated run-off.
  - (e) Disposal of contaminated drainage, including water pumped from excavations.
  - (f) Site induction for workforce highlighting pollution prevention and awareness. Invitation for tenders for sub-contracted works must include a requirement for details of how the above will be implemented.

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

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

17. If, during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority to, a remediation strategy detailing how this unsuspected contamination shall be dealt with.

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

18. No works (including demolition, ground works, vegetation clearance) shall be commenced on any phase of the development hereby permitted until details of a wildlife strategy (incorporating an Ecological Construction Method Statement [ECMS] and a Landscape and Ecological Management Plan [LEMP]) to protect and enhance that phase of the development for wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of all the submitted wildlife reports to date (EDP's Extended Phase 1 survey, Hedgerow survey 2011 and 2013, Bat and Building assessments 2012 and 2013, Breeding bird survey 2012, Hobby Survey 2013, Dormouse Survey 2012 and 2013, Water vole and Otter surveys 2012, Badger surveys 2012 and 2013, Amphibian survey 2012 and Reptile survey 2012.), and up to date surveys and include -
1. An Ecological Construction Method Statement (ECMS) containing details of protective measures to avoid impacts on protected species during all stages of development;
  2. Details of measures to prevent pollution of Galmington Stream and other water courses on site
  3. Details of the timing of works to avoid periods of work when protected species could be harmed by disturbance.
  4. Arrangements to secure an Ecological clerk of Works on site.
  5. Measures for the enhancement of places of rest for protected species.
  6. A Landscape and Ecological Management Plan (LEMP) covering a period agreed by the LPA.
  7. Details of a sensitive lighting strategy.
  8. Use of protective fences, exclusion barriers and warning signs.
  9. The preservation of the Galmington Stream corridor including that of any tributaries, in order to conserve the integrity of the watercourse and its riparian habitats as a linear feature, and to provide connectivity between the downstream Local Nature Reserve and the countryside beyond.

Once approved the works shall be implemented in accordance with the approved details and timing of the works, unless otherwise approved in writing by the Local Planning Authority. The development shall not be occupied until the scheme for the maintenance and provision of the mitigation planting and maintenance of the hibernacula, bat, dormice and bird boxes and related accesses have been fully implemented. Thereafter the new planting and the wildlife resting places and agreed accesses shall be permanently maintained

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

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

following completion of development of each phase or sub phase of the Development.

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

20. No more than 12 months prior to the commencement of works on a phase of the Development in which breeding sites or resting places of European Protected Species may be present, updated surveys for that phase shall be undertaken. The species in question include but are not necessarily limited to:
- (a) Bats;
  - (b) Dormice;
  - (c) Great crested newts; and
  - (d) Otters

The survey results shall be submitted in writing to the Local Planning Authority together with details of any required mitigation measures and the appropriate mechanism for delivery of such measures.

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

21. No one phase of the Development shall commence until a Lighting Strategy for Biodiversity for that phase has been submitted to and approved in writing by the local planning authority. The strategy shall:
- (a) identify those areas/features of the site within that phase or sub phase that are particularly sensitive for bats, dormice and otters and that are vulnerable to light disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - (b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
  - (c) Show that street lighting will be directed so as to avoid light spillage and pollution on habitats used by light sensitive species, and will demonstrate that light levels falling on wildlife habitats do not exceed an illumination level of 0.5 Lux. Shields and other methods of reducing light spill will be use 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 National Planning Policy Framework, ODPM Circular 06/2005 and Policy CP8 of the Adopted Taunton Deane Core Strategy.

22. Prior to the commencement of the phase of the Development within which the road bridge crossing the Galmington Stream will lie, a detailed specification for the bridge shall have been submitted to and approved by the Local Planning Authority. In discharging this condition the Local Planning Authority will expect to see design details which assist protected wildlife species associated with the Galmington Stream, particularly dormice and otters, to continue to disperse along the stream corridor unhindered. The agreed bridge specification shall thereafter be implemented in full and retained as such at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

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

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

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

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

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

25. No phase of the development hereby permitted shall be occupied or brought into use until the part of the Spine Road that provides access to that phase has

been constructed in accordance with plans that shall previously have been submitted to and approved by the Local Planning Authority

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

26. In the interests of sustainable development none of the dwellings in the first phase (as will be agreed by condition 3 of this permission) shall be used or occupied until a network of cycleway and footpath connections has been constructed within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

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

27. No more than 150 dwellings within the development hereby permitted shall be occupied until a site of at least 2.2 hectares for a primary school (being one of the two sites shown on Land Use Parameter Plan drawing no. 9600 RWL) has been offered for transfer to the Education Authority, unless otherwise agreed with the Local Planning Authority. If the offer is accepted, the site once transferred shall be fully serviced, level and in a condition suitable for the immediate construction of the school with access to the public highway constructed to an adoptable standard in accordance with a timetable to be agreed with the Local Planning Authority.

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

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

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

29. No development shall commence on any phase until a proposed layout scheme

and phasing programme for the provision of access to the parts of the allocated site known as Higher Comeytrowe farm as identified in Policy TAU1 of the adopted Site Allocations and Development Management Plan has been submitted for approval in writing to the Local Planning Authority. The layout scheme and phasing programme shall include provision for such access, or temporary means of access, to be provided to the boundary of Higher Comeytrowe Farm and will be in a form that is adequate to accommodate public transport, vehicles, cycleways and footpath linkages. The development shall thereafter be carried out strictly in accordance with the approved details and programme.

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

#### Notes to Applicant

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and entered into pre-application discussions to enable the grant of planning permission.
2. **WILDLIFE AND THE LAW.** The protection afforded to wildlife under UK and EU legislation is irrespective of the planning system and any activity undertaken on the tree(s) must comply with the appropriate wildlife legislation.

**BREEDING BIRDS.** Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed. If works are to be carried out during the breeding season (from February to August, possibly later) then the tree(s) should be checked for nesting birds before work begins.

**BATS.** The applicant and contractors must be aware that all bats are fully protected by law under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Natural Habitats and Species (Amendment) Regulations 2012, also known as the Habitat Regulations. It is an offence to intentionally or recklessly damage, destroy or obstruct access to structures or places of shelter or protection used by bats, or to disturb bats whilst they are using these places.

Trees with features such as rot holes, split branches or gaps behind loose bark, may be used as roost sites for bats. Should a bat or bats be encountered while work is being carried out on the tree(s), work must cease immediately and advice must be obtained from the Government's advisers on wildlife, Natural England (Tel. 0845 1300 228). Bats should preferably not be handled (and not unless with gloves) but should be left in situ, gently covered, until advice is obtained.

3. The condition relating to wildlife requires the submission of information to protect species. The Local Planning Authority will expect to see a detailed method statement for each phase of the development clearly stating how wildlife will be protected through the development process and to be provided

with a mitigation proposal that will maintain favourable status for these species that are affected by this development proposal.

4. Dormice and bats are known to be present on site as identified in submitted ecological surveys. Both species concerned are European Protected Species within the meaning of The Conservation of Habitats and Species Regulations 2010. If the local population of European Protected Species are affected in a development, a licence must be obtained from Natural England in accordance with the above regulations.
5. It should be noted that the protection afforded to badgers under the Protection of Badgers Act 1992 is irrespective of the planning system and the applicant should ensure that any activity they undertake on site must comply with the legislation.
6. Nesting birds are present on site and all operatives on site must be appropriately briefed on their potential presence. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended) and if discovered must not be disturbed.
7. The point of water connection for the overall Comeytrove development has been identified as off the new 450mm diameter main near Cannonsgrove House. Temporary connections prior to the construction of a trunk main to the point of connection to the south will need to be agreed with Wessex Water under Section 41 of the Water Industry Act. Outline details as follows;  
Subject to application 100 – 150 dwellings at the northern extent of the site may connect at an agreed point to one of the mains in the A38 close to Stonegallows. This connection will necessitate some upgrade works to Stonegallows pumping station.  
System valves are likely to be required with installation proposed at Heron Drive and Heron Close.  
The remaining properties and ancillary development (subject to agreement of demand requirements and application, not exceeding 800 dwellings total, including the 100 - 150 above) will connect to the 300mm DI main in Comeytrove Lane.  
Properties above 55mAOD seeking connection to the 300mm DI main will require an on-site booster(s) station.
8. Somerset Industrial Archaeological Society (SIAS) have drawn attention to a relatively small but important industrial archaeological site at the former Comeytrove Farm. Research has traced sales particulars at the Somerset Heritage Centre dated 1901 which identifies the Mill House and the overshot waterwheel driving machinery via six pulleys, shafting and brackets. This particular example is worthy of consideration for retention within the overall planning scheme. It is understood that they are likely to be listed by virtue of being within the curtilage of Comeytrove Manor. If they are curtilage listed, Listed Building Consent would be required to demolish or alter any of the curtilage structures. If they are not curtilage listed, the water wheel would be classed as a non-designated heritage asset and the applicant would need to make provision for the water wheel within any reserved matters application, as clearly, its loss would represent substantial harm. Every effort should be made to retain this feature.

9. The applicants are advised to formulate all physical security specifications of the dwellings i.e. doorsets, windows, security lighting, intruder alarm, cycle storage etc. in accordance with the police approved 'Secured by Design' award scheme, full details of which are available on the SBD website – [www.securedbydesign.com](http://www.securedbydesign.com)
10. If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group.  
A PROW being made less convenient for continued public use.  
New furniture being needed along a PROW.  
Changes to the surface of a PROW being needed.  
Changes to the existing drainage arrangements associated with the PROW.  
If the work involved in carrying out this proposed development would make a PROW less convenient for continued public use (or) create a hazard to users of a PROW then a temporary closure order will be necessary and a suitable alternative route must be provided.
11. It is noted that there is reference in the flood risk section of the Environmental Statement to the Routes to the River Tone Project. The applicant should be liaising with the Project team to ensure that the development contributes to the Project and vice versa.
12. Your attention is drawn to the agreement made under Section 106 of the Town and Country Planning Act 1990, relating to this site/property.

### **3 PROPOSAL AND APPLICATION UPDATE**

3.1 The proposal seeks to deliver a community which is integrated with surrounding areas in a sustainable fashion and complements the adjacent communities by providing an attractive place to live and work. The proposed development comprises:

- Up to 2,000 dwellings;
- An employment area of 5.25 hectares which could include offices, research and development facilities, light and general industry, and warehousing (i.e. use classes B1, B2 and B8);
- A local centre which could include shops, restaurant/café's, hot food takeaways, housing and other residential type accommodation, offices, non-residential institutions and assembly and leisure uses such as a meeting hall/community hall (i.e. use classes A1 to A5, B1(a), C2, C3 and D1);
- A "Park & Bus" facility for 300 cars;
- A Primary School;
- Playing fields and associated facilities;
- New accesses for vehicles, pedestrians and cyclists (including new junctions on the A38, Honiton Road and Comeytrove Lane);
- The creation of general amenity areas and formal open space, including allotments;



- Creation of landscape areas;
- Sustainable drainage measures including landscaped storage basins; and
- Creation of ecological habitat areas.

3.2 The application has been submitted in Outline with only the main points of access from the A38 and the Honiton Road as well as the secondary access onto Comeytrove Lane being submitted for approval at this stage. All other matters, including the means of access within the site, appearance, landscaping, layout and scale are reserved for future consideration by a subsequent application or subsequent applications.

3.3 The application is EIA development and so includes an Environmental Statement.

3.4 Members will recall considering this application at their meeting on 4<sup>th</sup> November 2015, when consideration was deferred to allow time for the preparation of a comprehensive master plan by the applicants which involved engagement with relevant stakeholders; and placed particular emphasis on the issues of highways, education and health. The application was next considered by Members on 27<sup>th</sup> January 2016 when it was approved subject to conditions and subject to an agreed list of items being incorporated into a legal agreement under s106 of the Town and Country Planning Act 1990.

3.5 Since that decision, the Applicants have prepared and formally submitted a Viability Assessment (dated March 2017) to support their assertion that, with a policy-compliant 25% level of affordable housing, the tenure mix set out in the adopted Supplementary Planning Document (SDP) is jeopardising the viability of the overall proposal when infrastructure delivery, CIL and proposed S.106 Agreement obligations are taken into account. This has been the subject of negotiations and debate in the intervening period.

3.6 This Committee report looks at the issues behind the claim of viability and gives a recommendation on this issue (as above). It does not discuss or address any of the other issues which have been previously covered by both the original report and the subsequent report for the deferred meeting, because members have already found these to be acceptable. There are no change in circumstances to these issues. This report therefore needs to be read in conjunction with the reports to the Committee held on 04/11/15 and 27/01/16, both of which are attached to this report.

#### **4. NEW CONSULTATION RESPONSES AND REPRESENTATIONS RECEIVED SINCE THE LAST MEETING IN JANUARY 2016**

4.1 The following additional issues have been raised by the relevant consultees since the last meeting on 27<sup>th</sup> January 2016.

##### Comeytrove Parish Council

- The Parish Council strongly objects to any reduction in the agreed 25% figure for affordable housing.

- The Parish Council is concerned that the developers are seeking a reduction in the number of affordable homes because of the cost of other conditions placed upon them. These conditions, in our view, are very modest and are the minimum required.
- Affordable homes are one of the key components of Taunton Deane's plan for growth.
- The Parish Council is alarmed that it has not been informed directly of the financial appraisal and wish to be kept up to date with any changes/amendments in the future.

#### Trull Parish Council

- Unfortunately the statement was very heavily redacted but it appears the developers are seeking a reduction in the number of affordable homes in the proposed development because of the cost of the other conditions placed on them.
- Trull Parish Council strongly objects to any possible reduction in the agreed figure of 25% affordable housing.
- In its submission to TDBC in January 2016 the Parish Council said: *"If members of the planning committee approve this outline application now they do so knowing that there are unresolved issues and fundamental flaws that will have implications for the whole of Taunton for many years to come."*
- The recommendation agreed by the Planning Committee stated that should it not prove possible to agree the obligations the matter will need to be reported back to the Planning Committee for further consideration. If the applicants are seeking to alter the terms of that conditional approval Trull Parish Council would expect that the matter will be reported back to the Planning Committee for further consideration. It would not wish to see these terms negotiated under delegated powers.
- In common with Comeytrove Parish Council, Trull Parish Council is extremely concerned that it was not informed directly of the receipt of this Statement and of the opportunity to comment, considering the significance of this application to the parish of Trull.
- The Parish Council was equally disappointed that it was expected to learn of this submission by checking the TDBC website regularly.
- The P. C. ask to be informed directly of any changes/amendments in the future even if this is just by email to the Clerk. The Parish Council would also like to be kept fully up-to-date with any future action on the Financial Appraisal Supporting Statement.

#### Secretary of State.

In addition, the LPA has received a letter from the Secretary of State, dated 5<sup>th</sup> February 2016, explaining that he will not be 'calling in' the proposal.

- 4.2 A further 9 letters of representation have been received from members of the public (as of date of compiling this report) since the last meeting of Committee in January 2016 and these are summarised follows:

#### Comments specifically on the viability appraisal.

- So much of the financial appraisal has been redacted that an informed consultation response is impossible. It should be replaced by one that is meaningful and allows informed responses.
- The publicity for the consultation on the Financial Appraisal is wholly inadequate.
- All registered objectors to the application should be notified about this Financial Appraisal, by e-mail where possible.
- This application is subject to EIA requirements, so any material change must be advertised, and subject to renewed Consultation.
- The Applicants have employed a specialist company to prepare their Viability Assessment, solely in an attempt to escape their responsibility to comply with TDBC's existing Planning constraints.
- The Applicants themselves have comprehensively redacted the document, so as to render it unintelligible, on the dubious grounds of commercial sensitivity.
- As it stands, no impartial onlooker could analyse the arguments, still less the detail, by which the Developers would throw even more infrastructure costs back on the Council, and ultimately, on local Council Taxpayers.
- It may be recalled that, at Canonsgrove (42/13/0069), it took a Freedom of Information request, even to gain sight of an equivalent Viability Assessment, which, again, had been heavily redacted.
- The Applicants are seeking to claim that, years after they submitted their proposal, they have found that they would incur significant unforeseen costs. Even Councillors had long been convinced that strategic infrastructure requirements would be necessary, requiring "a comprehensive masterplan".
- If TDBC were to agree to Conditions which breach several of their key Policies, including a reduction in the proportion of Affordable Housing (already, at 25%, well below provision elsewhere in the South-West), without open scrutiny and full Consultation, a new low would have been reached.
- National Planning Guidance says applicants do not have to agree to a proposed planning obligation. However, this may lead to a refusal of planning permission or non-determination of the application.
- It has nothing to do with the scheme's viability at all, and everything to do with its profitability for the developer. Indeed there is a viability industry.
- Outline viability assessments should be developed in consultation with developers in pre-application process, but a date for determination can only be agreed once a full and final viability assessment has been received by Taunton Deane.
- The developers appear to have committed to overpayment for the land - and now claim they cannot afford to build affordable homes because they have paid so much.
- Can the developers demonstrate they had taken affordable housing policies into account when bidding for the site?
- Plans in the South West appear to have a typical 35% Affordable Homes requirement. Are Somerset's green fields so different? Monkton Heathfield s106 agreements are for 35% affordable housing.
- The applicants chose not to submit a Financial Appraisal with their original application documents, and so have not provided a baseline with which to compare these figures. What has changed to make what was viable at the time of the revised application, non-viable now?

- Any permission should include arrangements to share any additional profit arising from the scheme between the developer and TDBC to help meet local plan requirements (such as affordable homes).
- The case of *LB Southwark v IC, Lend Lease and Glasspool (2014)* made clear that the public interest will be given more weight than confidentiality when it comes to the disclosure of viability assessments.
- It is in the developer's interest to maximise its projected costs and minimise the projected sales values to make its plans appear less profitable.
- There are few data that are not already in the public domain or that could be considered commercially sensitive, and little evidence to suggest that full disclosure would damage commercial interests or inhibit development coming forward.
- Core Strategy Policy CP4 seeks to deliver around 4,000 new affordable housing units. A target of 25% of new housing should therefore be in the form of affordable units over the Plan Period. It also states that in exceptional cases, where scheme viability may be affected, applicants will be expected to provide full development appraisals (at their own cost) demonstrating the level of affordable housing provision that is appropriate. The Financial Appraisal Supporting Statement should set out why this might be "exceptional".
- An Affordable Housing Viability Study has been undertaken to support the Council's affordable housing position. This Study, concludes that an affordable housing target of 25% would be viable and appropriate for adoption based upon current market conditions.
- The scale of development set out in the SADMP is viable. This takes into account the costs of complying with the Council's development policies as well as strategic opening up costs, site specific infrastructure, CIL and the DCLG/Council dwelling space standards.
- The secretary of state's unambiguous policy position in respect of threshold land value is that land or site value should reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge.
- If planning policies are not adequately reflected when bidding for land, the risk should lie with the developer not the local community.
- We would expect a review mechanism to be routinely in place for all major applications, such as this, that are not policy compliant.
- The applicants argue that the application becomes compliant with policy if they demonstrate that the provision of 25% affordable housing is not viable. This is not the case; the policy does not change.
- If the developer is correct, then this shows that the site should never have been identified as a site for major development. However, if the developers are trying to pull a fast one, then how much more will they try and get away with?
- The LPA should not be negotiating away the terms of the planning permission.
- If the developer cannot or will not meet the planning conditions in full, then not one house should be built.
- It is appalling that TDBC have put a redacted document on the website for an application already agreed with a short response time.

### Comments on other (non-viability) matters.

- The schools, doctors, hospitals and roads will not cope. This is just greed.
- Every project that goes on around here seems to go wrong.
- You are destroying our area. Why don't you start working for the people of Somerset, not just the few?
- Why does the roundabout on Honiton Road have to be so big?
- Who's going to compensate me for the money I'm going to lose on my house, as being so close to something like this will obviously devalue my property?
- The "Street Scene" [around Honiton Road] will be completely destroyed after these works have taken place.
- The desk top study undertaken by the Environmental Dimension Partnership is heavily flawed as they have only searched for 1 km around a point on the site. They should have searched for 1 km beyond the site boundary.
- The current draft s106 must be made available to the public for comment
- Having earmarked this site for development so long ago, I cannot imagine that the Council will have negligently failed to have a proper plan in place to deal with the traffic that will be generated by the provision of new housing.

4.3 All other comments received have been previously reported and Members are referred to the previous Committee reports (as attached) for these.

## **5 LOCAL FINANCE CONSIDERATIONS**

5.1 Members will recall that at their meetings in November 2015 and January 2016, figures were reported for both the New Homes Bonus and for financial receipts from the Community Infrastructure Levy (CIL). The amount of money due from the New Homes Bonus if this scheme were to be approved and completed has not changed since the two earlier reports. The November 2015 Committee report details this element in full.

5.2 However, CIL receipts are subject to index linking and are adjusted accordingly every January. The 2018 rates are now £93.10 per sq.m. for residential development (based on the Taunton Residential Charging Zone) and £186.20 per sq.m. for retail development. The figures are increased from those reported to Members last time by £23.10 per sq.m. for the residential element and £46.20 per sq.m. for any retail element. As before, the levy is payable upon the start of development, although if the reserved matters are phased, then the receipt of monies would accordingly be phased. Also, the Council has a mechanism for phasing payments, so the entirety of the CIL generated by this development would not be due upon commencement anyway. However, Members are asked to note the significant increase in CIL receipts that would now be applicable.

- 5.3 Members are also reminded that of the total CIL receipts received, a percentage must be passed to any Parish Council whose area is covered by the application proposal. If that Parish Council has an adopted Neighbourhood Plan, then the amount will be 25% of all receipts. If there is not an adopted Neighbourhood Plan in place, then the figure drops to 15%.

## 6 DETERMINING ISSUES AND CONSIDERATIONS

### 6.1.0 The Applicant's case.

- 6.1.1 On 3<sup>rd</sup> March 2017, the Applicants formally submitted a viability assessment to the Local Planning Authority, including a Financial Appraisal Supporting Statement. This statement considers the viability of the proposals and examines the ability of the application site to support the currently identified planning obligations package and an affordable housing proposal, alongside the range of infrastructure items considered necessary to deliver the overall scheme.
- 6.1.2 The applicants make the case that the application of Policy D10 (floor areas) of the adopted Taunton Deane Site Allocations and Development Management Plan [SADMP] results in additional housing floor area being required. The applicants believe that in order to deliver this floor-space and maintain a realistic figure for site coverage, the total number of homes needs to fall below the 2,000 unit parameter of the application. The effect of this increased floor area is, in their opinion, three fold, namely that it attracts additional build costs, will increase the CIL liability and reduce the number of units which can be accommodated on the site. In addition, it is maintained that the extra build costs will not be compensated for by a proportionate increase in sales values. In the context of this site, this would serve to deliver worsening viability for scenarios which comply with Policy D10.
- 6.1.3 The Applicants refer to Paragraph 173 of the National Planning Policy Framework which states that –

*“...sites and scale of development identified in the plan should not to be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.”*

It also states that the impact of costs associated with ‘any requirements’ including affordable housing, standards and infrastructure, will need to be assessed to ensure that these do not preclude the provision of -

*“...competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”*

They also rely upon Paragraph 205 of the NPPF which states that local authorities should take account of changing market conditions when reviewing both new obligations and revisions to existing obligations, taking a flexible approach to -

*“.....prevent planned development being stalled”.*

The applicant also reminds the LPA of the advice within the National Planning Policy Guidance which clarifies that

*“A competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for the development.”*

It is acknowledged in the National Planning Policy Guidance [NPPG] that land owners need to be incentivised to sell their land for development, taking into account other options available to them, including the continued use of land in its existing form until it is perceived that a reasonable return can be made.

- 6.1.4 In local planning policy terms, the Applicants defer to Policy CP4 of the adopted Core Strategy which sets a target for ‘25% of new housing’ being provided as affordable housing in the Plan period. However, it is pointed out that the policy wording states that:

*“The prescribed mix of affordable housing to be provided should reflect locally evidenced need in respect of type, size and tenure.”*

However, the policy wording also acknowledges that there may be situations where the full level of affordable housing sought will impact negatively on scheme viability. In these situations applicants are to provide ‘full development appraisals’ demonstrating the level of provision that can be made. Policy TAU1 in the SADMP sets out that 25% of the new homes on the Comeytrowe / Trull allocation should be provided as affordable housing in line with Core Strategy Policy CP4. It is therefore the Applicants’ view that it is possible to remain compliant with Policies CP4 and TAU1 whilst delivering less than 25% affordable housing and / or an adjusted affordable housing tenure split on the application site, where this is supported by viability evidence.

- 6.1.5 The Financial Appraisal submitted identifies an outturn land value for the application site significantly less than the £300k per gross hectare land value threshold suggested within the 2015 SADMP Viability Study. Therefore it is concluded that the scheme viability is challenging. Furthermore, they maintain that the application of Policy D10 which seeks additional floor area standards places further pressure on the project viability, reducing the residual land value further.
- 6.1.6 The Council appointed Three Dragons supported by Ward Williams to assess the appraisal, with a brief of challenging a number of key assumptions made by the consortium.

## **6.2.0 Analysis following the initial findings.**

- 6.2.1 In line with other development in Taunton Deane, policy requires that development at TAU1 Comeytrowe/Trull should seek to provide 25% affordable housing, subject to viability, in accordance with Local Plan Policy CP4: Housing. When the application was considered at the two Planning Committee meetings in November 2015 and January 2016, the development consortium promoting the scheme did not seek to challenge the viability of the scheme. At that time the application suggested that a policy compliant scheme was achievable. Following the decision to allow the scheme subject to the usual requirements, the Consortium and the Council have been able to agree on most matters in the emerging S106 Agreement but the Consortium have sought to challenge the level of affordable housing.
- 6.2.2 The basis of the challenge is that further work was undertaken by the Consortium on the development costs of the scheme and their understanding of achievable values. The Consortium presented their findings, including viability appraisals and supporting evidence on values and development costs, in February 2017. Their assessment reports suggested neither 25% affordable housing nor the affordable housing tenure split of 60% rent and 40% shared ownership are achievable, given the significant infrastructure package. The Consortium during initial discussions offered to provide between 10% and 15% affordable housing depending on the tenure mix sought by the Council. Given that the proposal would not meet the affordable housing policy, these assessments have been independently scrutinised by Three Dragons (the independent consultants appointed by the Council). Initially the Council was minded to continue to seek a policy compliant scheme, following review of the Consortiums assessments and subsequent discussions. The initial assumptions and analysis were challenged and a further round of assessment was undertaken to see what common ground existed and whether or not further work could be considered that might bring the two parties closer together.
- 6.2.3 A further report of July 2017 was commissioned by the Applicants and this was also challenged following analysis of this report by the LPA's independent assessors. However, the process of review and discussion with the Consortium necessarily took some months and it was jointly agreed to bring the assessments up to date from 3rd quarter 2016 to 3rd quarter 2017 values. This included the rise in house prices over this time, changes in development costs and indexing the infrastructure cost plans using BCIS 'All In Tender Price Index' (AITPI) figures. This replaced some of the detailed scheme costs and values with a more generic approach. As the updating was taking place it became apparent that while values had risen, constructions costs have increased significantly over the last 12 months due to outside factors relating to the cost of materials and availability of labour. The Council's advisors have questioned these increases and had them verified by independent experts and have ultimately concluded that it was appropriate for them to be included within the assessments. These significant cost increases affect dwelling build costs as well as on and off-site infrastructure, and despite the increases in house prices the changed costs materially change the viability of the scheme.



- 6.2.4 The LPA's independent assessors analysed this new information (report dated December 2017) and advised that using the same site value then in the region of 15% affordable housing may be provided (60% rented and 40% intermediate housing split), with a viability deficit. The LPA is also advised that, everything else being equal, it is logical that increased costs will depress land values. The appraisals produced by the applicant in November 2017 included site values which if used, show that around 17.5% affordable housing may be provided (again with 60% rented and 40% intermediate housing split). The cost consultants for both the Applicants and the independent assessors proceeded with discussions which have narrowed the gap considerably between the two infrastructure cost estimates.
- 6.2.5 Following further discussions, the Applicants have set out their final position in a statement to Officers. They reiterated that the Consortium's (the Applicant's) position on how much affordable housing the proposal could realistically afford lay between 10% and 15%. They stated that they would be very reluctant to have any review mechanism imposed through the Section 106 Agreement, because they believed the practicalities of implementing such mechanisms on large schemes are extremely complicated. However, as discussed with Officers, in order to try to reach agreement, and with the proviso that there is no review mechanism, the Consortium offered 17.5% Affordable Housing, split 50% Affordable Rent and 50% Shared Ownership. Alternatively, the Consortium maintained that if a review mechanism was to be insisted upon, then this must operate upwards and downwards (i.e. the Council might secure less affordable housing than the starting point) and there would need to be a clear understanding of how such a mechanism would work in practice. Assuming the wording could be agreed, the Consortium would in this circumstance (with an agreed review mechanism) offer 12.5% affordable housing with the same tenure split. This would have to be on the understanding that any improvement in scheme viability would be shared equally between the council and the landowners.

### **6.3.0 Final statement received from the Applicants**

- 6.3.1 Following further discussion, a revised offer of 17.5% affordable housing with a policy compliant tenure split (60% rented and 40% intermediate housing) has been made. This takes account of the various on-site and offsite costs that the development is required to provide, including the rising cost of this provision. This is on the basis of no review mechanism. This is now a position which Officers feel is a reasonable one taking all factors into account and have agreed to present back to the Planning Committee for consideration and determination. This is required because the position now represents a significant departure from that originally agreed by Members. This revised offer of 17.5% is higher than the Council's advisors suggested can now be afforded by the scheme and therefore there is no viability basis for challenging this offer.
- 6.3.2 For the avoidance of doubt, the Consortium (the Applicants) have placed this offer (their final offer) in writing by e-mail dated 7<sup>th</sup> February 2018, as follows -

*“Thank you for meeting the Consortium again yesterday to continue our discussions on viability and I am pleased to note that we have reached agreement (at least between ourselves) on the way forward, although I acknowledge that the Committee may be a different matter. As discussed, the Consortium believe that the market is actually hardening and therefore it is imperative that we get this matter concluded as soon as possible so that we don’t have to revisit the viability again before determination. With this in mind, and in an effort to conclude matters, the Consortium are prepared to offer **17.5% Affordable Housing, split 60% Affordable Rent and 40% Shared Ownership**. This is on the understanding that there is no review mechanism built into the 106 Agreement. As previously discussed our actual position is somewhere between (and supported by) Three Dragons latest appraisals 3 and 4, i.e. between 10% and 15% Affordable Housing provision, and therefore to conclude matters between ourselves we have taken a very pragmatic approach. Indeed compared with Staplegrave (which we believe has very similar financial parameters), we are offering in excess of what has been agreed with them.”*

6.3.3 The Consortium have also been asked what the implications upon tenure mix would be if 20% affordable housing were to be delivered. They suggest that an Affordable Housing offer of 20% with a tenure split of 30% Affordable Rent / 70% Shared Ownership could be delivered. This on the basis that there will be no review mechanism within the Section 106 Agreement, and that matters are concluded as soon as possible. However, they have made clear that this would not be the position they would adopt in the event that the application ends up at appeal. In such a scenario, the Consortium have made clear that they would revert to the position arrived at through the 12 months of viability work that we have just completed. The Housing Enabling and Development Officer strongly advises that the offer of 17.5% affordable housing with a 60% Affordable Rent/40% Shared Ownership is more preferable than the 20% affordable housing with a 30% Affordable Rent / 70% Shared Ownership offer. Although the rise in the overall percentage achieves an extra 50 affordable homes, the net loss of rented homes between 17.5% and 20% is 90 owing to the percentage change in tenure.

6.3.4 This position statement (at paragraph 6.3.2 above), is the one which Members are now being asked to consider and decide. The recommendation is that Members accept the 17.5% with a 60% Affordable Rent /40% Intermediate Housing split.

#### **6.4.0 Officers’ opinion on the final offer.**

6.4.1 Officers are of the opinion that the findings as expressed by the Applicants in their issued statement dated 7<sup>th</sup> February are an accurate record of the last meeting held. The opinions expressed do accord with the work carried out by the LPA’s independent assessors (Three Dragons), namely that 17.5% goes beyond what we could argue at an appeal.

- 6.4.2 In terms of how the position has changed, it is worth noting that over the course of the intervening period, there is clear evidence that costs have risen while values have remained relatively static. Since Officers first talked about this with the consortium in December, Three Dragons have advised Officers that the cost rise suggested by BCIS is probably accurate because there are other indications in the market that suggest this to be the case.
- 6.4.3 The Consortium have raise similarities (in their opinion) with the viability case considered for the two Staplegrove applications. However, it would not be prudent or appropriate to try and make comparisons between any similarities or differences. Each application must be considered on its own merits and the tenet of keeping 'commercially sensitive' information undisclosed still applies.
- 6.4.4 Officers are recommending approval to the proposition on the basis that it is a fair conclusion to the extensive interrogation of the financial case put forward by the Consortium and crucially, if the matter were to be decided by an Inspector on appeal, the amount of Affordable Housing likely to be agreed, given the findings of the analysis, would most likely be significantly less than this current offer.

#### **6.5.0 Other issues arising.**

- 6.5.1 Some members of the public have expressed serious reservations about their ability to comment on the process, as they have not been able to view the full viability assessment, only redacted versions. Officers have always been of the opinion that an un-redacted version of the viability assessment and supporting information should not be released into the public domain, citing Regulation 12(5) (E) of the Environmental Information Regulations (2004) which give rights of public access to information held by public authorities. This considers issues surrounding confidentiality of commercial or industrial information. The Council's case is also supported by Regulation 12 (5) (F), which considers the interests of the person who provide the information. This has been upheld by the Council's own F.O.I administration team and the Councils Corporate Strategy and Performance Officer. This position has been reported to the Information Commissioners Office (ICO), which is currently reviewing the case. The Council has yet to hear the final view of the ICO, despite months of consideration. This is being chased.
- 6.5.2 This report takes into account the recent consultation on changes to the draft NPPF and associated guidance, but as this is still in draft form and subject to consultation, greater weight should be afforded to the extant guidance.

## **7 CONCLUSIONS**

- 7.1 The National Planning Policy Framework and its associated Guidance make clear that the impact of costs associated with policy requirements (including affordable housing, standards and infrastructure) will need to be assessed to ensure that these do not preclude the provision of competitive returns to willing landowners and willing developers. Delivering new homes remains an important element of the agenda for growth being promoted by government as

well as contributing to the supply requirements of this Council's own Core Strategy and growth agenda. The provision of new homes is therefore an important and material consideration. The Core Strategy and the supporting Site Allocations and Development Management Plan [SADMP] include a target for 25% affordable housing on the South West Taunton urban extension application site. This is allocated for residential development through Policy TAU1 of the SADMP), but subject to economic viability. A 60% rented and 40% intermediate affordable housing tenure split is preferred within the 'Affordable Housing Supplementary Planning Document', but again this is subject to viability. The Affordable Housing SPD confirms that the Council will take a flexible and negotiated approach to affordable housing proposals, having regard to site specific circumstances.

- 7.2 At 2,000 dwellings the modelled application scheme forms a significant part of the housing supply planned in the Core Strategy and will therefore provide a significant amount of new housing alongside supporting infrastructure. It is in this context that the scheme viability needs to identify the level of affordable housing that can reasonably be viably supported by the scheme. The methodology that underlies the financial appraisals undertaken follows normal conventions and is appropriate for the scale and nature of the development. The submitted Financial Appraisal identifies an outturn land value for the application Site, when the very significant package of identified infrastructure is factored in, well below the gross hectare land value threshold suggested within the 2015 SADMP Viability Study. It is therefore apparent that the scheme viability is challenging. Furthermore, the application of Policy D10 which seeks additional floor area standards is acknowledged to place further pressure on the project viability.
- 7.3 Officers explained in the previous Committee reports and at the meetings that, in their opinion, the applicants have demonstrated that a high quality, sustainable development is achievable and deliverable. This has not changed. The site is proposed for allocation in the SADMP which is therefore already agreed Taunton Deane Council policy. The planning application is broadly compliant with the Council's Plan and this must weigh heavily in favour of granting permission. The Council also relies upon the early delivery of new homes from this site in its identified five year deliverable supply of housing land, all of which are factors that weigh in its favour of approval. The application proposal is in accordance with development plan policies (Core Strategy policy SS7 and SADMP Policy TAU1) and would deliver the sustainable comprehensive mixed use urban extension that Taunton needs. The application should, therefore, following NPPF Paragraph 14, "be approved without delay".
- 7.4 Officers are firmly of the belief that the viability case has been fully challenged, all avenues explored and discussions have been detailed and exhaustive. The independent assessment undertaken firmly concludes definitively that the offer now made by the Applicants is fair and reasonable under all of the circumstances. Therefore, Members are asked to agree and approve the application for outline planning permission as resolved at their meeting in 2016, with conditions as given above (at the start of this item) and subject to a legal agreement with the items as also listed, but noting that the requirement to provide affordable housing should now be given as 17.5% Affordable Housing, split 60% Affordable Rent and 40% Shared Ownership.

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

**Contact Officer: Mr J Burton**

Site: 4 MINEHEAD ROAD, BISHOPS LYDEARD, TAUNTON, TA4 3BS

Proposal: Erection of a single storey extension to the front elevation of 4 Minehead Road, Bishops Lydeard

Application number: 06/17/0029

Reasons for refusal: 4 Minehead Road, Bishops Lydeard is a semi-detached property, on a level site and finished in render under a roof of double roman clay tiles. This property was built as one of four pairs of matching red brick semis with matching gabled roof slopes to the side elevations, originally built symmetrically down their mid point, presenting an identical and harmonious appearance on the street scene. No.4 has had the addition of a front porch projecting 1m off the principle elevation, the design of which, it is considered, has had an adverse impact upon the form and character of the dwelling and damages the balance of the properties and the street scene. This proposal to add a second ground floor front extension that projects 2.2m off the principle elevation and with a roof height that reaches higher than the sills of the first floor window, will only add to the incongruity of the altered form and character of the dwelling and compound the significant adverse impact of the previous extension on the dwelling and the street scene. For these reasons the proposal is considered to harm the form and character of the dwelling and street scene, is not subservient in design and therefore fails both parts of Criteria A of Policy D5 of the Taunton Site Allocations and Development Management Plan (2016).

Appeal Decision: Dismissed.

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Site: SEAFIELD, WEST BUCKLAND, WELLINGTON, SOMERSET, TA21 9LW

Proposal: Prior approval for proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations at Seafield, West Buckland

Application number: 30/17/0024CQ

Reasons for refusal: The Local Planning Authority considers that the building was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. Therefore the proposed development does not comply with the limitations or restrictions set out in Schedule 2, Part 3 Class Q paragraph Q1(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 and is not permitted development.

Appeal Decision: Dismissed

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## Appeal Decision

Site visit made on 20 March 2018

by **S Rennie BA (Hons) BSc (Hons) MA MRTPI**

**Appeal Ref: APP/D3315/D/17/3192494**

**4 Minehead Road, Bishops Lydeard, Taunton, Somerset TA4 3BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Roger Bush against the decision of Taunton Deane Borough Council.
  - The application Ref 06/17/0029, dated 9 August 2017, was refused by notice dated 10 October 2017.
  - The development proposed is a single storey extension to the front elevation of the existing dwelling.
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**Decision**

1. The appeal is dismissed.

**Main Issue**

2. The main issue is the effect of the proposal upon the character and appearance of the area.

**Reasons**

3. No 4 Minehead Road is a semi-detached house which forms part of a row of four pairs of almost identical semi-detached houses. No 4 has been previously extended, including a porch to the front. The proposal for a single storey front extension would, in combination with the existing porch, extend across the full width of the front elevation. The extension would also be a prominent addition to the house facing the road and visible from the public realm.
4. The semi-detached pairs of houses are well proportioned and have a pleasing symmetry inherent in their design and appearance. The size and prominence of the proposal on the front elevation would have an unbalancing effect, detrimental to the appearance of these dwellings. This pair, and the others like them, is important to the street character. Therefore, the incongruous addition of a prominent front extension would also diminish the visual quality and the appearance of the wider street scene.
5. I acknowledge the existing porch was granted planning permission. However, the proposed extension would be a significantly larger addition, with increased width, depth and height over that of the existing porch. As such, the existing porch does not justify the proposed extension.

6. I saw the two recently built properties fronting Minehead Road which have ground floor front projections over the integral garages. However, these new dwellings are detached and have a substantially different design to No 4. It is also acknowledged that the large outbuilding at No 1 Minehead Road projects further towards the edge of the public road than the proposed extension. Nevertheless, that is a different form of development to the one I am considering. These differences mean I attach little weight to the other developments and, in any event, I must consider the appeal scheme on its own merits.
7. The proposal would therefore be contrary to the objectives of policy D5 of the Taunton Site Allocations and Development Management Plan, particularly Criterion A, which seeks, amongst other things, to ensure against harm to the form and character of dwellings as a result of extensions and prevent harmful impacts to the surrounding areas, including the street scene.

### Other Matters

8. I am aware there were no objections to the scheme from neighbours and the Parish Council supported it. However, this lack of objection does not in itself change my findings based on the planning merits of the case.
9. A lack of communication with the Council through the planning application procedure is a separate matter away from this appeal which also does not affect the assessment of the merits of the proposed extension, and so I attach little weight to these comments.

### Conclusion

10. For the above reasons the appeal should be dismissed.

*Steven Rennie*

INSPECTOR



The Planning Inspectorate

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## Appeal Decision

Site visit made on 26 March 2018

**by Thomas Bristow BA MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 13<sup>th</sup> April 2018**

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**Appeal Ref: APP/D3315/W/17/3186810**

**Seafeld, West Buckland, Wellington, Somerset TA21 9LW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO').
  - The appeal is made by Mr Andy Wallwork against the decision of Taunton Deane Borough Council.
  - The application Ref 30/17/0024/CQ, dated 3 July 2017, relates to a refusal notice dated 1 September 2017.
  - The development proposed is described in the Council's decision notice as the 'change of use from agricultural building to dwelling house (Class C3) and associated building operations'.
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## **Decision**

1. The appeal is dismissed.

### **Preliminary matters**

2. Notwithstanding the description of development given in the banner heading above, it is disputed whether the relevant building may accurately be described as in agricultural use on 20 March 2013 within the terms of the GPDO. I have therefore simply referred to it as 'the building'.
3. Each proposal must be determined on its particular merits. Nevertheless I have taken account of the planning and sales history of the building and surrounding land in so far as it is now relevant.<sup>1</sup> In particular my attention has been drawn to records of enforcement investigations undertaken by Taunton Deane Borough Council ('TDBC') around March 2014 and January 2015, a previous proposal for change of use refused consent in September 2014 (Ref 30/14/0035/CMB), and valuation or sales particulars from September 2012 and from 2015.
4. I note the appellant's points regarding the veracity of certain representations related to the proposal (which are intertwined with the history of the site noted above). Taking account of those points, my decision focusses on the planning considerations and evidence relevant to the scheme before me.

### **Legislative context**

5. The proposal relates to Schedule 2, Part 3, Classes Q(a) and (b) of the GPDO, which enable the change of use and conversion of agricultural buildings to dwellinghouses (subject to certain limitations and conditions).

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<sup>1</sup> The appeal site (the 'site') includes the building and an element of nearby land (plan No 17.18.04).

6. Schedule 2, Part 3, Paragraph W(11) of the GPDO specifies the circumstances under which development permitted via Class Q may begin. Paragraph W(11)(c), one such circumstance, is where a period of 56 days has elapsed between an application being received by a local planning authority without the appellant having been notified whether prior approval is given or refused.
7. The appellant contends that TDBC failed to notify him within the 56 day period, and that the appeal should succeed on that basis. The appellant sets out, even had the decision notice been received on 2 September 2017, this would have been 57 days from the date on which TDBC determined that the application was valid (7 July 2017).
8. Whilst the appellant was aware of TDBC's intended decision by 31 August 2017,<sup>2</sup> there is no indication that he was actively notified of this before his receipt of the decision notice by post on 6 September 2017. Moreover the 56 day period runs from the date on which a local planning authority receives an application (rather than from validation).
9. However the failure of TDBC to notify the appellant of their intended refusal of prior approval in accordance with the provisions of paragraph W(11)(c) of the GPDO does not have the effect of granting consent for any development. In order to be permissible, proposed development must be fully within the description of what is permitted by GPDO classes Q(a) and Q(b), rather than representing development outside of it. The provisions of paragraph W(11)(c) are only engaged as a condition of development being permitted in the first instance.
10. Therefore the circumstances here differ from those in appeal Ref APP/K0235/W/15/3131672 cited by the appellant. In that case there was no dispute between the main parties that the proposal accorded with relevant requirements such that it was permitted development. As explained subsequently, the failure of TDBC to notify the appellant that prior approval was refused within 56 days does not justify allowing the appeal.

#### **Main issue**

11. Schedule 2, Part 3, paragraph Q.1(a) of the GPDO specifies that development under Class Q is not permitted where the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. There is no dispute that the building was in use on 20 March 2013, as opposed to the nature of that use.
12. Agriculture is defined in Section 336(1) of the Town and Country Planning Act 1990 as amended (the 'TCPA') as including the breeding and keeping of livestock, and the use of land as grazing land. Schedule 2, Part 3, Paragraph X of the GPDO further establishes that agricultural use must comprise use for the purposes of a 'trade or business'.
13. Against the backdrop of the preliminary matters and legislative context above, the main issue in this appeal is whether or not it has been demonstrated that

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<sup>2</sup> As set out in correspondence from TDC of that date, reproduced in the appellant's appeal statement.

the proposal would accord with the requirements paragraph Q.1(a) of the GPDO, and therefore whether or not the proposal is permitted development.

### Reasons

14. A modest utilitarian timber structure, the building falls within a wider parcel of land (predominantly open fields). Before August 2015 this land was part of a more extensive holding. The building is in part open-sided and part enclosed.
15. At the time of my site visit the open-sided element was used as a feeding shelter for sheep. The enclosed element contained various miscellaneous items related to the upkeep of the land. The current state of the building and land is essentially consistent with the September 2012 valuation photographs before me, which show several sheep present.<sup>3</sup>
16. I have considered TDBC's reasoning in respect application Ref 30/14/0035/CMB, the decision notice for which is dated 30 September 2014, and correspondence of January 2015 related to an enforcement investigation. However I agree with the appellant that observations closest chronologically to 20 March 2013 are most relevant in determining the use to which the building and land was put at that juncture.
17. TDBC's correspondence of 20 March 2014 related to an enforcement investigation states that 'it is still considered that the land is being used for agriculture', and that 'the only permitted use is for agriculture'.<sup>4</sup> The appellant reads reference to 'the land' in this context as including the building (with regard to Section 336 of the TCPA). This is a somewhat strained interpretation as the building is referred to separately. It is nevertheless noted in the correspondence that 'there was no evidence to suggest that the building was being occupied for residential purposes'.
18. Associated site inspection notes of a TDBC officer, dated 20 February 2014, are also before me. These refer to the building as a 'timber agri building'. At appeal TDBC submitted further correspondence of 20 February 2014 related to the enforcement investigation, which explains that the land has been used for breeding sheep, cows, and other animals. The building is again referred to distinctly as 'used in connection with the agricultural operation on the farm'.
19. Setting aside the potential motivations of objectors, I have before me various representations from individuals both attesting to and disputing the purely agricultural use of the building and land on 20 March 2013. Of particular note are representations from a veterinary surgeon, who explains that they provided various services for livestock here around 2013, and from others who state that sheep were grazed in this location around that time.
20. However, the September 2012 valuation photographs show features of the building which are not typical of many agricultural buildings (a number of tables and chairs, decorative staircase, kitchen facilities and framed pictures). TDBC's site inspection notes of 20 February 2014 refer to 'family get togethers' and their correspondence of the same date to certain leisure uses occurring.

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<sup>3</sup> Appellant's statement of case, appendix 12.

<sup>4</sup> Ref E/0015/30/14.

21. I accept that these references to non-agricultural activities are not specific to the building, and that no unauthorised residential use has previously been identified by TDBC. However it is a non sequitur that the absence of unauthorised residential use demonstrates conclusively a solely agricultural use. It may be that the building and land was used primarily for agriculture as defined in Section 336(1) of the TCPA, but also for some other incidental purposes. The evidence before me is inconclusive.
22. The September 2012 valuation photographs show relatively few sheep present, and there is no robust evidence before me related to the intensity of agricultural use here on 20 March 2013 (for example animal numbers, or livestock holding register entries). Whilst there is no requirement in the GPDO or elsewhere for an agricultural trade or business to be of a certain scale or level of turnover, TDBC's correspondence of 20 March 2014 explains that 'stock levels have fallen to a few sheep etc.'. This suggests a limited intensity of agricultural use around that time.
23. I appreciate the practical difficulties faced by the appellant in securing evidence related to the site before he purchased it in 2015. However TDBC's inspection notes of 20 February 2014 and correspondence of the same date refer to the use of the formerly more extensive holding, of which the appeal site was part before 2015, as a 'hobby farm'.
24. Notwithstanding the observations in certain representations related to the proposal, there is no robust evidence before me of any livestock movements, sales, or business records to indicate that on 20 March 2013 the site was part of an active agricultural enterprise (as opposed to being essentially a hobby or eccentricity of the then owner). Moreover, the principal evidence relied upon by the appellant relates to the nature of the appeal site and its surroundings several months away from 20 March 2013 as opposed to on that date itself.
25. For the above reasons, given the shortcomings with the evidence before me, it has not been suitably demonstrated that the site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013. I therefore conclude that the proposal does not accord with the requirements of paragraph Q.1(a) of the GPDO, is not permitted development, and that the appeal should be dismissed.

*Thomas Bristow*

INSPECTOR