



To: Members of Planning Committee

Councillors S J Pugsley (Chair), B Maitland-Walker (Vice Chair), I Aldridge, D Archer, G S Dowding, S Y Goss, A P Hadley, T Hall, B Heywood, I Jones, C Morgan, P H Murphy, J Parbrook, K H Turner, R Woods

Our Ref TB/TM

Your Ref

Contact Tracey Meadows t.meadows@tauntondeane.gov.uk

Extension 01823 356573

Date 20 May 2015

**THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THE MEETING  
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OR IN OTHER LANGUAGES ON REQUEST**

Dear Councillor

I hereby give you notice to attend the following meeting:

**PLANNING COMMITTEE**

**Date: Thursday 28 May 2015**

**Time: 4.30 pm**

**Venue: Council Chamber, Council Offices, Williton**

Please note that this meeting may be recorded. At the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during the recording will be retained in accordance with the Council's policy. Therefore unless you advise otherwise, by entering the Council Chamber and speaking during Public Participation you are consenting to being recorded and to the possible use of the sound recording for access via the website or for training purposes. If you have any queries regarding this please contact Democratic Services on 01823 356573.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Bruce Lang".

**BRUCE LANG**  
Proper Officer

## PLANNING COMMITTEE

THURSDAY 28 May 2015 at 4.30pm  
COUNCIL CHAMBER, COUNCIL OFFICES, WILLITON

### AGENDA

1. Apologies for Absence

2. Minutes

Minutes of the Meeting of the 23 April 2015 - **SEE ATTACHED**

3. Declarations of Interest or Lobbying

To receive and record any declarations of interest or lobbying in respect of any matters included on the agenda for consideration at this meeting.

4. Public Participation

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

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three minute time limit applies to each speaker and you will be asked to speak after the officer has presented the report but before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Where an application is involved it has been agreed that the applicant will be the last member of the public to be invited to speak. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

5. Town and Country Planning Act 1990 and Other Matters (Enforcement)

To consider the reports of the Planning Team on the plans deposited in accordance with the Town and Country Planning Act 1990 and other matters - **COPY ATTACHED** (separate report). All recommendations take account of existing legislation (including the Human Rights Act) Government Circulars, Somerset and Exmoor National Park Joint Structure Review, The West Somerset Local Plan, all current planning policy documents and Sustainability and Crime and Disorder issues.

**Report No: Ten**

**Date: 20 May 2015**

<u>Ref No.</u>	<u>Application/Report</u>
<b>3/21/15/005</b>	Former Aquasplash Site, Seaward Way, Minehead Erection of a new neighborhood foodstore with associated car parking
<b>3/21/15/034</b>	Land at Ellicombe Meadow, Minehead Proposed residential development of eight semi-detached dwellings (plots 23, 23A, 24, 24A, 25, 25A, 26 & 26A) and nine affordable flats (plots 5 to 12A) together with vehicular parking, access and associated infrastructure (resubmission of 3/21/14/086)

6. Exmoor National Park Matters - **Councillor to report**

7. **Delegated Decision List** - Please see attached

8. **Appeals Lodged**

**Proposal and Site**

**Appeal Type**

Erection of single storey extensions to south west elevation (front) and north east elevation (rear) at Higher Thornes Farm, Lower Weacombe, TA4 4ED

written reps

9. **Appeals Decided**

**Proposal and Site**

Siting of mobile home to be used as an equestrian/agricultural/forestry workers dwelling at Red Park Equestrian Centre, Egrove Way, Williton Industrial Estate, Williton, TA4 4TB – Enforcement Appeal and Planning Appeal allowed and costs awarded to the appellant 28 April 2015.

**RISK SCORING MATRIX**

Report writers score risks in reports uses the scoring matrix below

<b>Likelihood (Probability)</b>	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
<b>Impact (Consequences)</b>							

Mitigating actions for high ('High' or above) scoring risks are to be reflected in Service Plans, managed by the Group Manager and implemented by Service Lead Officers;

Lower scoring risks will either be accepted with no mitigating actions or included in work plans with appropriate mitigating actions that are managed by Service Lead Officers.

## PLANNING COMMITTEE

### Minutes of the Meeting held on 23 April 2015 at 4.30 pm

#### **Present:**

Councillor A F Knight ..... Chairman  
Councillor I R Melhuish ..... Vice Chairman

Councillor G S Dowding  
Councillor A H Trollope-Bellew  
Councillor L W Smith  
Councillor C Morgan  
Councillor A Hadley  
Councillor B Heywood

Councillor E May  
Councillor K H Turner  
Councillor S J Pugsley  
Councillor D Ross  
Councillor M Smith  
Councillor K Mills

#### **Officers in Attendance:**

Area Planning Manager – Bryn Kitching  
Planning Officer (Conservation) – Liz Peeks  
Planning Officer – Russell Williams  
Committee Administrator – Tracey Meadows  
Legal Advisor – Martin Evans - Mendip DC

#### **P217 Apologies for Absence**

There were apologies for absence from Councillor A Chick.

#### **P218 Minutes**

**RESOLVED** that the Minutes of the Planning Committee Meeting held on 26 March 2015 circulated at the meeting be confirmed as a correct record. Proposed by Councillor E May and seconded by Councillor S Dowding. All present voted in favour.

#### **P219 Declarations of Interest or Lobbying**

<b>Name</b>	<b>Min No</b>	<b>Ref No.</b>	<b>Application</b>	<b>Persons Lobbying</b>
Cllr AF Knight (Chairman) Cllr E May Cllr C Morgan	P221	3/16/15/003	Combe House Hotel	In favour
Cllr AF Knight (Chairman) All Cllrs	P221	3/21/15/005	Former Aqua splash site	Against
Cllr AF Knight (Chairman) Cllr C Morgan	P221	3/37/15/003	3 Sea View Terrace	Against

#### **P220 Public Participation**

<b>Min No.</b>	<b>Reference No.</b>	<b>Application</b>	<b>Name</b>	<b>Position</b>	<b>Stance</b>
P221	3/16/15/003	Coombe House	Mr Copleston	Local Resident	In favour
P221	3/16/15/003	Coombe House	Mr Weed	Applicant	In favour
P221	3/16/15/003	Coombe House	Mr Granfield	Parish Council	In favour

P221	3/16/15/003	Coombe House	Mrs C Morgan	Local Resident	Objector
P212	3/21/15/005	Former Aqua Splash site	Mr Rainey	Agent on behalf of town retailers	Objector
P212	3/21/15/005	Former Aqua Splash site	Mr J Mitchell	Agent on behalf of Applicant	In favour
P212	3/21/15/005	Former Aqua Splash site	Mr McGuinness	Local Resident	In favour
P212	3/37/15/003	3 Sea View Terrace	Mr P Barrell	Local Resident	objector
P212	3/37/15/003	3 Sea View Terrace	Mr C Wood	Local Resident	objector
P212	3/37/15/003	3 Sea View Terrace	Mr E Frewin	Local Resident	objector
P212	3/37/15/003	3 Sea View Terrace	Mr Peter Murphy	District Councillor	objector

## **P221 Town and Country Planning Act 1990 and Other Matters**

Report Nine of the Planning Team dated 23 April 2015 (circulated with the Agenda). The Committee considered the reports, prepared by the Planning Team, relating to plans deposited in accordance with the planning legislation and, where appropriate, Members were advised of correspondence received and subsequent amendments since the agenda had been prepared.

(Copies of all letters reported may be inspected in the planning application files that constitute part of the background papers for each item).

**RESOLVED** That the Recommendations contained in Section 1 of the Report be Approved (in so far as they relate to the above), including, where appropriate, the conditions imposed and the reasons for refusal, subject to any amendments detailed below:

### **Reference Location, Proposal, Debate and Decision**

**3/16/15/003 Combe House Hotel, Holford, Somerset**  
Removal of condition 6 from planning permission 3/16/10/007 in order to permit continuous use of marquee

#### **Objections raised by the speakers included:**

- Unbearable noise in summer months is so unbearable that the windows to my property need to be permanently closed.
- The Marquee was an eyesore and does not fit in with the environment.
- Corner Cottage will take the full impacted by the noise.

#### **The Members debate centred on the following issues:**

- Hotel provides fantastic service in a beautiful setting.
- The Marquee brings in revenue for other businesses in Holford.
- 40% of the income for the hotel is provided by the marquee.
- We should be encouraging more people to support rural businesses.

Councillor C Morgan proposed and Councillor K Turner seconded a motion that planning permission be **GRANTED** against Officers recommendation.

The motion was carried.

### **Reason**

Members considered that the benefits to local employment and business outweighed the negative impact that the marquee had on the setting of the listed building and surrounding area.

### **Reference    Location, Proposal, Debate and Decision**

#### **3/12/15/005    Former Aquasplash Site, Seaward Way, Minehead**

Erection of a new neighbourhood food store with associated car parking.

Update from the Area Planning Manager. Further to the report a letter had been received from Ashford Solicitors pointing out that they had not been able to access or view the independent retail assessment that the Council commissioned and therefore had not been able to make representations on its conclusions. Ashford's consider that as the report relies heavily on the information in the retail assessment report they felt that it went against the rules of natural justice for those who wanted to make representations on the case to not have sight of this document. The document had been uploaded to the website yesterday (April 22<sup>nd</sup>) but it was considered that 24 hours was not enough time for anyone to make representations on that.

Proposed by Councillor Trollope-Bellew seconded by Councillor Morgan that the application be deferred for one cycle to come back at the May Committee.

The motion was carried.

### **Reference    Location, Proposal, Debate and Decision**

#### **3/37/15/003    3 Sea View Terrace, Watchet**

Demolition of existing derelict garden storage buildings and partial demolition of garden boundary walls and fences, to be replaced by new boundary walls and fences. Erection of a four bedroom house on part of the garden and enlargement and resurfacing of adjoining parking area.

#### **Objections raised by the speakers included:**

- Poor visibility in and out of the lane
- Over development of the area.
- Conflict between vehicles and pedestrians as this is the only route on foot into the town centre.
- Not fit for approval or submission.
- Two previous applications refused.
- Lack of visibility splays.
- Conservation area.

#### **The Members debate centred on the following issues:**

- The lane will be blocked off by Lorries when this development is being built and the removable of soil will be considerable.
- No access to Watchet if access to Govier's Lane is blocked.
- Conflict between pedestrians and cars.
- Over development on the site.
- Will change the character of the area.
- Given size of site a smaller property could have been applied for.

The Chairman Councillor A Knight proposed and Councillor M Smith seconded a motion that planning permission be REFUSED against Officers recommendation.

### **Reason**

Goviers Lane is a narrow no-through road, without turning space that is mainly used by pedestrians and has limited use by motor vehicles. It is the only safe route for pedestrians, mobility and wheelchair users into the centre of Watchet from the residential areas to the east of the railway line. The cars using the proposed double garage and parking space will create conflict with these users due to the inability to easily pass and as such, conflicts with paragraph 35 of the National Planning Policy Framework.

## **P222 Exmoor National Park Matters**

Councillor S Pugsley reported on matters relating to West Somerset considered at the last meeting of the Exmoor National Park Planning Committee. This included:

### **Applications**

- 1) Proposed bar/function room area altering existing ground floor of west wing, glazing in inner external courtyard including changes to staircase positions, demolition of old skittle alley with excavation to form store/laundry area together with a tunnel linking the external courtyard to inner underground store room (Full). Recommended that the committee defer the applications for a site visit.
- 2) Listed Building Consent for proposed bar/function room area altering existing ground floor of west wing, glazing in inner external courtyard including changes to staircase positions, demolition of old skittle alley with excavation to form store/laundry area together with a tunnel linking the external courtyard to inner underground store room (Listed Building) – The Luttrell Arms Hotel, 32 High Street, Dunster, Minehead, Somerset. Recommended that the committee defer the applications for a site visit.
- 3) Proposed variation of condition three of approved application 6/35/98/107 (Conversion of barn into ancillary accommodation) to allow flexible use as annexe/holiday let (Alteration/Lift Condition) – The Old Rectory, Treborough Farm Lane, Treborough, Watchet, Somerset. This was refused on policy grounds
- 4) Proposed agricultural building (50m<sup>2</sup>) (Full) – Ranscombe Lodge, Wootton Courtenay, Minehead, Somerset. This application was refused.

## **P223 Delegated Decision List**

The Planning Manager answered questions from the report.

## **P224 Appeals Lodged**

<b>Appellant</b>	<b>Proposal and Site</b>	<b>Appeal Type</b>
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No Appeals lodged

## **P225 Appeals Decided**

<b>Proposal and Site</b>	<b>Outcome</b>
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No Appeals decided

The meeting closed at 7.00pm

<b>Application No:</b>	<a href="#">3/21/15/005</a>
<b>Parish</b>	Minehead
<b>Application Type</b>	Full Planning Permission
<b>Case Officer:</b>	John Burton
<b>Grid Ref</b>	Easting: 297817    Northing: 145852
<b>Applicant</b>	Mrs Rickford Lidl UK
<b>Proposal</b>	Erection of a new neighbourhood foodstore with associated car parking
<b>Location</b>	Former Aquasplash Site, Seaward Way, Minehead, TA24 5BY
<b>Reason for referral to Committee</b>	<b>This is a major application with controversial and significant local interest.</b>

### **Risk Assessment**

Description	Likelihood	Impact	Overall
Risk: Planning permission is refused for reason which could not be reasonable substantiated at appeal or approved for reasons which are not reasonable	2	3	6
Mitigation: Clear advice from Planning Officers and Legal advisor during the Committee meeting	1	3	3

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

### **Site Location:**

Former Aquasplash Site, Seaward Way, Minehead, TA24 5BY

### **Description of development:**

Erection of a new neighbourhood foodstore with associated car parking

### **Consultations and Representations:**

The Local Planning Authority has received the following representations:

#### ***Minehead Town Council***

The Committee have raised the following points:

- The Committee believe that this application is being driven by the financial needs of West Somerset Council and not the needs of the local community.
- Why have Lidl Stores not given a presentation to the Town Council about the proposed development before the application was submitted?
- Direct access from Seaward Way is undesirable. An alternative entrance for customers could be from Brereton Road. The Seaward Way access could cause possible traffic problems on the main road due to cars backing up waiting to turn into Lidl Stores.



- The Transport Assessment statement in para 6.3.1 *'to determine the base traffic within the study area.....the dates used were Friday 8th and Saturday 9th November 2014.*
- This is not a 'neutral' month as stated but a one of the quietest months of the year. Ideally, there should have been two traffic surveys carried out; one in the summer and one in the winter to give a fairer comparison

### **Highways Development Control**

The Highway Authority raises no objection to this proposal but recommends that, if the Local Planning Authority were minded to grant planning permission, highways related conditions should be attached. More detailed comments are as follows -

#### Traffic Impact

The Highway Authority held pre application discussions with the applicant, which included scoping the Transport Assessment (TA).

The Highway Authority concludes that the trip rates used by the applicant in their current submission are sufficient. The TA makes a reasonable assumption that there is likely to be a high amount of cross visitation between the application site and the existing supermarkets, which are in the vicinity. The Highway Authority considers this to be reasonable considering there are two adjacent supermarkets so linked trips are more of a possibility in Minehead. Once linked trips have been taken from the calculated trip rates, it is anticipated the development will generate 89 new two-way car trips during the weekday PM peak hour and 86 two-way trips in the Saturday peak hour. Due to the expected number of linked trips and considering both of the adjacent sites are food stores, it is considered the method used for defining the trip distribution is appropriate and the Highway Authority is satisfied that the trip distribution data is considered to be acceptable.

Regarding trip impacts the applicant commissioned an independent company to undertake traffic surveys in the form of a Manual Classified Counts (MCCs) and queue length surveys at four junctions in close proximity to the proposed site access. This information was completed in the neutral month of November 2014 on Friday evening and midday, with the peak hours of 1600-1700 and 1100-1200 identified on weekdays and Saturdays respectively. These peak hours seem reasonable for a foodstore. From the evidence provided it is apparent that the 2014 base flows have been correctly applied on the junctions and the modelling scenarios. Six junctions, including the proposed site access and a mini roundabout have been modelled. From the information provided it is apparent that all junctions have been modelled correctly and all, apart from one, operate under capacity in the forecast models. It is noted that no committed or planned developments have been accounted for when considering future traffic levels for the modelling scenarios. However the Local Planning Authority should be aware that there are a number of developments in close proximity to each other that may have an impact on the future traffic levels on Seaward Way.

In conclusion, the submitted has some minor issues, but generally the modelling and results are considered to be acceptable. Overall it is concluded that the TA is acceptable and there is no reason for objecting to this application on the grounds of traffic impact.

Further to the information set out above the applicant has provided additional information on the back of the observations made by the Town Council. Having reviewed the additional information the Highway Authority is of the opinion that the proposal would result in an increase in movements although it would not be significant enough to warrant an objection on traffic impact grounds.

### Travel Plan

The applicant has submitted a Travel Plan this has been audited by the Travel Plan Team at S.C.C. The Travel Plan is considered to be broadly acceptable although there are a couple of points that need to be addressed. These can be covered by condition.

### Off-site highway works

The applicant has proposed off site highway works in the form of a right hand turn lane off of Seaward Way to allow access to the site. Drawing 23162/001/001 Rev A was submitted for a Safety and Technical Audit this has been completed and a copy of the report is attached. Having reviewed the document it appears that the elements that need to be addressed can be done at a technical approval stage. As such the proposed layout shown on the submitted drawing is considered to be acceptable in terms of a General in Accordance drawing which can be secured via a legal agreement.

### Internal Layout

The applicant has proposed to provide a 100 space car par, which includes 6 spaces for blue badges and 4 parent and child spaces. Somerset County Council's Parking Strategy requires that the site would need to provide a total of 113 spaces. As a consequence there is a shortfall of 13 spaces. This would usually be a cause of concern for the Highway Authority. However the site has good access to pedestrian and cycle routes. As such there would be an element of pedestrians and cyclists accessing the site and the full allocation of parking would not be required. It is for this reason the Highway Authority is satisfied that they can accept a departure for this proposal. To encourage the cycling element the applicant has proposed to provide Sheffield Stands which can accommodate 18 bikes. However it is noted from the submitted site plan that these stands have not been shown. As a consequence the applicant would need to amend the drawing to show the location of the cycle parking. Finally the applicant has provided tracking diagrams to demonstrate that delivery vehicles can enter and leave the site. Having reviewed the information on Drawing 30024/500/001 the Highway Authority is satisfied that suitable turning can be achieved within the site.

### Drainage

The Highway Authority has reviewed the Flood Risk Assessment (FRA) the conclusions are considered to be acceptable although the Highway Authority would need to be consulted on the detailed surface water management strategy once it has been developed.

### Conclusion

To conclude the Highway Authority is satisfied that the proposal will not result in a significant impact on the surrounding highway network. The applicant has also provided a Travel Plan, which is considered to be broadly acceptable. This should be secured via a condition, or more preferable a legal agreement. The applicant has also proposed off site highway works in the form of a Right Hand Turn Lane. This has been subject a Safety and Technical Audit and although there are some elements that need to be addressed, the general layout is considered to be acceptable in principle. Finally in terms of the internal layout there is a shortfall in parking. However taking into account the good pedestrian and cycle links, which are in close proximity to the site, a reduction in parking could be considered to be acceptable. Although the applicant will need to amend their site plan to show the location of the proposed cycle parking.

Therefore taking into account the above information the Highway Authority raises no objection to this proposal and if the Local Planning Authority were minded to grant planning permission the Highway Authority would require the following conditions and notes to be attached.

- S106 agreement (preferably) for the Travel Plan.
- No work shall commence on the development hereby permitted until the highway works shown on Drawing No. 23162/001/001 Rev A have been submitted to and approved in writing by the Local Planning Authority. The proposed highway works shall then be fully constructed in accordance with the approved plan, to an agreed specification before the development is first brought into use.
- No development shall commence unless a Construction Environmental 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 vehicles per day;
  - Car parking for contractors;
  - Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
  - A scheme to encourage the use of Public Transport amongst contractors; and
  - Measures to avoid traffic congestion impacting upon the Strategic Road Network.
- 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 prior to occupation and thereafter maintained at all times.
- The area allocated for parking and turning on the submitted plan, shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.
- There shall be no obstruction to visibility greater than 600mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43m either side of the access. Such visibility shall be fully provided before the development hereby permitted is brought into use and shall thereafter be maintained at all times.

NOTE:

- The developer in delivering the necessary highway works associated with the development hereby permitted is required to consult with all frontages affected by said highway works as part of the delivery process. This should be undertaken as soon as reasonably practicable after the grant of planning consent and prior to the commencement of said highway works, especially if the design has evolved through the technical approval process. This is not the responsibility of the Highway Authority.
- The developer should note that the works on or adjacent to the existing highway will need to be undertaken as part of a formal legal agreement with Somerset County

Council. This should be commenced as soon as practicably possible, and the developer should contact Somerset County Council for information on Tel. 0300 123 2224.

### ***Environment Agency***

We have no objection to the proposed development subject to the following conditions and informatives being included in any planning permission granted.

#### Flood Risk

We note that the application is supported by a Flood Risk Assessment dated December 2014 by RPS Group. We are satisfied with the Flood Risk Assessment and that it accords with the National Planning Policy Statement.

The development must be undertaken in accordance with the mitigation

You must ensure that your Authority is satisfied with the Sequential Test position put forward by the applicant.

#### Surface Water

You should speak to the Local Authority Technical Services / Internal Drainage Board Engineers regarding this matter and seek their agreement to the surface water attenuation volume and proposed discharge rate.

### ADVICE TO LPA/APPLICANT

#### Flood Proofing

We recommend that consideration be given to use of flood proofing measures to reduce the impact of flooding when it occurs. Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels.

Consultation with your building control department is recommended when determining if flood proofing measures are effective.

Reference should also be made to the Department for communities and local Government publication 'Preparing for Floods' please email: [communities@twoten.com](mailto:communities@twoten.com) for a copy or alternatively go to: <http://www.planningportal.gov.uk/uploads/odpm/4000000009282.pdf> as well as the communities and local Government publication 'Improving the flood performance of new buildings' which can be viewed at:

<http://www.communities.gov.uk/publications/planningandbuilding/improvingflood>

#### Safe Access / Egress

The National Planning Policy Framework Planning Practice Guidance states that Access considerations should include the voluntary and free movement of people during a 'design flood', as well as the potential for evacuation before a more extreme flood. Access and egress must be designed to be functional for changing circumstances over the lifetime of the development.

The Council's Emergency Planners should be consulted in relation to flood emergency

response and evacuation arrangements for the site. We strongly recommend that you prepare a Flood Warning and Evacuation Plan for future occupants. We do not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users.

#### Pollution Prevention During Construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

#### Waste Management

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

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on our website <https://www.gov.uk/how-to-classify-different-types-of-waste>

#### ***Environmental Health Team***

No observations.

#### ***Environmental Health Officer (KL)***

No observations.

#### ***SCC - Ecologist***

The application has been submitted with an Ecological Appraisal by Devon Wildlife Consultants dated October 2014. This Appraisal identifies the application site as comprising amenity grassland with low ecological value. The site is on the edge of Dunster Marsh County Wildlife Site but it is separated from the CWS by a busy road and I do not anticipate that the non-statutory CWS will be adversely affected by the proposed development. The Lighting Statement that has been submitted with the application does not suggest to me that there will be significant light spill into the CWS.

The Appraisal has identified a low risk that nesting birds might be affected by the proposed development if trees and hedgerows are removed during the nesting season. For this reason I recommend a condition be imposed requiring that either this vegetation is removed outside of the nesting season or, if this is not possible, it is removed under the supervision of an ecologist. An informative note should be added to any planning certificate issued drawing the developers' attention to the legal protection afforded to nesting birds.

I hope these comments are of help to you in determining the application. Please do not hesitate to contact me if I can be of further assistance with respect to this case.

**Rights of Way Protection Officer**

No comments received.

**Landscape Officer**

The existing trees on this site are all relatively young and, although establishing well, are not of high enough amenity value at this stage to merit a TPO or to hinder the principle of development on this land. If some of the trees can be incorporated into the design, so much the better, particularly the maple in the northern corner (as indicated on the architect's plan) and the oak near the south east boundary. There ought to be some tree planting as part of the scheme to replace those lost and to improve the development aesthetically, even at the expense of some car-parking spaces if necessary. Any retained trees should be protected to BS5837 (2012) and details of any proposed encroachment on the Root Protection Areas provided.

**Somerset County Council - flooding & drainage**

We have no objection to the application but we recommend the following conditions are included on any permission granted

Surface Water / Sustainable Drainage Systems (SuDS)

Surface water run-off should be controlled as near to its source as possible with sustainable drainage systems (SuDS). This reduces flood risk through the use of soakaways, infiltration trenches, permeable pavements, grassed swales, ponds etc. SuDS can also increase groundwater recharge, improve water quality and provide amenity opportunities. A SuDS approach is encouraged by Approved Document Part H of the Building Regulations 2000. However the level of the groundwater table is likely to preclude the use of infiltration techniques on this site. The applicant does not confirm how the surface water from the site will be disposed of, whether through connection to a surface water sewer or ordinary watercourse. Wessex Water and the Parrett Internal Board should be consulted and their approval sought once the applicant has a preferred method of disposal.

CONDITION

No development shall commence until a surface water drainage scheme for the site, based on the Flood Risk Assessment reference RCEF32723-006 R dated December 2014 prepared by RPS, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

REASON

To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

The failure to maintain surface water drainage schemes could result in increased flood risk to the development and elsewhere and we would recommend the following condition.

CONDITION

No development approved by this permission shall be occupied or brought into use until a scheme for the future responsibility and maintenance of the surface water drainage system

has been submitted to and approved by the Local Planning Authority. The approved drainage works shall be completed and maintained in accordance with the details and timetable agreed.

## REASON

To ensure adequate maintenance and therefore better working and longer lifetime of surface water drainage schemes.

### *Public Consultation*

The Local Planning Authority has received 21 letters of objection/support making the following comments (summarised):

#### Comments in favour.

- The town should not be dictated to by Morrison's who claim they are going to leave if Lidl's come
- Minehead should welcome Lidl's

#### Comments against.

- We do not need another supermarket in Minehead. A B&Q or Homebase would be preferable
- The proposal to construct a right hand lane after the Vulcan Road roundabout towards the A39 is unsatisfactory and a cheap option Exit from the store will be dangerous for motorists and delivery vehicles turning right and within such a short stretch of the highway to Stephenson Road. Perhaps a mini roundabout might be a better option.
- When approval was given to Aquasplash and the subsequent coach park, access was only permitted from Brereton Road.
- There should be a minimum of 12 disabled spaces.
- No provision has been made for those wishing to walk to the store. There should be a footpath alongside the store from Hawksworth Road to Vulcan Road so as to have a continuous path from Alcombe to the seafront.
- The assessments provided are not robust, and, as such mean that the applicant has failed to demonstrate compliance with current retail planning policy. On this basis we conclude that the current application should not be approved.
- Our concern relates to the catchment area used in the study. It is suggested that it would comprise of 6 zones. This is a significant over-statement, given the size of store proposed and consider that a more appropriate assessment would be one based on the 3 zones that cover the Minehead and Alcombe area. It is certainly not appropriate to include Zones 7 (TA23 0) and 8 (TA4 4), which should look to the second tier centres of Williton and Watchet, if the aim of development is to improve sustainability and reduce the need to travel, in line with Council and national objectives.
- We question the reliability of the assessment of current shopping patterns and the subsequent impact analysis, given that it is based on a 2011 household survey. This was undertaken very shortly after the opening of the Morrisons store in Minehead, and, as a consequence, we consider the survey under-records the use of this store. A new household survey needs to be undertaken, if the retail assessment accompanying this application is to be robust.
- The applicant states that there is a qualitative need for the proposed store and that residents wishing to shop at a Lidl currently have to travel further afield to meet their shopping needs. We question the evidence for this claim.
- We consider that the situation in Minehead makes it extremely unlikely that shoppers at a Lidl would generate any measurable spin-off trade for existing outlets in Minehead

town centre. Indeed, the combination of two large stores operated by national retailers (Tesco and Morrisons) and a Lidl in close proximity, does, in our view, make it less likely that shoppers to any of these stores would link a food shopping trip to one of these outlets with a trip to the town centre. On this basis, very little weight can be given to any of the statements suggesting that the proposed Lidl will encourage linked trips to the town centre outlets or benefit these traders, as there is no evidence to support these claims.

- We consider that the impact analysis is flawed and cannot be relied upon to understand the effect of the proposed development on Minehead town centre.
- We consider that the potential impact on the Iceland store is under-estimated given its offer is aimed at price-conscious shoppers.
- We consider that the sequential site assessment provided by DPP, is incomplete, in that it only includes a consideration of sites within Minehead. If the proposed store is expected to serve a trade area extending to Watchet and Williton then it would be appropriate to also consider the availability of sequentially preferable in and edge of centre sites in these two second tier centres. There is clearly a sequentially preferable site available for a similar scale of supermarket development within Williton, namely the Gliddon's site at Bank Street.
- We disagree with the conclusion of the retail assessment as we do not consider that it has been based on a robust analysis of the available sites. In particular the Metropole Garage, occupies a town centre site with an adjoining car park and potentially further buildings including ambulance hall and social club.
- The proposed store is well in excess of the average sized Lidl store. It is common knowledge that Lidl's existing stock is very comparable throughout the UK in terms of store sizes and therefore there is limited justification for a store some 37% larger than the average.
- At the very least should the Council be minded to grant planning permission, it is considered that the net retail floorspace should be restricted by condition referencing the given floorspace and any other sales areas.
- A more centrally located site also offers further scope to reduce car parking numbers by virtue of good public transport access and use of other town centre car parking locations.
- There is not any quantitative need for the store being proposed and certainly not a quantitative need for the store size being proposed.
- The overall impact of the trade diversion, bearing in mind the trading performance (below benchmark) of the existing Co-Operative Group store, in conjunction with the optimistic growth as projected for Lidl's will place the Co-op store into a loss-making position, potentially with the inevitable consequence. Consideration of the figures for the Iceland store may demonstrate a similar concern. This would be a significant disadvantage to the town centre and would potentially result in the loss of its key current retailer.
- The potential for linked trips to the rest of the centre of shoppers undertaking main and top-up food shopping at the store will diminish, having a wider impact on the health of the town as a whole.
- The proposed site sits to the east of the town centre, sandwiched between the Tesco and Morrisons stores. This would place all three out of centre retail stores in a single location with associated transport and access implications. Llinked trips are therefore considered more likely to be between the three stores than between one of the stores and the town centre itself. This will be to the overall disadvantage to the town centre and reduce the current level of linked trips achieved by shoppers.

#### Neutral comments.

- The loss of the swimming pool is terrible for the town of Minehead
- Can we have a real swimming pool. What about the old hospital.



- Members of the Planning Committee should determine the application only on planning grounds and in accordance with planning policy and not because they are about to sell the land.

## Planning Policy Context

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that all development proposals are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for West Somerset consists of the Somerset Minerals Local Plan (adopted April 2004), Somerset Waste Core Strategy (adopted February 2013) and the West Somerset District Local Plan (adopted April 2006). West Somerset is in the process of developing the emerging Local Plan to 2032, which will replace the strategy and some of the policies within the adopted Local Plan. The emerging Local Plan is at an early stage of production process. It will go to the Publication stage in early 2015 when the contents will acquire some additional weight as a material consideration. Until that stage is reached, policies within the emerging Local Plan can therefore only be afforded limited weight as a material consideration.

The following Policies are considered relevant to this application:

- NC/3 Sites of Local Nature Conservation and Geological Interest
- 1 Nature Conservation
- 61 Development in Areas Liable to Marine Flooding
- W/6 Flood Plains
- SH/3 Retail Development Outside of Minehead Town Centre
- SH/1 Retail Development in Minehead Town Centre
- SH/2 Type of Retail Use in Minehead Prime Shopping Area

## National Policy

The National Planning Policy Framework (March 2012) is a material planning consideration.

National Planning Policy Framework (the NPPF)

Technical Guidance to the National Planning Policy Framework (the NPPG)

## Local Policy

West Somerset Local Plan (2006)

West Somerset Local Plan to 2032 Published version (February 2015)

West Somerset Planning Obligations Supplementary Planning Document (2009)

Somerset County Council Parking Strategy (2013)

## Planning History

The following planning history is relevant to this application:

3/21/10/038	Change of use of land to a temporary coach park (expiring Oct 2011)	Granted	29/04/2010
3/21/94/188	One illuminated and one non-illuminated sign	Granted	13/10/094
3/21/91/074	Erection of a leisure pool including health suite, fitness and spectators facilities.	Granted	April 1991
3/21/88/343	Change of use from agricultural to industrial	Granted	Dec 1988

development

## **Proposal**

The application proposes the erection of a new foodstore (2,264 sq. m. gross; 1,407 sq. m. net), together with associated car parking, servicing and landscaping. The store will be occupied by Lidl. The scheme provides for 100 car parking spaces, including 6 disabled parking spaces. A service area is located on the southern side of the building, whilst car parking is located to the north and east. Both vehicular and pedestrian access/egress to the site is proposed from Seaward Way. The site is relatively level but the new store floor level will be raised as required to meet flood risk requirements. A small retaining structure will be included on the Seaward Way site boundary to help achieve this requirement and maintain a maximum gradient across the site of 2%.

## **Site Description**

The application site is located along the western side of Seaward Way, approximately 750m south-east of Minehead town centre. The site extends approximately 0.76 hectares, with a principal frontage to Seaward Way. It has an area of 1.08 hectares and previously accommodated a leisure centre which was cleared in 2008. As the site has accommodated development previously, it is classed as 'brownfield land'. It currently comprises a mix of cleared hard-standing and grassed areas. An electricity substation is also located along the north-eastern boundary of the site. The land is bounded by a Morrison's foodstore and McDonald's Restaurant to the north, industrial and business units to the west and a Tesco foodstore to the south. The site's eastern boundary is formed by Seaward Way, beyond which lies vacant grassland which forms part of a County Wildlife Site.

## **Planning Analysis**

There are a number of key areas under which this application needs to be assessed,

### Planning policy

At a national level, the relevant policy guidance is given in the National Planning Policy Framework (NPPF). In section 2 on 'the vitality of town centres', paragraph 24 makes clear that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. It also states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. This clearly fits in with the underlying premise within the NPPF that there is a presumption in favour of sustainable development, because town centre sites which are often well served by public transport and usually have a good range of services all accessible in easy walking distance of one another are clearly sustainable sites for retail development, whereas those further out from the town centre tend to be less sustainable.

Given that the site for the proposed Lidl's supermarket is not a town centre location, it is reasonable to consider the application against paragraph 26 of the NPPF which discusses the need for an impact assessment. Such a document has been produced as part of the

submission. It concludes that there are no sequentially preferable sites that are available and suitable to accommodate the application proposal and that in these circumstances, planning policy allows for the consideration of less centrally located sites. The Impact Assessment also argues that the key impact test embodied in the Development Plan and the NPPF is not whether an 'economic development' such as a Lidl store would be likely to divert trade from an existing centre but, rather, whether such trade diversion would have a significant adverse effect by seriously undermining any planned in-centre development and a centre's overall vitality and viability. The submitted assessment concludes that no such harm to Minehead town centre as a whole, or indeed, any other centre, will arise in this case and so the development proposed by Lidl does satisfy the relevant retail impact policy tests. Whether or not this is the case gets to the very heart of the main consideration of this application and will be looked at in more detail in the following sections. Basically, if it can be proven beyond reasonable doubt that there are no sequentially preferable sites available and that there would be no significant impact on the defined town centre of Minehead, then the proposal can be said to be compliant with the policies of the NPPF. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on the town centre (as defined) then paragraph 27 of the NPPF is quite clear that it should be refused.

At a more local level, the relevant policy guidance comes from the Adopted West Somerset District Local Plan (April 2006). The most relevant policy in the adopted Local Plan is SH/3 (Retail development outside of Minehead Town Centre). Although the local plan is now in the process of being updated and is currently at publication draft stage, it is not intended to replace policy SH/3 as the requirements of SH/3 are very much in accordance with the more up to date NPPF and are seen to be in compliance. For this reason, the original policy would still carry weight. SH/3 states that The Local Planning Authority will not permit proposals for retail development (including wholesale, retail, trade, 'cash and carry' and 'club warehouses') outside Minehead Town Centre, as defined on the Proposals Map, unless it can be satisfactorily demonstrated that:

- (i) All potential town centre options have been thoroughly assessed;
- (ii) Sites on the edge of the town centre have been assessed before out of town centre sites;
- (iii) Provision can be made for access, servicing and parking and the site is in a location where a choice of means of transport (including public transport) is available; and
- (iv) the proposal, by its nature and scale, will not adversely affect the viability and vitality of Minehead Town Centre or the shopping centres of Watchet or Williton.

Again, whether or not the proposal meets the tests imposed by Local Plan policy SH/3 is a matter to be determined by the Retail Impact Assessment (RIA). Whilst the submitted RIA concludes that these tests have been satisfied, there is evidence from other third party retailers that maintains to the contrary. For this reason, the LPA has sought independent retail analysis and the results of this will be reviewed in the following sections.

#### The Sequential Test.

As the proposed development is located out of the town centre and the Prime Shopping Area as defined on the Minehead Town Centre inset plan and by policies SH/1, SH/2 and SH/3, in retail policy terms, it is necessary to demonstrate that there are no suitable, available and viable sequentially preferable sites that could accommodate the proposed development. The applicant has undertaken such an assessment as part of the submission. The 'Retail Assessment' states that there are no premises or sites identified in its sequential search that are suitable, available and viable to accommodate the application proposal, even when demonstrating a reasonable degree of flexibility in the format and size of the proposed development. Furthermore, it states that there are no retail allocations in sequentially preferable locations that might otherwise accommodate the application

proposal. The assessment demonstrates that there are no sequentially preferable in-centre options that are available or suitable and therefore it concludes that local and national planning policy permits the consideration of sites such as that at Seaward Way.

The submitted retail assessment and the evidence underpinning its conclusions has been challenged by retail competitors who argue to the contrary based on their own research and understandings. For this reason, the Council has commissioned its own independent retail assessment to review all of the submitted evidence and give considered and impartial advice on the Sequential approach. The independent consultant has made the following comments. In relation to the sequential test, it is considered that the majority of the alternative sites in and around Minehead town centre can be dismissed on the grounds of suitability. The one site where there are some outstanding issues to resolve is the Metropole Garage site and surrounding area. If sufficient land can be made available, this area is potentially large enough to accommodate the proposed foodstore development although at the present time there is not sufficient information regarding the availability of the different parts of the site. The applicant has been asked to demonstrate that sufficient parts of this area are not available, and if this can be done then this site can also be dismissed from the sequential test exercise, leading to a situation where none of the alternative sites can be considered to be suitable, available and viable alternatives to the application site. The applicant has since submitted clear and verifiable evidence, agreed by the independent consultant to demonstrate that the Metropole Garage site and surrounding properties and land does not represent a sequentially preferable site.

In reaching this conclusion the consultant has taken into account his view that the applicant has not yet been able to demonstrate that it has been flexible in terms of scale and format. Although even when smaller store and site sizes have been considered, the alternative sites can be dismissed (including now the Metropole Garage site).

#### Impact on Minehead Town Centre

Paragraph 26 of the NPPF states that when assessing applications for retail development outside of town centres, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq. m.). This should include assessment of:

- (i) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- (ii) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. Paragraph 27 clearly states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

The applicant has submitted a retail statement that looks at this issue. It reasons that the overall level of estimated trade diversion from Minehead town centre would be likely to total £0.53 million, representing a percentage impact of only 1.1%. It argues that this would be no basis for any concern in terms of the NPPF retail impact test and very much smaller than the overall impact of the previously consented Morrison's store which was estimated at the time to total 5.5%. From this, the assessment concludes that the town centre as a whole will not be subject to a "significant adverse effect" and, as such, the "presumption in favour" embodied in the NPPF should be upheld and consent granted accordingly.

The assessment also adds that in Minehead town centre, the service sector accounts for 35.3% of the total number of retail/service uses. Therefore on this issue it concludes that this comparatively well represented sector is positively contributing to the centre's vitality

and viability and Minehead town centre's role and attraction is greater than that associated solely with its convenience/comparison sectors.

With regard to linked shopping trips and associated spin-off economic benefits, the assessment makes the case that approximately half of all main food shoppers using the Tesco and Morrison's stores also link shop with the town centre. The report makes the case that the vast majority of the proposed Lidl's turnover is likely to be derived from these two stores. Notwithstanding, both stores, particularly Tesco, are estimated to continue trading above their respective "benchmark" levels and, as such, neither store's sustained viability will be affected by the estimated trade diversion to the new Lidl store. Such economic competition is not in any event a planning consideration in the absence of policy guidance protecting the two existing stores. Given the similar location of the proposed Lidl store relative to the town centre, the report concludes that there is no basis for any concern that shoppers switching from either Tesco or Morrison's to the new Lidl store would be less likely to undertake a linked shopping trip.

Finally, the retail assessment looks at other nearby locations, namely Alcombe, Watchet and Williton, and concludes that a major part of their role is in serving comparatively localised catchments. It also states that shoppers use stores at these locations notwithstanding the presence of the Tesco and Morrison's stores at Minehead. On this basis, the assessment does not anticipate a major switch in shopping patterns across the district as a consequence of shoppers deciding to shop in Minehead at the new Lidl store.

As with the sequential testing, the Council has received correspondence from rival retailers indicating that the conclusions on the likely impact upon Minehead town centre should be treated with caution. The independent retail assessment commissioned by the Council has reviewed all of the submitted evidence and given considered and impartial advice on this issue. In relation to the impact on Minehead town centre, it is the view of the consultant that the proposed Lidl foodstore would have an adverse impact Minehead town centre. However, this adverse impact is likely to be concentrated upon the convenience goods sector, given the primary function of the proposed store and recent wider trends following the opening of the Morrison's store, although there is the potential for wider impacts given the contribution that foodstores make to the overall attractiveness of the centre and via linked trips. However, whilst there is likely to be an adverse impact upon the centre, paragraph 27 of the NPPF asks local planning authorities to consider whether there is significant adverse harm. On this issue, and having considered all factors in detail, the consultant does not consider that a significant adverse impact will result from the proposed Lidl store. However, this is his view based upon the information to hand and he makes clear that the Council, as decision maker, will need to reach the final judgement on this issue taking into account any other issues which are material to the wider assessment of town centre impact.

#### *Character and Appearance of the Area*

The application site, which comprises vacant brownfield land, is currently cleared, having last been used as a swimming pool some years ago. Its current empty state clearly adversely affects the area's environmental quality, and whilst this is not in itself a reason to allow development, the beneficial and appropriate use of the land could improve the townscape on this important route into Minehead and its seafront area, enhancing the overall character and appearance of this prominent brownfield site.

The Lidl's proposal is typical of the stores corporate design, incorporating a modern building with landscaping. The proposed building is single storey, rectangular in shape with a mono-pitched roof with the highest face facing the parking area and the lowest adjacent to the western site boundary. The main entrance to the store is in the north east corner of the building with a glazed facade to Vulcan Road creating an active frontage which then wraps

around a small part of the corner of the eastern elevation facing Seaward Way.

Apart from the glazed entrance feature in the corner of the building, there are some openings (doors and high level windows) on the eastern elevation facing Seaward Way, but the bulk of this elevation is currently proposed as a blank wall. It is felt that this arrangement could be improved visually, and negotiations have been undertaken with the applicant to improve the architectural treatment of this important visible facade. It is now known that the applicant is prepared to place false windows in this elevation in a similar fashion to those recently approved at the new store (as yet unbuilt) in Castle Street, Taunton. This is considered to be an acceptable solution for the Seaward Way elevation.

The service access is on the southern side of the building where the elevation is entirely blank except for a louvred access to a plant room. As this elevation is adjacent to industrial and other commercial uses at the end of a cul-de-sac without such high public visibility, it is not felt that there is a need to negotiate architectural improvements to this facade. The building is shown clad with Alucobond aluminium cladding arranged in bays over the glazing line with rendered walls below which include a grey rendered plinth. The external walls are shown consisting of all-through colour render with contrasting coloured plinth. Below eaves level, the external cladding changes to silver grey Alucobond panels, laid horizontally. The glazing frames and entrance screens will be finished in grey colour coated aluminium with external doors finished in grey.

Pedestrian access to the site is provided via a footpath directly off Seaward Way or from a dedicated footpath with crossings through the car park to the other shopping areas.

There is no overwhelming local vernacular and the nearest similar use is the modern Tesco store immediately opposite. The height of the scheme is around 8m and it is considered that this reflects the scale of the Tesco store opposite.

#### Flood risk and drainage

The site lies within an allocation for a mixed use as identified in the Local Plan and as such has been considered in terms of the Strategic Flood Risk Assessment. As a consequence the development does not require a Sequential Test. A Flood Risk Assessment has been submitted with the application which identifies the proposal to be within an area of flood risk but the proposed use is a less vulnerable one. In order to address the risk, the finished floor level of the building is recommended to be set at 7.15 metres AOD approximately 950 mm above the extreme modelled 1 in 200 year overtopping flood level. It is recommended that a flood management plan should be prepared for this site.

The Environment Agency has commented that they have no objections to the proposed development, but they do helpfully suggest conditions that should be attached to any approval.

#### Access

Vehicular access to the site is proposed from Seaward Way. A total of 100 car parking spaces are provided including 6 designated disabled and 4 parent and child spaces. Access for delivery vehicles is via the same access road as customers - a dedicated loading bay is provided on the northern side of the store and the car parking has been arranged to ensure that the delivery vehicles can manoeuvre into the delivery bay without crossing car parking spaces.

The application is submitted with a full Transport Assessment and a Travel Plan. The Assessment concludes that -

- The proposal is compliant with all transport related policies at a national and local level;

- Based on the existing conditions on the surrounding highway network and a review of the accident history for the area, it is forecasted that the proposed development would not bring about an adverse impact on highway safety;
- A stage 1 Road Safety Audit has been undertaken on the proposed site access junction and did not identify any significant safety issues;
- The addition of the vehicle trips associated with the proposed development to the surrounding highway network will have an immaterial impact on the operation of the junctions within the study area; and
- The site is shown to be sustainable and the traffic impact is not forecasted to be severe.

The above referenced conclusions would, if accurate bring the development in-line with the NPPF on highways grounds, but the County Council as Highway Authority are yet to pass comment on the submitted data and evidence. This is clearly crucial and will be reported to Members at their meeting.

The only additional comment made by the Highway Authority is that the external parking area shown on the submitted plans needs to be amended to include cycle parking areas.

#### Wildlife and arboricultural issues

The application has been submitted with an Ecological Appraisal by Devon Wildlife Consultants dated October 2014. This Appraisal identifies the application site as comprising amenity grassland with low ecological value. The site is on the edge of Dunster Marsh County Wildlife Site but it is separated from the CWS by a busy road and the County Ecologist has stated that he does not anticipate that the non-statutory CWS will be adversely affected by the proposed development. The Lighting Statement that has been submitted with the application does not suggest that there will be significant light spill into the CWS. The County Ecologist accepts this verdict.

The Appraisal has identified a low risk that nesting birds might be affected by the proposed development if trees and hedgerows are removed during the nesting season. For this reason this reason the County Ecologist recommends a condition be imposed requiring that either this vegetation is removed outside of the nesting season or, if this is not possible, it is removed under the supervision of an ecologist. An informative note should be added to any planning certificate issued drawing the developers' attention to the legal protection afforded to nesting birds.

In respect of trees, those on site are all relatively young and, although establishing well, are not considered by the Council's arboricultural officer to be of high enough amenity value at this stage to merit a TPO or to hinder the principle of development on this land. The Arboricultural officer has asked if some of the trees could be incorporated into the design, particularly the maple in the northern corner (as indicated on the architect's plan) and the oak near the south east boundary. This can be sought by means of an appropriately worded condition, as can tree planting to replace those lost and to improve the development aesthetically. Any retained trees should be protected to BS5837 (2012) and details of any proposed encroachment on the Root Protection Areas provided. Again this is a matter for condition.

#### Other issues

The Council currently has a CCTV camera on the site. The Applicant/Developer is currently negotiating with the Council (acting as landowner) on the relocation of the existing CCTV mast. The Applicant has shown a willingness to co-operate in this matter, given that Lidl's do not want the CCTV camera and mast on the land if planning permission were to be granted. It is clear that any relocation of the mast is not a planning matter and should not therefore influence the decision making process in respect of the current planning

application. Any relocation and financial contribution towards it would need to be agreed between the Council as current landowner and Lidl's.

### Environmental Impact Assessment

This development does fall within the scope of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 and so the development has been screened appropriately. The screening opinion is that the proposal is not EIA development and so Environmental Impact Assessment is not required.

### Conclusions and recommendation.

Subject to the views of the Lead Local Flood Authority at Somerset County Council and subject to revised plans showing the provision of acceptable cycle parking facilities, the proposal is recommended for conditional approval.

### **Planning Permission is subject to the following conditions:**

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

Reason: As required by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the approved drawings: Drawing Numbers: 1470/03; 1470/04; 1470/05 and 1470/06 rev B submitted on 20 January 2015.

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

- 3 No works shall be undertaken on site unless a hard and soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences and other boundary treatment and finished ground levels; a planting specification to include [numbers, density, size, species and positions of all new trees and shrubs] [positions, species and size of all new trees and the located of grassed areas and areas for shrub planting]; details of the hard surface treatment of the open parts of the site; and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development having regard to the provisions of Saved Policies BD/1 and BD/2 of the West Somerset District Local Plan (2006).

- 4 No works shall be undertaken on site unless samples of the materials to be used in the construction of the external surfaces of the works hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

Reason: To safeguard the character and appearance of the building having regard to the provisions of Saved Policy LB/1 of the West Somerset District Local Plan (2006).



- 5 Unless otherwise first agreed in writing by the Local Planning Authority the finished floor levels shall be constructed in accordance with the approved details given in the submitted Flood Risk Assessment (ref: RCEF32723-006 R) hereby approved.

Reason: To minimise the impact of flooding having regard to the provisions of Policy W/6 of the West Somerset District Local Plan (2006).

- 6 The development hereby approved shall not be occupied or the use commenced until provision has been made within the site in accordance with the approved plan for the parking of customer's vehicles and the loading/unloading of service vehicles, and such areas shall not thereafter be used for any purpose other than the parking and loading/unloading of vehicles associated with the development.

Reason: To ensure that sufficient provision is made for off-street parking, turning, loading and unloading of vehicles in the interests of highway safety having regard to the provisions of Policies T/3 and T/7 of the West Somerset District Local Plan (2006).

- 7 No works shall be undertaken on site unless details of any external lighting to be erected, placed or operated on the site shall have been first submitted to and approved in writing by the Local Planning Authority. The work shall thereafter be carried out in accordance with the approved details and under no circumstances shall external illumination be operated on the site other than in accordance with the approved scheme.

Reason: To safeguard the character and appearance of the building having regard to the provisions of Saved Policy BD/2 of the West Somerset District Local Plan (2006).

- 8 The mitigation measures identified in the Ecological Appraisal submitted by Devon Wildlife Consultants (Report no: 14/2641) and dated October 2014, shall be incorporated into the development in accordance with the schedule of implementation identified, and subsequently retained.

Reason: To ensure that suitable mitigation measures are incorporated into the development to minimise the impact on species protected by law having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006).

- 9 The net retail sales area of the proposed new neighbourhood foodstore shall not exceed 1,407 sq. m. unless planning permission has first been granted for such an increase.

Reason: 1,407 sq. m. is the figure proposed by this application and it is considered that this level is acceptable in the context of the 'out of town' location of the site without having any significant adverse impact on the town centre. As such the proposal is in accordance with policy SH/3 of the adopted West Somerset District Local Plan and the emerging draft local plan. Any proposal to increase the net retail sales area would be a separate matter that would need to be considered on its own merits in relation to the relevant policy considerations and potential impact upon the town centre.

- 10 The amount of total comparison goods for sale at any one time in the neighbourhood foodstore hereby approved shall not exceed 20% of the total sales for the shop and the amount of total convenience goods for sale shall be a minimum of 80% at any one time.

Reason: This 80/20 split is considered to be acceptable in the context of the 'out of town' location of the site without having any significant adverse impact on the town centre. As such the proposal is in accordance with policy SH/3 of the adopted West Somerset District Local Plan and the emerging draft local plan. Any proposal to increase the amount of comparison goods sold at any one time would therefore need to be a separate matter that would be considered on its own merits in relation to the relevant policy considerations and potential impact upon the town centre.

- 11 The A1 outlet hereby approved shall operate only as a discount foodstore and shall not be used for any other purpose, including any other purpose in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reason: The operation of a discount foodstore is considered to be acceptable in the context of the 'out of town' location of the site without having any significant adverse impact on the town centre. This has been the applicant's key guiding principle in its analysis of both the sequential test and retail impact matters. As such the proposal is in accordance with policy SH/3 of the adopted West Somerset District Local Plan and the emerging draft local plan. Any proposal to increase the amount of comparison goods sold at any one time would therefore need to be a separate matter that would be considered on its own merits in relation to the relevant policy considerations and potential impact upon the town centre.

- 12 No work shall commence on the development hereby permitted until the highway works shown on Drawing No. 23162/001/001 Rev A have been submitted to and approved in writing by the Local Planning Authority. The proposed highway works shall then be fully constructed in accordance with the approved plan, to an agreed specification before the development is first brought into use.

Reason: In the interests of highway safety and to ensure accordance with policy DM1 of the adopted Core Strategy.

- 13 No development shall commence unless a Construction Environmental 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 vehicles per day;
  - Car parking for contractors;
  - Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
  - A scheme to encourage the use of Public Transport amongst contractors; and
  - Measures to avoid traffic congestion impacting upon the Strategic Road Network.

Reason: In the interests of highway safety and to ensure accordance with policy DM1 of the adopted Core Strategy.

- 14 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 prior to occupation and thereafter maintained at all times.

Reason: In the interests of highway safety and to ensure accordance with policy DM1 of the adopted Core Strategy.

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

Reason: In the interests of highway safety and to ensure accordance with policy DM1 of the adopted Core Strategy.

- 16 There shall be no obstruction to visibility greater than 600mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43m either side of the access. Such visibility shall be fully provided before the development hereby permitted is brought into use and shall thereafter be maintained at all times.

Reason: In the interests of highway safety and to ensure accordance with policy DM1 of the adopted Core Strategy.

- 17 Prior to the commencement of the development, a Travel Plan is to be submitted to and approved in writing by the Local Planning Authority. Such Travel Plan should include soft and hard measures to promote sustainable travel as well as targets and safeguards by which to measure the success of the plan. There should be a timetable for implementation of the measures and for the monitoring of travel habits. The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should continue to be implemented as long as any part of the development is occupied.

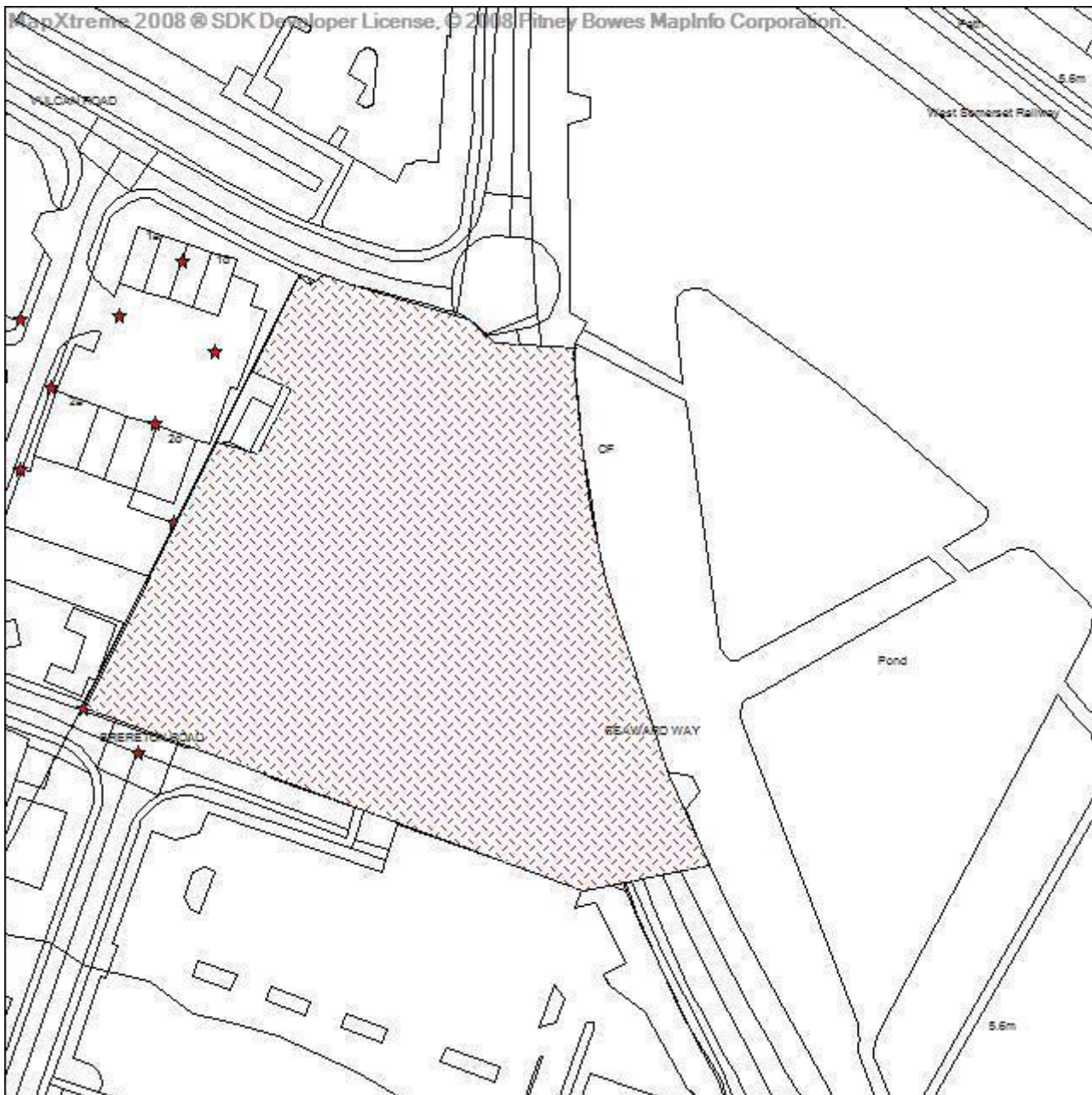
Reason: In the interests of highway safety and to ensure accordance with policy DM1 of the adopted Core Strategy.

## Notes

- 1 The applicant is hereby notified that the Environment agency recommends consideration be given to use of flood proofing measures to reduce the impact of flooding when it occurs. These would include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. Consultation with the local building control department is recommended when determining if flood proofing measures are effective. Reference should also be made to the Department for communities and local Government publication 'Preparing for Floods'. This is available by email: [communities@twoten.com](mailto:communities@twoten.com) for a copy or alternatively go to: <http://www.planningportal.gov.uk/uploads/odpm/4000000009282.pdf> as well as the communities and local Government publication 'Improving the flood performance of new buildings' which can be viewed at:

<http://www.communities.gov.uk/publications/planningandbuilding/improvingflood> It is also strongly recommended that the applicant prepares a Flood Warning and Evacuation Plan for future occupants.

- 2 Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. It is recommended that the applicant refers to the Pollution Prevention Guidelines compiled by the Environment Agency, which can be found at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>
- 3 The developer in delivering the necessary highway works associated with the development hereby permitted is required to consult with all frontages affected by said highway works as part of the delivery process. This should be undertaken as soon as reasonably practicable after the grant of planning consent and prior to the commencement of said highway works, especially if the design has evolved through the technical approval process. This is not the responsibility of the Highway Authority.
- 4 The developer should note that the works on or adjacent to the existing highway will need to be undertaken as part of a formal legal agreement with Somerset County Council. This should be commenced as soon as practicably possible, and the developer should contact Somerset County Council for information on Tel. 0300 123 2224.



Application No 3/21/15/005  
 Erection of a new neighbourhood  
 foodstore and associated car  
 parking  
 Former Aquasplash Site,  
 Seaward Way, Minehead, TA24  
 5BY

20 January 2015  
 Planning Manager  
 West Somerset Council  
 West Somerset House  
 Killick Way  
 Williton TA4 4QA  
 West Somerset Council  
 Licence Number: 100023932



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Scale: 1:1250



<b>Application No:</b>	<a href="#">3/21/15/034</a>
<b>Parish</b>	Minehead
<b>Application Type</b>	Full Planning Permission
<b>Case Officer:</b>	Bryn Kitching
<b>Grid Ref</b>	
<b>Applicant</b>	Strongvox Homes
<b>Proposal</b>	Proposed residential development of eight semi-detached dwellings (plots 23, 23A, 24, 24A, 25, 25A, 26 & 26A) and nine affordable flats (plots 5 to 12A) together with vehicular parking, access and associated infrastructure (resubmission of 3/21/14/086)
<b>Location</b>	Land at Ellicombe Meadow, Minehead
<b>Reason for referral to Committee</b>	<b>The application is considered to be controversial and of significant public concern</b>

### Risk Assessment

Description	Likelihood	Impact	Overall
Risk: Planning permission is refused for reason which could not be reasonably substantiated at appeal or approved for reasons which are not reasonable	2	3	6
Mitigation: Clear advice from Planning Officers and Legal advisor during the Committee meeting	1	3	3

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

### Site Location:

Land at Ellicombe Meadow, Minehead

### Description of development:

Proposed residential development of eight semi-detached dwellings (plots 23, 23A, 24, 24A, 25, 25A, 26 & 26A) and nine affordable flats (plots 5 to 12A) together with vehicular parking, access and associated infrastructure (resubmission of 3/21/14/086)

### Consultations and Representations:

The Local Planning Authority has received the following representations:

#### ***Somerset Drainage Board Consortium***

The site is located outside of the Parrett Internal Drainage Board area however any surface water run-off generated will discharge into the Board's area, within which it has jurisdiction and powers over matters relating to Ordinary Watercourses. The Board's responsibilities require it to ensure flood risk and surface water drainage are managed effectively.

The Board expected a site specific Flood Risk Assessment (FRA) would have been produced to agree a robust, sustainable surface water drainage disposal strategy to serve the proposals. The Board would encourage the developer to propose a sustainable surface water design for submission to the Local Planning Authority. The design should mimic or

potentially decrease the rate and volume being discharged into the receiving land drainage or sewage network. These details should provide sufficient information and alleviate concerns associated with increased flood risk to downstream landowners.

The Board would suggest that if the Committee of the Local Planning Authority are of a mind to approve the application, the condition set out below must be included:

Condition: No development should proceed until the surface water drainage and watercourse proposals have been agreed with the Local Planning Authority in conjunction with the Parrett Internal Drainage Board.

Reason: The application details have insufficient details to determine if drainage matters are to be properly addressed. It is not possible at this time to determine if the development of the site will have an adverse impact on flood risk elsewhere which is contrary to the principles set out in Section 103 of the National Planning Policy Framework and Section 2 of the Technical Guidance to the National Planning Policy Framework.

The Board objected to the original details submitted in 2013 because the surface water disposal strategy was vague.

Byelaw 3 of the Parrett Internal Drainage Boards Byelaws (made under paragraph 66 of the Land Drainage Act 1991) prohibits the introduction of any water or increase in rate into the Boards area without the consent of the Board.

The Board would expect the developer to mitigate for all the potential flood risks from the proposals on-site and also the effects on the off-site receiving watercourses, as well as considering the opportunities for improvements of flood risk downstream. The Board has not received any information or details which address the original concerns expressed about the future maintenance of the entire infrastructure downstream.

It is important that the entire infrastructure, included in the strategy to serve the development, is maintained adequately. All parties who will be responsible for the various parts of the proposed surface water drainage system must be in agreement and accept the impact of the development on those systems.

The Board would ask that the Local Planning Authority require that the surface water drainage details be agreed and that the statutory undertaker (Wessex Water) be contacted to ensure that the organisation is in agreement with the surface water strategy to be developed.

The above requirements are based on the principles set out in Section 103 of the National Planning Policy Framework and Section 2 of the Technical Guidance to the National Planning Policy Framework, which requires that the development should not increase flood risk elsewhere.

Finally, the land receives surface water land drainage overflow run-off from the land to the west and any exceedance flow must not be impeded by the development. A robust, sustainable and maintainable approach that will mitigate any impact on the receiving network must be designed.



### ***Wessex Water Authority***

I refer to your letter of 20<sup>th</sup> March inviting comments on the above proposed development and advise the following on behalf of Wessex Water as sewerage and water supply undertaker for the area in question:

Please find attached an extract from our records showing the approximate location of our apparatus within the vicinity of the site.

The site will be served by separate systems of drainage constructed to current adoptable standards please see Wessex Water's S104 adoption of new sewer guidance DEV011G for further guidance.

There is adequate current capacity within the local public foul system to accommodate the predicted foul flows only from 17 dwellings. Point of connection to be agreed which may involve crossing of third party land.

The applicant has indicated surface water will be disposed of via SuDs systems which will require the approval of your Authority. There must be no surface water connections to the existing public sewer network.

Please note the private water supply main on our records which supplies Ellicombe Manor Please note the public water supply apparatus to the south of the site. These apparatus will require appropriate protection. There is current available capacity within the existing water supply network to serve proposed development: buildings above two storeys will require on site boosted storage.

I trust that you will find the above comments of use, however, please do not hesitate to contact me if you require further information or clarification.

### ***SCC - Ecologist***

Thank you for consulting me on the re-submission of this application. In connection with this I would repeat the comments I made previously in relation to the proposals (22 December 2014): "If you are minded to approve the current application it is important that conditions are imposed that seek to protect features of ecological interest as these were identified in connection with the previous application. I would wish to see conditions imposed that were updated equivalents to the conditions imposed in relation to ecology on the existing permission, notably: 3 (landscaping scheme); 4 (planting specification for hedgerow 'gapping up'); 21 (hedgerow protection); 22 (protection of pond and wooded area); 23 (management plan for pond and wooded area); 24 (amphibian mitigation); 25 (reptile mitigation); 26 (breeding birds) and 27 (badgers)."

### ***SCC - Archaeology***

We are happy that the archaeological issues connected with this site have already been fully addressed.

As far as we are aware there are therefore limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.

### ***Highways Development Control***

comments awaited

### ***Planning at Exmoor National Park***

The proposal is to increase the height of the roofs on a housing development at the edge of Ellicombe. The site lies at the edge of the Exmoor National Park on land theoretical visibility from within the National Park and the public highways that connect with National Park including ; Combeland Lane, Ellicombe Lane and the PROW that leads to and from Valley View.

The Authority is concerned that the height of the units at the southern end of the site – as shown on the applicants plans, are over tall for the situation and that they are likely to have an adverse effect the character of the Ellicombe/ Minehead settlement boundary, as it abuts the National Park. Also, that the hedge alongside Combeland lane is unlikely to adequately screen the higher roofs.

#### Effects on views from the Exmoor National Park / routes into and out of Exmoor National Park.

The applicant claims that the hedgerow alongside Combeland Lane will adequately screen the roofs of the properties from view. The Authority is however concerned that it is difficult to ensure this for the following reasons;

- If the hedge is failed, to match the hedge further down Combeland Lane – which is the most appropriate treatment to conserve character – it is likely that the roofs of the properties will be visible above the hedge for much of the year.
- If the hedge is permitted to grow taller, it is likely to become gappy at the base and allow views through to the site. Also, the hedge is mainly elm. If it is allowed to grow tall it is likely to succumb Dutch elm disease and die.
- It is difficult to ensure that the hedge will remains in place – domestic hedgerows are not protected by the hedgerow regulations. It is difficult to protect a hedgerow otherwise – TPOs are not appropriate.

#### Effect on character

Whether the higher roofs are seen or not, the Authority is concerned that properties with higher rooflines are likely to weaken Ellicombe's "settlement edge" character. Housing at the edge of towns and villages tends to diminish in size and peter out; it becomes less dense, more spaced out with a large curtilage and buildings are often lower in height. The proposed changes to the heights of the roofs result in a development that does not follow this pattern but does the opposite, with lower height properties close to the urban centre and taller height properties at the settlement edge. The result is an abrupt edge to the settlement that would be out of character and likely to have an adverse effect, particularly as it abuts Exmoor National Park.

#### ***Minehead Town Council***

/whilst it appears they have dealt with the visual impact on the Exmoor National Park, the overall change to property density is still a cause of concern

#### ***Dunster Parish Council***

Dunster Parish Council support the application but do not wish to see a block of 3 storey flats. 2 storeys should be sufficient.

#### ***Wales & West Utilities***

Wales & West Utilities have no objections to these proposals, however our apparatus may

be at risk during construction works and should the planning application be approved then we require the promoter of these works to contact us to discuss our requirements in detail. Should diversion works be required these will be fully chargeable.

#### *Public Consultation*

The Local Planning Authority has received 5 letters of objection/support making the following comments (summarised):

- 3-storey town houses are no in keeping with the location.
- Only bungalows should be allowed next to Combeland Road.
- The original application would never have been passed if it were for three storey houses.
- Increase in traffic (both construction and on completion of the development).
- Increase in density.
- Construction traffic is already causing problems in the estate.
- The changes are not in character with the rest of the new development.
- The increase in the height of the dwellings is significant.
- The proposed extra landscaping will make no difference to the long views towards the hills.
- It will further detract from the view of the National Park
- Overlooking from the additional windows in the block of flats.

#### **Planning Policy Context**

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that all development proposals are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for West Somerset consists of the Somerset Minerals Local Plan (adopted April 2004), Somerset Waste Core Strategy (adopted February 2013) and the West Somerset District Local Plan (adopted April 2006). West Somerset is in the process of developing the emerging Local Plan to 2032, which will replace the strategy and some of the policies within the adopted Local Plan. The emerging Local Plan is at an early stage of production process. It will go to the Publication stage in early 2015 when the contents will acquire some additional weight as a material consideration. Until that stage is reached, policies within the emerging Local Plan can therefore only be afforded limited weight as a material consideration.

The following Policies are considered relevant to this application:

- SP/1 Settlement Hierarchy
- SP/2 Development in Minehead and Rural Centres
- SP/5 Development Outside Defined Settlements
- BD/1 Local Distinctiveness
- BD/2 Design of New Development
- BD/9 Energy and Waste Conservation
- H/4 Affordable Housing
- LC/1 Exmoor National Park Periphery
- LC/3 Landscape Character
- PO/1 Planning Obligations
- R/5 Public Open Space and Large Developments
- T/3 Transport Requirements of New Development
- T/8 Residential Car Parking
- UN/2 Undergrounding of Service Lines and New Development
- W/1 Waste Water, Sewage Management and, Infrastructure
- W/2 Surface Water Protection

- W/3 Groundwater Source Protection
- W/5 Surface Water Run-Off
- NC/3 Sites of Local Nature Conservation and Geological Interest
- NC/4 Species Protection
- TW/1 Trees and Woodland Protection
- TW/2 Hedgerows

## National Policy

The National Planning Policy Framework (March 2012) is a material planning consideration. [National Planning Policy Framework \(the NPPF\)](#) - [Technical Guidance to the National Planning Policy Framework \(the NPPG\)](#)

## Local Policy

[West Somerset Local Plan \(2006\)](#) - [West Somerset Local Plan to 2032 Revised Draft Preferred Strategy \(June 2013\)](#) [West Somerset Planning Obligations Supplementary Planning Document \(2009\)](#) [West Somerset Supplementary Planning Guidance: Design Guidance for House Extensions \(2003\)](#) [Somerset County Council Parking Strategy \(2013\)](#) [Somerset County Council Highways Development Control Standing Advice \(2013\)](#)

## Planning History

The following planning history is relevant to this application:

3/21/13/084	Erection of 29 dwellings, 8 apartments and associated parking and landscaping, construction of access from Ellicombe Meadow and laying out of a temporary construction access from Ellicombe Lane.	Granted	22/11/2013
3/21/14/086	Proposed residential development of eight semi-detached dwellings (plots 23, 23A, 24, 24A, 25, 25A, 26 & 26A) in place of four approved detached dwellings and a block of nine flats rather than an approved block of eight flats (plots 5 to 12A) together with vehicular parking, access and associated infrastructure (amended scheme to planning permission 3/21/13/084)	Refused (subject of current appeal)	06/02/2015

## Proposal

The application is for an amendment to the original planning permission for 29 dwellings and 9 apartments at Ellicombe Meadow, Minehead. It is proposed to erect 8 semi-detached dwellings and a block of 9 apartments in lieu of the already approved 4 detached dwellings and block of 8 apartments. In effect, this application is for an additional 5 residential dwellings (4 houses and 1 apartment). The semi-detached dwellings will be three storey with integral garages rather than the approved two storey dwellings with attached garages. Due to the slope of the land, the three storey dwellings will be cut into the slope so that they are only two storey at the rear. The main living accommodation would be on the first and second floor with level access to the rear gardens from the first floor.

A similar application was considered by the planning committee in January this year where members resolved to refuse permission for the following reason:

“The proposed 3 storey dwellings would be of a size and height that would have a detrimental impact on views into and from the National Park which would significantly and demonstrably outweigh the benefits of providing additional housing in Minehead. The proposal is therefore contrary to the provisions of the NPPF and policies BD/1, BD/2, LC/1 and LC/3 of the West Somerset District Local Plan (adopted 2006).”

This application differs from the one that was refused in that the height of the three storey dwellings has been reduced by 1 metre.

The apartment block has been amended so that an additional apartment can be located in the roof space. The results in the addition of a small central gable in the front elevation and the insertion of second floor windows in both side elevations.

The access and road layout of the development would remain the same as previously approved.

## **Site Description**

The application site is located in the south western portion of Minehead. The site is located adjacent to the development known as Ellicombe Meadow and the rugby club.

The larger development site consists of a former agricultural field of around 1.8 hectares. It is roughly L shaped and surrounded by hedging and some tree planting to all of its boundaries, although there are gaps within this planting in a number of areas.

The site slopes upwards from north to south increasing in steepness in the southern portion of the site where it backs onto Combeland Road and the National Park beyond. This is the location of the proposed 8 semi-detached dwellings in lieu of the previously approved 4 detached dwellings. The previously approved block of flats is in the north eastern corner of the site and this is where the additional single flat would be located.

## **Planning Analysis**

### *1. Principle of Development*

The site is outside of the development limits set out in the Local Plan. However this is a site where the council considered that residential development was acceptable when judged against the NPPF sustainable development principles. At the time of the original application the Council could not demonstrate a 5 year housing land supply. It was accepted that the site was suitably located in transport sustainability terms and that the adverse impacts of granting permission did not significantly and demonstrably outweigh the benefits of providing a mix of open market and affordable housing.

It is considered that any small increase in housing numbers without expanding the size of the site, is acceptable in principle, provided that any additional adverse impacts do not outweigh the benefits of providing additional housing.

### *2. Character and Appearance of the Area*

This is the key consideration with regard to the proposal as it would result in an increase in building height on the highest part of the site and at the edge of the development. The existing planning consent permits 2-storey detached dwellings on the southern part of the site. It is proposed to replace these with 3-storey semi-detached dwellings that are cut into the slope. Both the eaves and ridge height would be increased by 1 metre. Sections have been submitted which show that the rear of the dwellings would be in effect 2-storey with the rear garden at a lower level than Combeland Road.

The land to the south of the site rises steeply to a wooded hill top and when viewed from the north, the dwellings would have this as a backdrop. The dwellings would not break the skyline and the tree lined hedge that borders Combeland Road does provide a significant landscape barrier. While the comments of the National Park are noted, given the slope of the land and the landscaped boundaries, it is not agreed that there would be a significant harm in terms of views into the National Park or adverse impact on its setting.

The previous application which proposed an increase in height of 2 metres was refused by the Planning Committee in January this year. This application is subject to a planning appeal and awaiting an Inspector site visit. The reason for refusal was:

“The proposed 3 storey dwellings would be of a size and height that would have a detrimental impact on views into and from the National Park which would significantly and demonstrably outweigh the benefits of providing additional housing in Minehead. The proposal is therefore contrary to the provisions of the NPPF and policies BD/1, BD/2, LC/1 and LC/3 of the West Somerset District Local Plan (adopted 2006).”

Members will need to give some weight to this decision in their consideration and in particular, come to a view in whether the revised scheme overcomes the committee's previous concerns. Officers previously recommended approval for the scheme that was refused and it is their professional opinion that the current scheme is also acceptable in terms of its visual impact.

### *3. Residential Amenity*

In terms of design, the increase in numbers of dwellings and the increase in height is not going to have any significant adverse impact on the residential amenity of existing properties through overlooking or loss of light. It is also necessary to consider the residential amenity of future occupants of the development and although the rear gardens of the proposed semi-detached dwellings are smaller than originally proposed, they are more practical, with less terracing. In terms of this impact the proposal is acceptable.

It is also necessary to consider the impact on existing residential dwellings in terms of the additional vehicle movements that 5 dwellings would generate. Access to the housing site is via Ellicombe Meadow and there would be an increase in car movements as a result of this development. In terms of impact on those dwellings, it is not unusual for estate roads to carry a significant amount of traffic and those at the estate entrance have more vehicles passing their properties than those at the end of the cul-de-sacs. The existing properties are set back from the estate road so that they do not suffer from significant noise and impact from vehicles as they pass and although it is accepted that there would be more movements as a result of the development, it would not result in a situation where that impact would cause significant harm.

In terms of residential amenity, the proposed development is considered acceptable.

#### *4. Highway Safety*

The comments from County Council on the previous application confirm that the proposed development would result in 4 additional dwellings and one additional flat. This would equate to 40 additional vehicle movements per day based on the TRICS datasets of the average dwelling generating 6-8 movements per day. It is the opinion of the Highway Authority that although this proposal would result in an increase in vehicle movements it is unlikely to be significant enough to warrant an objection on traffic impact grounds.

#### *5. Flood Risk*

As a result of the new proposal, there would be a slight increase in the impermeable area created from larger roofs and driveways. Provided that the surface water that falls on to these is attenuated on the site and released at a controlled rate that is no different than the existing permission, there is unlikely to be any increase in offsite flows.

#### *6. Other Implications*

Ecology – The County Ecologist has stated that there seems little difference between the existing and proposed developments from an ecological standpoint and suggests that conditions are imposed.

Impact from construction of existing development – It is noted that there have been concerns and complaints raised with the previous application and subsequent implication of that permission regarding to construction traffic accessing the site. Notwithstanding whether the new application is approved or not, construction traffic will still need to access the site in accordance with the agreed management plan. The development has the potential to require additional deliveries of materials and construction traffic, however, this is not such a significant increase that would justify withholding permission.

Planning Obligations – As the existing site is already subject to a Section 106 Agreement that secures affordable housing and a community infrastructure contribution, it is recommended that these are increased to take into account the increase in the number of dwellings. The affordable housing would be increased from 8 to 9 units and the community infrastructure contribution should be increase on a pro-rata basis.

### **Environmental Impact Assessment**

This development does not fall within the scope of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 and so Environmental Impact Assessment is not required.

### **Conclusion and Recommendation**

It is considered that the proposal, is acceptable and it is recommended that planning permission be granted subject to a section 106 legal agreement to secure affordable housing and community infrastructure contribution.

**Planning Permission is subject to the following conditions:**

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

Reason: As required by Section 51 of the Planning and Compulsory Purchase Act 2004 and to avoid the accumulation of the unimplemented planning permission.

- 2 The development hereby permitted shall be carried out in accordance with the approved drawings: Drawing Numbers:

475 - P10 rev A - site plan  
475 - P20 rev A - site section  
475 - P150 rev A - House type K - elevations and plans  
475 - P151 - House type K1 - elevations and plans  
475 - P152 - site sections - elevations and plans  
475 - P160 - Flat - elevations  
475 - P161 - Flat - ground, first floor plan  
475 - P162 - Flat - second floor plan  
890/PA/04 - Landscape proposals sections

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

- 3 No works shall be undertaken on site unless a hard and soft landscape scheme has been first submitted to and approved in writing by the local planning authority. Such a scheme shall include details of all trees, hedgerows and other planting which are to be retained; details of all new walls, fences and other boundary treatments and finished ground levels; a planting specification to include positions, species and size of all new trees and the location of grassed areas and areas for shrub planting; details of the hard surface treatment of the open parts of the site; and a programme of implementation. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out in accordance with the programme agreed in writing with the local planning authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the local planning authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure the provision of and implementation of an appropriate landscape setting to the development having regard to the provisions of Saved Policies BD/1 and BD/2 of the West Somerset District Local Plan (2006).

- 4 No works shall be undertaken on site unless a planting specification for the infilling of the existing gaps within the hedgerows (located on the eastern boundary and the north east corner of the site) has been first submitted to and approved in writing by the local planning authority. Such a scheme shall include details of the species, mix, density, method and timing of the planting and a programme of implementation. The planting shall be carried out in accordance with the approved details and programme of implementation. Any plants/shrubs indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the local planning authority.



Reason: To ensure the provision of and implementation of an appropriate landscape setting to the development and to provide biodiversity enhancements having regard to the provisions of Saved Policies BD/1, BD/2 and NC/4 of the West Somerset District Local Plan (2006) and Policies within the National Planning Policy Framework.

- 5 No works shall be undertaken on site unless a schedule of materials and finishes and samples of the materials (to include sample panels of the walling materials) to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the local planning authority. The works shall thereafter be carried out only in accordance with the details so approved.

Reason: To safeguard the character and appearance of the building having regard to the provisions of Saved Policies BD/1, BD/2, BD/3 of the West Somerset District Local Plan (2006).

- 6 No works shall be undertaken on site unless details for the proposed boundary treatments on the application site have been first submitted to and approved in writing by the local planning authority. Such details shall include the location of all boundary treatments shown on a scaled plan, the existing and proposed site and floor levels and details of the height, type, materials, finish and colour of the proposed boundary treatments. The works shall be carried out in accordance with the approved details, prior to the occupation of the dwelling to which the boundary treatments are related.

Reason: To safeguard the amenities of the occupiers of nearby properties and future occupiers of the new dwellings having regard to Saved Policy BD/2 of the West Somerset District Local Plan (2006).

- 7 Notwithstanding the submitted details, vehicular access to the site, including access during construction, shall only be provided from Ellicombe Meadow. No vehicular access shall be provided from Ellicombe Lane.

Reason: In the interests of highway safety, having regard to the nature of Ellicombe Lane it is not suitable to be utilised for construction traffic.

- 8 No development shall commence unless a Construction Environmental 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 the site;
- Construction delivery hours;
- Expected number of construction vehicles per day;
- Car parking for contractors;
- Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
- A scheme to encourage the use of Public Transport amongst contractors; and
- Measures to avoid traffic congestion impacting upon the Strategic Road Network.

Reason: To prevent pollution to the land and water environment, protect the amenities of local residents and occupiers and to safeguard the natural environment within the site and its surroundings having regard to the provisions of Saved Policies PC/1, PC/2,

PC/4 of the West Somerset District Local Plan (2006) and in the interests of highway safety.

- 9 No works shall be undertaken on site unless a scheme, to ensure that all vehicles associated with the construction of the development hereby approved are in a condition so that upon leaving the site the vehicles will not emit dust or deposit mud or other debris on the highway, has been submitted to and approved in writing by the local planning authority. Such details shall include sufficient means for cleaning the wheels of all vehicles leaving the site. The scheme shall be carried out in accordance with the approved details until the construction of the development has been completed.

Reason: In the interests of highway and pedestrian safety having regard to the provisions of Policy T/3 of the West Somerset District Local Plan (2006).

- 10 The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10.

Reason: In the interests of highway safety, having regard to the provisions of Policy T/3 of the West Somerset District Local Plan (2006).

- 11 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 (including the relevant section of the service road) to at least base course level between the dwelling and existing highway.

Reason: To ensure that the highway works are provided to an appropriate standard in the interests of highway safety, having regard to the provisions of Policy T/3 of the West Somerset District Local Plan (2006).

- 12 No dwelling or flat shall be occupied unless the driveways or parking court associated with that dwelling or flat has been provided. The parking court and driveways shall thereafter be available for the parking of vehicles associated with that dwelling or flat.

Reason: To ensure adequate parking is provided for the dwellings and flats having regard to the provisions of Policy T/8 of the West Somerset District Local Plan (2006).

- 13 No flat within plots 5 – 12 shall be occupied unless the bin/recycling store and bicycle parking has been provided and is available for use. Once provided the bin/recycling store and the cycle store shall be retained and available for use for the storage of bins, recycling and bicycles.

Reason: To ensure the adequate provision bin/recycling and bicycle storage in the interests of the appearance of the development and to encourage the use of sustainable modes of transport having regard to Saved Policies BD/1 and BD/2 of the West Somerset District Local Plan (2006) and policies within the National Planning Policy Framework.

- 14 No works shall be undertaken on site unless details for the provision of cycle storage for the dwellings has been submitted to and approved in writing by the local planning authority. The cycle storage shall be provided in accordance with the approved details and each dwelling shall not be occupied unless the cycle storage has been provided for that dwelling.

Reason: To encourage the use of sustainable modes of transport having regard to policies within the National Planning Policy Framework.

- 15 The parking spaces in the garages shall at all times be kept available for the parking of vehicles and shall be kept free of obstruction for such use.

Reason: To retain adequate off-street parking provision having regard to the provisions of Policies T/3 and T/8 of the West Somerset District Local Plan (2006).

- 16 Where any driveways, located to the front of a garage, are less than 6m in length (as measured from the nearside edge of the highway to the face of the garage doors) only roller shutter garage doors rather than side hung or up-and-over type doors shall be provided.

Reason: In the interests of highway safety to ensure that the drive way is of sufficient length to accommodate parked vehicles and allow access to the garages to prevent vehicles being parked over the highway edge.

- 17 No works shall be undertaken on site unless a travel plan has been submitted to and approved in writing by the local planning authority. Such travel plan should include soft and hard measures to promote sustainable travel as well as targets and safeguards by which to measure the success of the plan. The travel plan shall also include details for the provision of electric vehicle charging points for the dwellings and flats and a programme of implementation for the provision of the electric vehicle charging points. There shall be a timetable for implementation of the measures and for the monitoring of travel habits. The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should continue to be implemented as long as any part of the development is occupied.

Reason: To ensure that sustainable transport options are taken up minimising the impact of the development, having regard to policy requirements of the National Planning Policy Framework.

- 18 No works shall be undertaken on site unless a scheme for the protection of hedgerows, within and adjoining the site, during construction has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the type and location of protective fences. The protective fences shall be erected prior to any other works commencing on site, or in accordance with a programme agreed as part of the scheme. The protective fences shall remain in place until works are completed within the vicinity of that section of fence. Such protected areas shall be kept clear of any building, plant, material, debris and trenching and there shall be no entry to those areas except for approved arboricultural or landscape works.

Reason: To safeguard the existing hedges to be retained within the site having regard to the provisions of Saved Policies BD/1, BD/2, TW/2, NC/4, LC/1 and LC/3 of the West Somerset District Local Plan (2006).

- 19 No works shall be undertaken on site unless a scheme for the protection of the pond and wooded area in the south eastern portion of the site, during construction, has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the method of protection and a programme of implementation. The protective measures shall be put in place and retained in accordance with the approved scheme and programme. The protected area shall be kept clear of any building, plant,

material, debris and trenching and there shall be no entry to those areas except for approved ecological or landscape works.

Reason: To safeguard the existing habitat to be retained within the site having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006) and policy within the National Planning Policy Framework.

- 20 No works shall be undertaken on site unless a scheme for the long-term management of the pond and wooded area in the south eastern portion of the site has been submitted to and approved in writing by the local planning authority. The pond and wooded area shall thereafter be managed in accordance with the approved scheme.

Reason: To safeguard the existing habitat to be retained within the site having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006) and policy within the National Planning Policy Framework.

- 21 No works shall be undertaken on site unless a scheme for the mitigation of impacts on amphibians and a programme of implementation, having regard to the recommendation within section 7 of the Great Crested Newt Report June 2013 submitted with the application, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and programme of implementation.

Reason: To mitigate impacts on amphibians having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006) and policy within the National Planning Policy Framework.

- 22 No works shall be undertaken on site unless a scheme for the implementation of appropriate working practices, should reptiles be encountered during construction, has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the location for the release of reptiles. The development shall be carried out in accordance with the approved scheme.

Reason: To mitigate impacts on reptiles having regard to the provisions of Saved Policy NC/4 of the West Somerset District Local Plan (2006) and policy within the National Planning Policy Framework.

- 23 Hedgerow removal works shall not take place between 01 February and 31 August unless a scheme for the surveying of vegetation for the presence of active nests prior to shrub clearance and details of working practices, to ensure active nests are not disturbed during vegetation clearance, has been submitted to and approved in writing by the local planning authority. Any vegetation clearance works that take place between 01 February and 31 August shall be carried out in accordance with the approved scheme.

Reason: To ensure there are no adverse impacts on species protected by law, and to ensure biodiversity is maintained/enhance having regard to the provisions of Policy NC/4 of the West Somerset District Local Plan 2006 and policy within the National Planning Policy Framework.

- 24 No dwelling shall not be occupied unless the boundary treatment adjacent to the site boundary hedge for that dwelling has been erected in accordance with the details to be submitted and approved in writing by the local planning authority.

Reason: To separate the curtilage of the dwellings from the boundary hedges to ensure the habitat is retained in an appropriate form having regard to the provision Saved Policies TW/2 and NC/4 of the West Somerset District Local Plan (2006).

- 25 No works shall be undertaken on site unless a surface water drainage scheme for the site, based on the hydrological and hydrogeological context of the development, and a programme of implementation has been submitted to and approved in writing by the local planning authority. The scheme shall include details of gullies, connections, soakaways, and means of attenuation. The scheme shall be implemented in accordance with the approved details and programme.

Reason: To ensure the adequate provision of drainage infrastructure and prevent increased risk of flooding having regard to the provisions of Saved Policies W/1 and W/5 of the West Somerset District Local Plan (2006).

- 26 No works shall be undertaken on site unless a scheme for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved in writing by the local planning authority. The drainage system shall be maintained in accordance with the approved scheme.

Reason: To ensure the adequate provision of drainage infrastructure and prevent increased risk of flooding having regard to the provisions of Saved Policies W/1 and W/5 of the West Somerset District Local Plan (2006).

- 27 No work shall be undertaken on site unless an appropriate right of discharge for surface water has been obtained and details of which shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure the adequate provision of drainage infrastructure and prevent increased risk of flooding having regard to the provisions of Saved Policies W/1 and W/5 of the West Somerset District Local Plan (2006).

## Notes

### **STATEMENT OF POSITIVE WORKING**

In determining this application the Local Planning Authority considers it has complied with the requirements of paragraphs 186 and 187 of the National Planning Policy Framework. Pre-application discussion and correspondence took place between the applicant and the Local Planning Authority, which positively informed the design/nature of the submitted scheme. No substantive issues were raised by consultees through the application process. For the reasons given above and expanded upon in the planning officer's report, the application was considered acceptable and planning permission was granted.



Application No 3/21/15/034  
 Proposed residential development of eight semi-detached dwellings (plots 23, 23A, 24, 24A, 25, 25A, 26 & 26A) and nine affordable flats (plots 5 to 12A) together with vehicular parking, access and associated infrastructure (resubmission of 3/21/14/086)  
 Land at Ellicombe Meadow, Minehead  
 20 March 2015  
 Planning Manager  
 West Somerset Council  
 West Somerset House  
 Killick Way  
 Williton TA4 4QA



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Scale: 1:2500

### Delegated Decision List

<b>Ref No.</b>	<b>Application</b>	<b>Proposal</b>	<b>Date</b>	<b>Decision</b>	<b>Officer</b>
3/02/15/001	Middle Stone Farm, Brompton Ralph, TA4 2RT	Erection of three glamping units	19 May 2015	Grant	<a href="#">RW</a>
3/04/15/002	Croft Farm, Brushford, Dulverton, TA22 9RS	Proposed replacement of existing sub-standard garage with garage/studio	13 May 2015	Grant	<a href="#">BM</a>
3/05/15/001	Townsend Farm, Main Road, Carhampton, TA24 6NH	Variation of conditions 2 and 6 on planning permission 3/05/13/006 in order to change the levels and positions of various windows, add certain first floor gable and rear windows and replace entrance canopy posts with brackets on certain plots.	16 April 2015	Grant	<a href="#">EP</a>
3/05/15/003	Elm Cottage, 1 High Street, Carhampton, Minehead, TA24 6ND	Rear ground floor part pitched and part flat roofed extension to include enlarged kitchen and dining room and proposed terrace including associated excavation and retaining walls. Proposed pitched dormer to first floor facing Park Lane.	28 April 2015	Grant	<a href="#">BM</a>
3/17/15/002	Land at Huish Champflower Village Hall, Huish Champflower, Taunton, TA4 2BX	Erection of replacement village hall	05 May 2015	Grant	<a href="#">SK</a>
3/17/15/003	Stooks Farm, Huish	Two storey side	16 April	Grant	<a href="#">BM</a>



Champflower,  
Taunton, TA4 2HJ

extension 2015

<b>Ref No.</b>	<b>Application</b>	<b>Proposal</b>	<b>Date</b>	<b>Decision</b>	<b>Officer</b>
3/21/15/016	1 Holloway Street, Minehead, TA24 5NP	Conversion of existing 3-bedroom flat into three one bedroom units and refurbishment of the existing bedsit.	24 April 2015	Grant	<a href="#">SK</a>
3/21/15/020	Flat 1, The Old Exchange, Post Office Lane, Minehead, TA24 5AB	Replacement of window with double doors	06 May 2015	Grant	<a href="#">SW</a>
3/21/15/022	19 Tregonwell Road, Minehead, TA24 5DU	Removal of UPVC, masonry and glass extension and erection of new extension in its place.	21 April 2015	Grant	<a href="#">BM</a>
3/21/15/023	Butlins Check-in Building, Warren Road, Minehead, TA24 5SH	Display of photographic fascia sign	16 April 2015	Grant	<a href="#">SK</a>
3/21/15/024	19 The Cross, Minehead, TA24 5JW	Proposed internal door opening between 17 and 19 The Cross	23 April 2015	Refuse	<a href="#">EP</a>
3/21/15/025	29 Paganel Road, Minehead, TA24 5EU	Single storey extension	24 April 2015	Grant	<a href="#">BM</a>
3/21/15/026	Pemswell Lodge,	Two bedroom	24 April	Grant	<a href="#">RW</a>

	Pemswell Road, Minehead, TA24 5RS	dwelling in the garden of Pemswell Lodge	2015		
<b>Ref No.</b> 3/21/15/028	<b>Application</b> Sandymount, The Ball, Minehead, TA24 5JJ	<b>Proposal</b> Demolition of existing garden room to rear and erection of new and the addition of a new decking area.	<b>Date</b> 29 April 2015	<b>Decision</b> Grant	<b>Officer</b> <a href="#">BM</a>
<b>Ref No.</b> 3/21/15/031	<b>Application</b> 30 Bampton Street, Minehead, TA24 5TT	<b>Proposal</b> Installation of internal secondary glazing in two bedrooms.	<b>Date</b> 01 May 2015	<b>Decision</b> Grant	<b>Officer</b> <a href="#">EP</a>
<b>Ref No.</b> 3/21/15/032	<b>Application</b> 29 Poundfield Road, Minehead, TA24 5ER	<b>Proposal</b> Proposed extension and alterations	<b>Date</b> 01 May 2015	<b>Decision</b> Grant	<b>Officer</b> <a href="#">BM</a>
<b>Ref No.</b> 3/21/15/033	<b>Application</b> Barn Cottage, Combeland Road, Alcombe, Minehead, TA24 6BS	<b>Proposal</b> Erection of single storey extension	<b>Date</b> 05 May 2015	<b>Decision</b> Grant	<b>Officer</b> <a href="#">BM</a>
<b>Ref No.</b> 3/21/15/036	<b>Application</b> Flat 2, 2 Middlemoor, St Michaels Road, Minehead, TA24 5RZ	<b>Proposal</b> Replacement of windows and doors	<b>Date</b> 18 May 2015	<b>Decision</b> Grant	<b>Officer</b> <a href="#">SW</a>
<b>Ref No.</b> 3/32/15/001	<b>Application</b> Land 7338, Ridgeway Lane, Stolford, Stogursey, TA5 1TN	<b>Proposal</b> Erection of one barn and change of use of two existing barns to allow for the housing of livestock.	<b>Date</b> 30 April 2015	<b>Decision</b> Grant	<b>Officer</b> <a href="#">SK</a>
<b>Ref No.</b> 3/32/15/004	<b>Application</b> Zine Cottage, Stolford, Stogursey, TA5 1TL	<b>Proposal</b> Demolition of existing garage and stable building and	<b>Date</b> 29 April 2015	<b>Decision</b> Grant	<b>Officer</b> <a href="#">BM</a>

erection of  
replacement  
garage and stable  
block/tractor store

<b>Ref No.</b>	<b>Application</b>	<b>Proposal</b>	<b>Date</b>	<b>Decision</b>	<b>Officer</b>
3/32/15/006	Wick Farm, Wick, Stogursey, Bridgwater, TA5 1TL	Change of use from home office to holiday let (for Hinkley Point) together with single storey side extension.	08 May 2015	Refuse	<a href="#">SK</a>
3/36/15/002	Upton Garage, Upton, Taunton, TA4 2HX	Extension to existing garage	29 April 2015	Grant	<a href="#">RW</a>
3/37/15/005	Garage Site, Western side of Maglands Road, Watchet, TA23 0EB	Erection of pair of semi-detached houses	06 May 2015	Grant	<a href="#">SK</a>
3/37/15/007	49 South Road, Watchet, TA23 0HF	Rear Extension and alterations to garden.	18 May 2015	Grant	<a href="#">BM</a>
3/38/15/001	Mayfair, Weacombe Road, West Quantoxhead, Taunton, TA4 4EA	Single storey extensions to the rear and side of the bungalow, additional parking hardstanding, garage conversion and loft conversion with associated dormer windows and alterations.	13 May 2015	Grant	<a href="#">BM</a>
3/39/14/036	26 Long Street, Williton, Taunton, TA4 4QN	Proposed conversion of redundant workshop and	29 April 2015	Grant	<a href="#">SK</a>

separate  
garage/store to  
create two new  
dwellings

<b>Ref No.</b>	<b>Application</b>	<b>Proposal</b>	<b>Date</b>	<b>Decision</b>	<b>Officer</b>
3/39/15/002	The Vicarage, 16 Bridge Street, Williton, Taunton, TA4 4NR	Infill house to provide new vicarage	18 May 2015	Grant	<a href="#">JB</a>
3/41/15/001	Sandhill Racing Stables, Sandhill Lane, Withycombe, Minehead, TA24 6HA	Erection of replacement roof on existing equestrian building	20 April 2015	Grant	<a href="#">SK</a>
C/01/14/003	Halsway Manor, Crowcombe, Taunton, TA4 4BD	Approval of details reserved by condition 7 (relating to a travel plan), condition 11 (relating to a woodland management plan) and condition 13 (relating to the protection of existing tree and existing/proposed landscape areas) in relation to planning permission 3/01/14/001	01 May 2015	Grant	<a href="#">EP</a>
C/05/14/001	St John The Baptist Church, Main Road, Carhampton, Minehead, TA24 6LP	Approval of details reserved by condition 3 (relating to programme of archaeological work) in relation to planning permission 3/05/14/009	23 April 2015	Grant	<a href="#">EP</a>
C/21/15/002	Land at Ellicombe Meadow, Alcombe, Minehead	Approval of details reserved by condition 12	11 May 2015	Grant	<a href="#">BK</a>

(relating to the vehicle wheel wash scheme) and 23 (relating to long term management of pond and wooded area) in relation to planning permission  
3/21/13/084

<b>Ref No.</b>	<b>Application</b>	<b>Proposal</b>	<b>Date</b>	<b>Decision</b>	<b>Officer</b>
C/28/15/001	Raglands, 45 Tower Hill, Williton, TA4 4JR	Approval of details reserved by condition 4 (relating to surface water drainage details) in relation to planning permission 3/28/14/006	28 April 2015	Grant	<a href="#">SK</a>
C/30/15/001	Townsend Farm, Skilgate, Taunton, TA1 2DQ	Discharge of condition 3 (relating to method of fixing the glazing) in relation to Listed Building Consent 3/30/14/004.	28 April 2015	Grant	<a href="#">EP</a>
C/32/15/001	Little Thatch, Stolford, Stogursey, Bridgwater, TA5 1TW	Approval of details reserved by condition 4 (relating to a landscape scheme) and condition 5 (relating to finished floor levels) in relation to planning permission 3/32/15/002	12 May 2015	Grant	<a href="#">SK</a>
C/37/15/003	Existing garage site, South end of Courtlands Close, Watchet, TA23 0HH	Approval of details reserved by condition 3 (relating to materials) and condition 5 (relating to surface water drainage) in relation to planning permission 3/37/12/011	28 April 2015	Grant	<a href="#">SK</a>

<b>Ref No.</b>	<b>Application</b>	<b>Proposal</b>	<b>Date</b>	<b>Decision Officer</b>
C/37/15/004	Existing garage site, east side of Liddymore Road and Ingrams Meadow, Watchet, TA23 0DU	Approval of details reserved by condition 3 (relating to materials) and condition 4 (relating to details of drainage) in relation to planning permission 3/37/12/010	28 April 2015	Grant <a href="#">SK</a>

<b>Ref No.</b>	<b>Application</b>	<b>Proposal</b>	<b>Date</b>	<b>Decision Officer</b>
HPN/16/15/001	Woodlands Barton, Holford, Bridgwater, TA5 1SE	Rear single storey extension with hipped roof to match existing roof style of dwelling. The extension will extend 3.6m from the rear of the dwelling, with a height of 4m as specified by the following submitted details: Application form, site location plan and proposed plans	18 May 2015	Prior approval not required <a href="#">BM</a>

<b>Ref No.</b>	<b>Application</b>	<b>Proposal</b>	<b>Date</b>	<b>Decision Officer</b>
NMA/21/14/001	Land at Ellicombe Meadow, Minehead	Non-material amendment to planning permission 3/21/13/084 in order to make changes to the site plan, site sections, house types A, C, D G and H, apartments, garage blocks and bin and cycle stores	14 May 2015	Grant <a href="#">BK</a>

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## Appeal Decisions

Hearing held on 10 March 2015

Site visit made on 10 March 2015

**by Brian Cook BA (Hons) DipTP MRTPI**

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

**Decision date: 28 April 2015**

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### **Appeal A: Appeal Ref: APP/H3320/C/14/2226386**

#### **Land at Red Park Equestrian Centre, Egrove Way, Williton TA4 4TB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Ms J Martin against an enforcement notice issued by West Somerset Council.
  - The notice was issued on 4 September 2014.
  - The breach of planning control as alleged in the notice is without planning permission the material change of use of land by siting and residential use of a mobile home on the land.
  - The requirements of the notice are cease the unauthorised residential use of the mobile home and remove the mobile home from the land.
  - The period for compliance with the requirements is 12 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 as amended.
- 

### **Appeal B: Appeal Ref: APP/H3320/A/14/2226385**

#### **Red Park Equestrian Centre, Egrove Way, Williton Industrial Estate, Taunton TA4 4TB**

- 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 Ms Jill Martin against the decision of West Somerset Council.
  - The application Ref 3/39/14/017, dated 5 June 2014, was refused by notice dated 4 August 2014.
  - The development proposed is siting of mobile home to be used as an equestrian/agricultural/forestry workers dwelling.
- 

## **Decisions**

### **Appeal A: Appeal Ref: APP/H3320/C/14/2226386**

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at Red Park Equestrian Centre, Egrove Way, Williton, as shown on the plan attached to the notice, for the material change of use of land by siting and residential use of a mobile home on the land subject to the following conditions:
  - 1) The siting of the mobile home hereby permitted shall be within the area edged and hatched black on the plan attached to this decision.

- 2) The occupation of the mobile home shall be limited to a person solely or mainly working, or last working at Red Park Equestrian Centre, Egrove Way, Williton, or a widow or widower of such a person, and to any resident dependants.
- 3) The residential occupation of the mobile home hereby permitted shall cease upon the mobile home permitted by planning permission 3/39/14/017 being brought into residential occupation. Thereafter the mobile home hereby permitted shall not be residentially occupied.
- 4) No more than 1 caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.
- 5) Means of vehicular access to the permitted mobile home shall not be from Union Lane.

**Appeal B: Appeal Ref: APP/H3320/A/14/2226385**

2. The appeal is allowed and planning permission is granted for siting of mobile home to be used as an equestrian/agricultural/forestry workers dwelling at Red Park Equestrian Centre, Egrove Way, Williton in accordance with the terms of the application, Ref 3/39/14/017, dated 5 June 2014, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working at Red Park Equestrian Centre, Egrove Way, Williton or a widow or widower of such a person, and to any resident dependants.
  - 3) No more than 1 caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.
  - 4) Means of vehicular access to the permitted mobile home shall not be from Union Lane.

**Application for costs**

3. At the Hearing an application for costs was made in respect of each appeal by the appellant against the Council. This application is the subject of a separate Decision.

**Appeal A: The s174 appeal on ground (b)**

4. The appellant's evidence at the Hearing was that a mobile home had been sited on the land which is in her ownership for about 15 years. Over that time the location of the unit had changed but not significantly. In addition, the mobile home that is the subject of the notice is the third, the previous two having been replaced after some 10 and two years respectively.
5. The unit was first occupied residentially about five years ago in order to provide security for the appellant's equestrian enterprise. It became the appellant's permanent residence about three years ago following her divorce and the sale of the marital home that she previously occupied in Williton.



6. At some point after 4 September 2010 an extension was built along the whole length of the mobile home. This provides a reception office for the riding stables, office space for staff, a changing room, training room, fitness area and store for business papers. In addition, the appellant's washing machine, cooker and fridge are in the extension and the log burner just inside the door of the mobile home heats both parts of the structure.
7. The gist of the appellant's case on this ground of appeal is that at the date when the notice was issued the breach of planning control (which it is accepted had taken place) was the erection of a building in a mixed residential and business use and not the material change of use described in the notice.
8. The court has held that there are three factors to take into account when considering whether or not what has been erected is a building. They are size (although this is not determinative on its own), permanence and physical attachment to the ground. In addition in this case is a consideration as to whether or not the addition of the extension results in one structure that is a building.
9. The extension is of some size. All the evidence is that it was constructed on-site and not transported ready made. It stands on timber uprights that are either driven or concreted into the ground. It seemed to me that this method was used principally to achieve a floor level similar to that of the mobile home. Nevertheless, a substantial framework has been constructed to which have been attached uPVC doors, windows and cladding to three sides. The floor is formed from scaffold boards or similar and a mono pitch polycarbonate roof covers the structure.
10. As a matter of fact and degree judgement I conclude that the extension is both physically attached to the ground and constructed in a manner that indicates that a considerable degree of permanence is intended. Moreover, given that permanence, there would be a material change of some substance in the appearance of the land. In my view the work undertaken to erect the extension is that which would normally be carried out by a builder. Those works would therefore have amounted to building operations and thus development under s55 of the Act.
11. However, what I have concluded is a building is simply bolted to the side of the mobile home with the join made watertight by flashing tape. It would seem to me to be a straightforward task to separate the extension from the mobile home. I do not therefore consider the two elements to be one structure.
12. The appeal on ground (b) therefore fails since the notice does describe a breach of planning control that has taken place as a matter of fact. However, since the erection of the extension is operational development it is not included within the breach of planning control alleged and cannot therefore be within the scope of the requirements set out.

**Appeal A: The s174 appeal on ground (a) and the deemed planning application and Appeal B: the s78 appeal**

***Preliminary matters***

13. Although the description of the development in the two applications that are under consideration is essentially the same the mobile homes would be sited on different parts of the appellant's land. The issues raised are the same in

both cases and both parties have advanced the one set of arguments in respect of both appeals. I shall therefore deal with them together. Moreover, the appellant confirmed that it is not her wish or intention to have more than one mobile home for residential use at the site. I have taken that into account in dealing with these two appeals.

14. The site location plan submitted with the Appeal B application shows the means of access via Union Lane. The appellant confirmed that this was not in fact the intention. Access would be gained via one of the two existing accesses through the industrial estate. Both are in the form of hammer heads at the end of estate roads that are clearly designed to enable access to the land beyond to be created as and when necessary.

### **Main Issues**

15. Both appeal sites are within the development limit line of Williton as shown on the proposals map of the West Somerset District Local Plan (LP), adopted in April 2006 (Plan A). They are however both within an employment land allocation under LP policy E/1 and on the other side of Union Lane from the residential part of Williton that lies to the north of the A39. The main issues for the determination of these appeals are therefore:
  - (a) The effect that the development would have on the development of the land for B1, B2 and B8 uses in accordance with saved LP policy E/1; and
  - (b) The effect that the development would have on the character and appearance of the surrounding area.

### **Reasons**

*The effect that the development would have on the development of the land for B1, B2 and B8 uses in accordance with saved policy E/1*

16. All but a very small area of land in the eastern part of the employment allocation under LP policy E/1 is owned by the appellant. The Council's evidence is that following a review of all employment land as required by paragraph 22 of the National Planning Policy Framework (the Framework), it was intended to maintain the allocation in the emerging local plan (Document 1). However, this plan is at an early stage in the process to adoption and the deliverability of this allocation will no doubt be an issue for the examination of the soundness of the plan in due course. In accordance with Framework paragraph 216 I therefore attribute very little weight to this emerging plan.
17. Although providing employment, the appellant did not argue that the equestrian use fell within any of the three B use classes for which the site is allocated. However, there is no dispute that the current equestrian use is lawful and can continue until development proposals come forward in accordance with the LP. Indeed, my understanding is that the land was used in this way, even if not to its current intensity, when the allocation was made.
18. The appellant's evidence was that she had never been approached by anyone wishing to develop the land in accordance with the LP. The Council did not indicate any intention to use its compulsory purchase powers to secure development in accordance with the LP. The appellant was not averse to its development in that form in due course recognising that she would not be able to continue what is a physically demanding and time consuming occupation into old age.

19. The appellant explained that since residential occupation at the equestrian centre began, the nature of the enterprise had changed and expanded. This was principally due to the enhanced service that could be provided given a 24/7 presence. In essence this relates to the care that can be given to the horses in livery and the requirements for accreditation and licensing. Many of the representations received from those with horses in livery and from others endorsed this. An element in this presence is the 'sight and sound' proximity to the stables which influences the locations where the Appeal A mobile home is sited and where the Appeal B mobile home is proposed to be situated. Although not examined in detail, the appellant supplied in evidence accounts to demonstrate the importance of the livery business to the overall success of the enterprise which would be undermined if the 24/7 presence ceased.
20. It seems to me therefore that the correct way to characterise the appeal proposals is as development ancillary to the primary use of the land, namely equestrian. Furthermore, when viewed in that way it can be seen that the ancillary residential occupation of the mobile home has facilitated the expansion of the business and secured, if not increased, employment there.
21. It is therefore LP policy E/6 that is relevant. This has six criteria only criterion (v) of which is relevant. This seeks to ensure that the development proposed would not result in the loss of land allocated or protected for other uses in the LP. In that sense it has the same objective as LP policies E/1 and, to the extent that it applies given the somewhat confused wording, E/7.
22. In this case, it would be the primary use of the land (equestrian) that prevents the allocated uses being developed, not the ancillary residential development. Conditions were discussed to ensure that residential occupation at the equestrian centre does not persist once that use ceases. Taking these factors into account, I do not consider that either appeal proposal would conflict with LP policy E/6.
23. I believe that deals with two of the Council's main concerns under this issue, namely that the appeal proposals prejudice the development of the land in accordance with LP policy E/1 and that the Appeal A mobile home causes a physical obstruction to future access to the employment land being provided from Egrove Way. To the extent that the latter is a legitimate concern in any event, it would not be addressed by the notice since, for the reasons set out under the ground (b) appeal above, the extension would remain in place even if the requirements of the notice were complied with.
24. A final concern raised by the Council is that the presence of what would be a noise sensitive development in close proximity to the existing employment generating uses could be prejudicial to any proposals for their expansion or changes in business practice that may come forward. No noise assessment has been carried out to establish any evidential basis for such an assertion. I acknowledge that the Appeal A mobile home is located quite close to the boundary of the appeal land and could give rise to this concern. However, the Appeal B mobile home would be at a greater distance which could aid attenuation as could the materials from which it would be constructed. However, this matter could not be addressed until or unless a specific proposal came forward. Although a concern to be taken into account when considering the Appeal A development, it is one to which I attribute little weight in the absence of any objective evidence about the impact that would arise.

25. In summary, I consider both appeal developments to be in accord with LP policy E/6 since both are or would be ancillary to the primary lawful use. As such there is no conflict with LP policies E/1 or E/7 in this regard either.

*The effect that the development would have on the character and appearance of the surrounding area*

26. The industrial estate is accessed from the A39 via, first, Station Road and then Roughmoor. The first part of Station Road is residential in character and appearance. Two residential properties that were pointed out to me during the site inspection are at the transitional point where the residential area ends and the industrial estate begins. The latter is a typical mixed use industrial area characterised by buildings of different age, size and appearance. Motor trades are dominant in certain parts and there is a considerable amount of activity taking place in the open. Other parts have more modern small-scale buildings in different uses. There is one residential use associated with a transport enterprise which I understand has planning permission. I was told that the residential use was at the mezzanine level inside the building. However, it is the fully glazed conservatory-type structure at first-floor level that is in view. On the day of the site visit there was a full line of washing hanging out which appeared somewhat incongruous in the employment area.
27. The appeal site is totally different in character and appearance to the industrial estate that it adjoins. Uses are predominantly in the open, such as the riding school area, with small-scale buildings such as the stables typical. A larger steel structure is to one side and has been recently erected; the Appeal B mobile home would be close to this and, to the extent that it would be visible at all from outside the site boundaries, dominated by it.
28. The most prominent building on the appeal site in view from Egrove Way is a portacabin that is broadly similar in appearance and scale to the Appeal A mobile home. This provides a sheltered area in wet weather overlooking the riding school and what the appellant described as a resource centre for the equestrian enterprise. The Appeal A mobile home is barely visible from Egrove Way being at a lower level and virtually obscured by the glazed conservatory extension added to it. In my view, it is not obvious from outside the site that there is a residential occupation of the mobile home.
29. In short, the Appeal A mobile home is and the Appeal B mobile home would be in keeping with the character and appearance of the site with which they are both associated. This equestrian site is wholly divorced from the industrial estate that adjoins it and is unrelated to either its character or appearance. This lack of relationship with the surrounding uses is even more pronounced in the case of the residential development to the other side of Union Lane. As the Council emphasised, this Lane is a clear division between what, in my view, are two entirely unrelated developed areas of Williton in terms of both character and appearance.
30. Both the appeal developments therefore are and would be sympathetic to the scale and layout of the buildings and spaces on the site of which they do and would form a part. Therefore, they do not and would not conflict with LP policies BD/1 and BD/2.

### *Other matters*

31. The appellant put forward a number of material planning considerations to be taken into account in the event that a conflict with the development plan was identified. Since that is not my conclusion, I do not consider these further although some have been taken into account in reaching that conclusion in any event.
32. I have also taken into account certain criticisms by some of those making representations of the environmental effects of the business on adjoining residential occupiers. However, these are matters that relate to the permitted use rather than the appeals before me and do not affect my conclusion.

### **Conditions**

33. A number of conditions were suggested by the Council (Document 2) and I have considered these in the light of the guidance given in the relevant parts of the Planning Practice Guidance and the discussion at the Hearing.
34. Several principles were discussed given the different nature of the two appeals. These are set out in summary form below and the conditions reflect them subject to the comments in the next paragraphs. The Council did not initially suggest a condition requiring the removal of either mobile home in the event of the equestrian centre closing and, although this is mentioned in the first principle listed, I have not imposed one for the reasons set out below.
  - (a) The appellant does not wish to retain and occupy both mobile homes. The Appeal A mobile home will therefore be removed upon occupation of the Appeal B mobile home.
  - (b) An occupancy condition would be appropriate in respect of both mobile homes.
  - (c) As such, a time limit condition would not be necessary or in accordance with the advice in the Planning Practice Guidance.
  - (d) Given that both planning permissions could give rise to consent for a caravan site, it is necessary to limit each to the stationing of one, notwithstanding the limited site area in the Appeal B case.
  - (e) For the avoidance of doubt the location of the Appeal A mobile home should be confirmed by reference to a plan.
  - (f) No vehicular access should be permitted via Union Lane.
35. As explained above, the notice does not affect the extension to the Appeal A mobile home and so further industrial development off Egrove Way is obstructed to that extent. I therefore see no reason to require the removal of the Appeal A mobile home as long as its residential use ends on occupation of the Appeal B mobile home. In that regard, I believe it is only necessary to apply the condition requiring the occupancy of the Appeal A mobile home to end upon occupation of the Appeal B mobile home to one of the planning permissions (Appeal A). The Council suggests, in effect, mirror conditions which will be potentially confusing and difficult to frame to avoid a point in time where neither could be lawfully occupied.
36. While the Appeal A mobile home is clearly a caravan within the meaning of the 1960 Act, the position of the Appeal B mobile home is less certain. However, I

shall impose the same condition (see (d) above) for the avoidance of any doubt should future circumstances change.

37. The Appeal B development would be situated towards the very edge of the employment allocation and I consider that a dedicated vehicular access could be designed into any employment development if required. I do not believe that the presence of the Appeal B development would prejudice the LP allocation and therefore see no justification for a condition requiring residential occupation to cease in the event of the LP allocation being taken up.

### **Conclusions**

38. For the reasons given above I conclude that Appeal A should succeed on ground (a) and planning permission will be granted and that Appeal B should be allowed.

*Brian Cook*

Inspector

## **APPEARANCES**

### FOR THE APPELLANT:

Mrs Alison Heine BSc, MSc, MRTPI	Heine Planning Consultancy
Miss Jill Martin	Appellant
Mr Simon Potter	Appellant's partner

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Bryn Kitching	Area Planning Manager
Mr Peter Lean	Planning Enforcement Officer

## **DOCUMENTS**

- 1 Letter and extract relating to the draft submission version (Reg 19) of the West Somerset Local Plan to 2032 submitted by the Council
- 2 Suggested conditions submitted by the Council

## **PLANS**

- A Extract from West Somerset District Local Plan proposals map and key submitted by the Council
- B Location of existing mobile home submitted by the Council

## Plan

This is the plan referred to in condition 1 of my decision dated:28.04.2015

**by Brian Cook BA (Hons) DipTP MRTPI**

**Land at: Red Park Equestrian Centre, Egrove Way, Williton**

**Reference: APP/H3320/C/14/2226386**

Scale: not to scale

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## Costs Decisions

Hearing held on 10 March 2015

Site visit made on 10 March 2015

**by Brian Cook BA (Hons) DipTP MRTPI**

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

**Decision date: 28 April 2015**

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### **Costs Application A in relation to Appeal Ref: APP/H3320/C/14/2226386 Land at Red Park Equestrian Centre, Egrove Way, Williton TA4 4TB**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Ms Jill Martin for a full award of costs against West Somerset Council.
  - The hearing was in connection with an appeal against an enforcement notice alleging the material change of use of the land by the siting and residential use of a mobile home.
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### **Costs Application B in relation to Appeal Ref: APP/H3320/A/14/2226385 at Red Park Equestrian Centre, Egrove Way, Williton Industrial Estate, Taunton TA4 4TB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Ms Jill Martin for a full award of costs against West Somerset Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for the siting of a mobile home to be used as an equestrian/agricultural/forestry workers dwelling.
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## Decisions

### **Costs Application A in relation to Appeal Ref: APP/H3320/C/14/2226386**

1. The application for an award of costs is allowed in the terms set out below.

### **Costs Application B in relation to Appeal Ref: APP/H3320/A/14/2226385**

2. The application for an award of costs is allowed in the terms set out below.

### **The submissions for Ms Martin**

3. Five grounds were advanced to explain why the Council is considered to have acted unreasonably in this matter and directly caused unnecessary and wasted expense.
4. First, the Council failed to carry out an adequate investigation of the alleged breach prior to the issue of the notice. If it is agreed that the structure is not within the statutory definition of a caravan and the notice cannot be corrected without injustice to either party expense would have been wasted in the appeal against the notice.

5. Second, the Council has relied on historic decisions both by itself and by the Secretary of State on appeal which related to permanent dwellings rather than a change of use for the siting of a caravan. They were determined against different policies and in different circumstances.
6. Third, the Council has prevented development within a settlement boundary that should have been permitted having regard to the National Planning Policy Framework (especially paragraphs 14, 22 and 49), the use of the appeal site, the contribution made to local employment and tourism in West Somerset, the need for more housing in the District and the personal circumstances of the appellant. It remained unclear at the end of the Hearing how the development would undermine the Local Plan employment allocation.
7. Fourth, the Council has made vague, generalised and inaccurate assertions about the impact that the appeal developments would have that are unsupported by evidence and objective analysis. It is unclear what policies are being relied upon. No evidence has been adduced to support the claim that a caravan cannot attenuate noise as there has been no regard to the British Standards for manufacture of caravans.
8. Finally, it appears through discussion that the Council considers that conditions could have overcome the objections even though the time limited condition suggested would not meet the relevant advice in the Planning Practice Guidance. Had this been clear the appeals would probably not have been made.

### **The response by the Council**

9. The Council responded only to the first and final points raised. In respect of the first the Council submitted that this was a matter of judgement and that this would become clear at the site inspection (which followed the applications for costs).
10. Conditions were suggested on a 'without prejudice' basis. The planning application is for a permanent dwelling which would not have been accepted. The Council notes that in any event, no agreement could be reached on the period to be specified in any time limit condition.

### **Reasons**

11. Guidance on the award of costs in appeal proceedings is given in the relevant parts of the on-line Planning Practice Guidance. For an award to be justified there has to be both unreasonable behaviour on the part of one party and unnecessary or wasted expense incurred by the other directly as a result of that unreasonable behaviour.
12. Although the Council did not issue a Planning Contravention Notice, the steps taken to establish from the appellant what had happened were explained at the Hearing. For the reasons set out in my decision I have concluded that the breach of planning control alleged was correct. The appeal on ground (b) therefore failed. While I do not consider that the conservatory-type extension to the mobile home was within the scope of the breach of planning control, the mobile home is easily detached from it. As such the requirements of the notice are not unreasonable and the Council did not behave unreasonably in framing the notice as it did. The circumstances in which Ms Martin argued that wasted

expense was incurred did not therefore arise. No award is appropriate therefore in respect of the first ground in the applications.

13. Dealing with the other grounds on which the applications are made I consider that the Council has approached the matter from the wrong perspective. It concentrated on the use for which the land was allocated in the Local Plan rather than the lawful use being carried on. Had the Council engaged with the appellant as the Statement of Positive Working suggests that it did, it would have been aware that the appellant was not averse to the land being developed in accordance with the Local Plan in due course. It would also have been aware that the appellant was willing, indeed offering, to vacate the current accommodation on planning permission being granted for the Application B development. It seems to me therefore that the whole matter could have been dealt with through the imposition of conditions on a planning permission for the Application B development in a form similar to those that the Council discussed and put forward at the Hearing. Refusal of planning permission in those circumstances is included among the examples that are given in the Planning Practice Guidance of unreasonable behaviour likely to lead to an award of costs.
14. Related to that is the Council's assertion that a mobile home in either location could prejudice the existing employment development through the introduction of a noise sensitive use in close proximity. While this formed an argument in the Council's appeal statement, it is not at all clear from the officer's report that this was put forward as part of reason for refusal 1 for the Application B development. No evidence was put forward by, for example, the Council's Environmental Health Officer to substantiate this argument. Furthermore, any issue in this regard with respect to the Application A development could have been addressed by relocating the residential occupation through a planning permission for the Application B proposal. It represents therefore a vague and generalised assertion about the impact that a proposal could have that is not supported by any objective analysis. This is a further example of unreasonable behaviour set out in the Planning Practice Guidance likely to lead to an award of costs against a local planning authority.
15. There was simply no evidence for the second reason for refusal of the Application B development. At the Hearing the Council did not expand on the officer's report. This relies almost wholly on previous appeal decisions in the 1990s dealing with applications for permanent dwellings. This was well before the Local Plan was adopted or the National Planning Policy Framework published. There is no acknowledgement that both the nature of the proposal being addressed and the policy position had changed since those decisions were issued. This failure to produce evidence to substantiate a reason for refusal is a further example given in the Planning Practice Guidance as likely to lead to an award of costs being made.

## **Conclusion**

16. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the relevant parts of the Planning Practice Guidance, has been demonstrated in respect of both applications and that a partial award of costs is justified in respect of Application A (since the application for costs in respect of the appeal on ground (b) fails) and a full award of costs is justified in respect of Application B. However, only one set of

costs has been incurred since the case made for planning permission to be granted was the same for both appeals even though they related to different developments.

**Costs Order**

17. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Somerset Council shall pay to Ms Jill Martin, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the ground (a) appeal and the deemed planning application in the case of Appeal Ref: APP/H3320/C/14/2226386 but the full costs incurred in respect of Appeal Ref: APP/H3320/A/14/2226385.
18. The applicant is now invited to submit to West Somerset Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Brian Cook*

Inspector