THE EXECUTORS OF W G KING

RESIDENTIAL DEVELOPMENT COMPRISING THE ERECTION OF 23 DWELLINGS FOLLOWING THE DEMOLITION OF EXISTING INDUSTRIAL BUILDINGS, KINGS YARD, TAUNTON ROAD, BISHOPS LYDEARD AS AMPLIFIED BY LETTER DATED 25TH APRIL, 2005 WITH ACCOMPANYING PLAN

16988/28992 OUTLINE

# 1.0 **RECOMMENDATION**

Subject to the views of the County Highway Authority and the applicant entering into a Section 106 Agreement to provide:-

- (i) Affordable housing based on 25% of the total number of dwellings. This provision to be on the basis of (at present) 2 No. one bedroomed flats, 2 No. two bedroomed flats and 1 No. two bedroomed house together with a financial contribution equating to 75% of the costs (to the developer) of providing a further 2 bedroomed dwelling. The flats to be rented and house shared equity; and
- (ii) A contribution towards sport and every dwelling with 2 bedrooms or more to contribute towards play at the current calculated rates at the time of permission be implemented;

the Development Control Manger in consultation with the Chair/Vice Chair be authorised to determine and permission be GRANTED subject to the following conditions:-

- O1 Before any part of the development hereby permitted is begun detailed drawings to an appropriate scale of the siting, design and external appearance of the building(s), the means of access thereto, and the landscaping of the site (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority.
- O1 Reason: The application was submitted as an outline application in accordance with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order, 1995.
- O2 Application for approval of the reserved matters under (1) above shall be made to the Local Planning Authority within 3 years of the date of this permission.
- Reason: In accordance with the provisions of Section 92 of the Town and Country Planning Act, 1990.
- The development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

- Reason: In accordance with the provisions of Section 92 of the Town and Country Planning Act, 1990.
- Defore the commencement of any works hereby permitted, details or samples of the materials to be used for all the external surfaces of the building(s) shall be submitted to and be approved in writing by the Local Planning Authority, and no other materials shall be used without the written consent of the Local Planning Authority.
- O4 Reason: To reinforce the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan
- (i) Before any part of the permitted development is commenced, a scheme of planting of trees, shrubs and hedges, which shall include details of the species, siting and numbers to be planted, shall be submitted to and approved in writing by the Local Planning Authority. (ii) The scheme shall be completely carried out within the first available planting season from the date of commencement of the development, or as otherwise extended with the agreement in writing of the Local Planning Authority. (iii) For a period of five years after the completion of the planting scheme, the trees, shrubs and hedges shall be protected and maintained to the satisfaction of the Local Planning Authority and any trees, shrubs or hedges that cease to grow shall be replaced by trees, shrubs or hedges of similar size and species, or the appropriate trees, shrubs or hedges as may be approved in writing by the Local Planning Authority.
- O5 Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2 (Revised Deposit numbering).
- Defore any part of the development hereby permitted is commenced detailed drawings showing which trees are to be retained on the site shall be submitted to and approved in writing by the Local Planning Authority and none of the trees so shown shall be felled, lopped, topped, lifted or disturbed without the prior written consent of the Local Planning Authority.
- Reason: In the interests of the visual amenity of the area in accordance with Taunton Deane Local Plan Revised Deposit Policy EN7.
- O7 Before any part of the permitted development is commenced, the trees to be retained on the site shall be protected by a chestnut paling fence 1.5 metres high, placed at a minimum radius equivalent to the full spread of the tree canopy from the trunk of the tree and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soil levels around the boles of the trees so retained shall not be altered.
- 07 Reason: In the interests of the visual amenity of the area as required by Taunton Deane Local Plan Revised Deposit Policy EN7.
- No service trenches shall be dug within the canopy of any existing tree within the curtilage of the site without the prior approval of the Local Planning Authority.
- O8 Reason: To avoid potential harm to the root system of any tree leading to possible consequential damage to its health which would be contrary to Taunton Deane Local Plan Policies EN6 and EN8.
- Defore any part of the permitted development is commenced, the hedges to be retained on the site shall be protected by a chestnut paling fence 1.5 m

- high, placed at a minimum distance of 2.0 m from the edge of the hedge and the fencing shall be removed only when the development has been completed. During the period of construction of the development the existing soils levels around the base of the hedges so retained shall not be altered.
- OP Reason: To avoid potential harm to the root system of any tree leading to possible consequential damage to its health which would be contrary to Taunton Deane Local Plan Policies EN6 and EN8.
- No tree shall be felled, lopped, topped, lifted or disturbed in any way without the prior written consent of the Local Planning Authority.
- 10 Reason: The existing trees represent an important visual feature which the Local Planning Authority consider should be substantially maintained in accordance with Taunton Deane Local Plan Deposit Policies EN6 and EN8.
- The existing hedge on the north eastern boundary of the site shall be retained to the satisfaction of the Local Planning Authority.
- 11 Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.
- Before any part of the permitted development is commenced, details of all boundary walls, fences or hedges forming part of the development, shall be submitted to and approved in writing by the Local Planning Authority and any such wall, fence or hedge so approved shall be erected/planted before any such part of the development to which it relates takes place.
- 12 Reason: To ensure that the proposed development makes a satisfactory contribution to the preservation and enhancement of the local character and distinctiveness of the area in accordance with Taunton Deane Local Plan Policy S2.
- The proposed estate roads, footways, footpaths, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking, street furniture and tactile paving shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
- Reason: To ensure that the proposed estate is laid out in a proper manner with adequate provision for various modes of transport in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.
- The access to the site shall be based on the existing access from Taunton Road. There shall be no vehicular access from Mill Lane.
- Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.
- The visibility splays shown on the submitted plan shall be constructed prior to the commencement of the use of the premises and visibility shall thereafter be maintained to the satisfaction of the Local Planning Authority.
- Reason: In the interests of highway safety in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy 49.

- Details of the size, position and materials of any meter boxes installed in connection with the development shall be submitted to and approved by the Local Planning Authority before development is commenced.
- Reason: In the interests of satisfactory design and visual amenity in accordance with Taunton Deane Local Plan Policy S2(A).
- Before any of the dwellings hereby permitted are occupied all the existing buildings on the site shall be demolished and all materials resulting from the demolition shall be removed from the site.
- 17 Reason: In the interests of the visual amenity of the area in accordance with Taunton Deane Local Plan Revised Deposit Policy S1(D)
- 18 Before any work, other than investigative work, is carried out in connection with the use hereby permitted a suitably qualified person shall carry out an investigation and risk assessment to identify and assess any hazards that may be present from contamination in, on or under the land to which this permission refers. Such investigation and risk assessment shall include the following measures:-(a) The collection and interpretation of relevant information to form a conceptual model of the site; and a preliminary risk assessment of all the likely pollutant linkages. The results of this assessment should form the basis of any subsequent site investigations. (b) A ground investigation shall be carried out, if required, before work commences to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants. (c) A site-specific risk assessment shall be carried out to evaluate the risks to existing or potential receptors, which could include human health, controlled waters, the structure of any buildings and the wider environment. All the data should be reviewed to establish whether there are any unacceptable risks that will require remedial action. (d) If any unacceptable risks are identified a remediation strategy shall be produced to deal with them effectively, taking into account the circumstances of the site and surrounding land and the proposed end use of the site. (e) Submission to the Planning Authority of 2 copies of the Consultants written Report which shall include, as appropriate, full details of the initial research and investigations, the risk assessment and the remediation strategy. The Report and remediation strategy shall be accepted in writing by the Local Planning Authority and thereafter implemented. (f) If any significant underground structures or contamination is discovered following the acceptance of the written Report, the Local Planning Authority shall be informed within two working days. No remediation works shall take place until a revised risk assessment and remediation strategy has been submitted to and accepted in writing by the Local Planning Authority. (g) On completion of any required remedial works two copies of a certificate confirming the works have been completed in accordance with the agreed remediation strategy, shall be submitted to the Local Planning Authority. (h) All investigations, risk assessments and remedial works shall be carried out in accordance with current and authoritative guidance. (i) All investigations and risk assessments shall be carried out using appropriate, authoritative and scientifically based guidance (Stat guidance B.47). Any remedial works should use the best practicable techniques for ensuring that there is no longer a significant pollutant linkage. (Stat guidance C.18).

- Reason: To ensure that the potential land contamination can be adequately dealt with prior to the use hereby approved commencing on site in accordance with Taunton Deane Local Plan Policy S1(E) (Revised Deposit numbering).
- Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any subsequent order amending or revoking and re-enacting that Order), no garage shall be erected on the site unless an application for planning permission in that behalf is first submitted to and approved by the Local Planning Authority.
- 19 Reason: The Local Planning Authority wishes to exercise control over the matter in the interests of amenity and road safety in accordance with Taunton Deane Local Plan Revised Deposit Policy S1 (A) and (E).
- 20 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any subsequent order amending or revoking and re-enacting that Order), no gate, fence, wall or other means of enclosure shall be erected on the site beyond the forwardmost part of the front of the dwellinghouse(s) or of the exposed flank wall of any corner dwelling unless an application for planning permission in that behalf is first submitted to and approved by the Local Planning Authority.
- 20 Reason: The Local Planning Authority wish to exercise control over the matters referred to in the interests of visual amenity in accordance with Taunton Deane Local Plan Revised Deposit Policy S2(A).
- Within a period of 3 years from the date of this permission, details of the arrangements to be made for the disposal of foul and surface water drainage from the proposed development, shall be submitted to and approved in writing by the Local Planning Authority before any work hereby permitted is commenced.
- 21 Reason: The Local Planning Authority wish to ensure that satisfactory drainage is provided to serve the proposed development(s) so as to avoid environmental amenity or public health problems in compliance with Taunton Deane Local Plan Policies S1 (E) and EN26.
- 22. Prior to the demolition of any of the buildings or the commencement of development, a survey shall be carried out to ascertain the importance of the buildings and land for bats and nesting birds and slow worms, all species of which are legally protected under the Wildlife and Countryside Act 1981. If bats and nesting birds are to be affected, mitigation measures shall be submitted and carried out as part of the development.
- 22 Reason: In the interests of the wildlife of the area in accordance with Taunton Deane Local Plan Policies EN4 and EN4(A) (Revised Deposit Numbering).

#### Notes to Applicant

The Applicant is reminded that a Remediation Strategy should include reference to the measures to be taken to safeguard the health and safety of the workforce undertaking the remediation works and any other persons who may be affected by contaminated materials or gases. The site investigation and report should be in line with the latest guidance. Sources of such guidance will include, although not exclusively, publications by the Department for Environment, Food and Rural Affairs (formally DoE and then DETR) the Environment Agency and the British Standards Institute. The Council has produced a Guide to the Assessment and Remediation of

- Contaminated Land (attached) which gives more details on the relevant sources of information available.
- O2 Copies of 'Sustainable Drainage Systems' produced by Somerset Local Authorities in conjunction with the Parrett Catchment Study and the Council's Design Guide for on site attenuation are attached to this certificate.
- Accordingly to Wessex Water records indicate that there is a public water main close to the site and a foul sewer crossing the site. Wessex Water normally requires a minimum 3 m easement width on either side of its apparatus, for the purpose of maintenance and repair. Diversion or protection works need to be agreed. You should agree with Wessex Water prior to the commencement of works on site any arrangements for the protection of infrastructure crossing the site. You should also agree with Wessex Water connections to their infrastructure for water supply and drainage.
- Your attention is drawn to the needs of the disabled in respect of new housing and the requirements under Part M of the Building Regulations.
- To help conserve the world's energy you should aim to build houses which are well insulated, designed to reduce overheating in summer and to achieve as high an energy rating as possible.
- When consideration is given to the issue of street naming you are urged to bear in mind the use of field names and historic or other associations with the land in seeking a satisfactory name.
- O7 Meter boxes can often have a jarring effect on the appearance of buildings. You are asked to consider carefully the position, materials and colour of any meter boxes in the overall design of the dwellings.
- You are asked to consider the adoption of water conservation measures to reduce wastage of water in any systems or appliances installed and to consider the use of water butts if at all possible.
- Your attention is drawn to the publication 'Secure by Design' as a means of designing out crime. You are advised to contact the Police Liaison Officer at Burnham Police Station (01278) 363414 for further advice.
- The development hereby approved may be subject to the Construction (Design and Management) Regulations 1994 which govern the health and safety through all stages of a construction project. The Regulations require clients (i.e. those, including developers, who commission construction projects) to appoint a planning supervisor and principal contractor who are competent and adequately resourced to carry out their health and safety responsibilities. Clients have further obligations. Your designer will tell you about these and your planning supervisor can assist you in fulfilling them. Further information is available from the Health and Safety Executive Infoline (08701 545500).
- Your attention is drawn to the agreement made under Section 106 of the Town and Country Planning Act 1990, relating to this site/property.
- The building(s) to which this proposal relates may provide a nesting site for owls or a roosting place for bats. These are protected species under Schedules 1 and 5 of the Wildlife and Countryside Act 1981. It is an offence to intentionally disturb owls while nesting or bats occupying a building or structure, and if you suspect that these species are present you are advised to contact English Nature (Telephone: Taunton 283211) for advice on this matter.

- The Council seeks to achieve a high quality of individual design in new housing development. Your attention is therefore drawn to the enclosed Design Guide, the principles of which must be taken into account when submitting an application for reserved matters.
- 14. You are reminded that the submitted layout plan is for illustrative purposes only.

REASON(S) FOR RECOMMENDATION:- The site is located within the settlement limits of Bishops Lydeard where residential development is considered acceptable in accordance with Somerset and Exmoor National Park Joint Structure Plan Review Policy STR6A. The proposal is considered to meet the requirements of the Taunton Deane Local Plan Policies S1, S4, H2, H9, EC9, C4 and BL2 and material considerations do not indicate otherwise.

# 2.0 **THE APPLICANT**

The Executors of W G King.

# 3.0 **PROPOSAL**

The proposal is an outline application for residential development providing for the erection of 23 dwellings on land currently partly occupied by industrial buildings at Kings Yard, Taunton Road, Bishops Lydeard. The application also provides for the alteration of the existing access into the site. Although the application is in outline only an illustrative layout plan has been submitted indicating a development of 23 dwellings, comprising semi-detached and terraced 2 and 3 storey houses. In the event that the current application is approved, the details would need to be agreed by a subsequent reserved matters application. Water supply and drainage could be in existing mains infrastructure. The site extends to 0.58 ha. A contaminated land site investigation report was also submitted with the application.

# 4.0 THE SITE

The buildings and yard have previously been used for the repair of heavy goods vehicles and machinery. The site has been used as a repair yard for farm machinery from the 1920s, working first on steam engines and then on repairs of lorries and quarry machinery. The vehicle repair activities associated with the applicants quarry at Cannington have been transferred there.

The site is located within a predominately residential area and comprises an open yard area with associated industrial type buildings. The site is bounded by hedges and trees to the Taunton Road and Mill Lane frontage and timber fencing to the other boundaries.

#### 5.0 **RELEVANT PLANNING HISTORY**

**06/1988/024** Residential development on land between Taunton Road and Mill Lane and alterations of existing access, Bishops Lydeard. Outline permission granted November 1988. This site is to the south-east of the current site.

**06/1992/006** Erection of 31 No. two storey dwellings and formation of access, Taunton Road, Bishops Lydeard. Full permission granted June 1992. This site is the same as the application above.

# 6.0 **RELEVANT PLANNING POLICY**

# Regional Planning Guidance for the South West (RPG 10)

Policy SS19 Rural Areas

Policy EN4 Quality in the built environment

Policy EC3 Employment sites

Policy HO3 Affordable Housing

Local authorities, social housing providers and other agencies in their relevant plans, policies and programmes should aim to ensure that sufficient affordable housing is provided in order to meet community needs in both urban and rural areas. This should involve:

- the identification of targets in development plans indicating the levels of affordable housing required in each area; these should be based on local housing needs assessments undertaken to consistent standards across the region, which take into account both need and supply-side considerations;
- an indication of the circumstances in which 'exceptions' to planning policies in rural areas will be appropriate in order to meet affordable housing needs;
- setting out the circumstances, in accordance with Circular 6/98, which would justify the application of lower thresholds for the inclusion of affordable housing in new developments (i.e. down to 15 dwellings or 0.5 hectare in urban areas). Where local authorities can demonstrate that local circumstances, particularly the likely viability of developments, justify adopting a lower threshold, they should bring proposals forward through the development plan system;
- encouraging partnership approaches to the assessment and delivery of affordable housing by local authorities, registered social landlords, developers and other agencies operating in the same broad local housing market area; and
- making the most of the existing housing stock in meeting housing needs including, where appropriate, the purchase by registered social landlords of dwellings on the open market, especially in areas where it would otherwise be difficult to deliver affordable housing and where this would help the development of mixed communities.

In addition the Regional Planning Body should monitor the overall provision of affordable housing against a provisional indicator of 6,000-10,000 units a year. This

indicator should be reviewed in the light of the cumulative result of local needs assessments.

Policy HO5 Previously developed land and buildings

Policy HO6 Mix of housing types and densities.

# Somerset and Exmoor National Park Joint Structure Plan Review

Policy STR1 Sustainable development.

Policy STR6A Rural settlements

Policy 16 Provision of land for industrial, warehouse and business development.

Policy 48 Access and parking

Policy 49 Transport and development.

#### **West Deane Local Plan**

The site, together with the land to the south-east was originally allocated for housing development in the First Draft of the Plan, utilising the present access to the site. This did not proceed, since at the time the owners wanted to retain the vehicle repairing workshop. The land to the south-east has now been developed.

# **Taunton Deane Local Plan**

Policy S1 General requirements

Policy S2 Design

# Policy S4

Bishops Lydeard and Wiveliscombe are defined as rural centres, appropriate for selective development which enhances or maintains their local social and economic role and environmental quality and is unlikely to lead to a significant increase in car travel.

#### Policy H2

Housing development will be permitted within defined limits of settlements, provided that:

- (A) there is safe and convenient access by bus or on foot to facilities and employment. In the case of proposals of a significant scale, bus or walking access to a town centre or rural centre will be required, taking account of any off-site works proposed in accordance with criterion (B);
- (B) necessary provision is made for off-site public transport, cycling and pedestrian facilities and highway improvements to cater safely for the

- expected number of trips generated by the development and minimise the proportion of car trips;
- (C) traffic calming, pedestrian, cycle and bus measures are incorporated where necessary to give priority to safe and convenient access and circulation by means other than the car;
- (D) the layout allows people with impaired mobility or a disability safe and convenient access and movement to and between dwellings by careful positioning of potential obstructions, ramps, dropped kerbs, textured surfaces and reserved car parking;
- (E) small scale schemes in existing residential areas will increase the development density of these areas without individually or cumulatively eroding their character or residential amenity;
- (F) a coherent approach to the overall design is adopted, including layout, landscaping, building designs, materials, open spaces and circulation routes, to create locally distinctive developments well related to their surroundings;
- (G) existing and proposed dwellings will enjoy adequate privacy and sunlight; and
- (H) on housing developments and conversions of a substantial scale a reasonable mix and balance of housing types and sizes be incorporated to cater for a range of housing needs, particularly those low-cost housing types which are under-represented in the current stock.

#### Policy H9

On suitable housing sites, the provision of affordable dwellings will be sought where:

- (A) within Taunton and Wellington, the site is at least 1.0 hectare in size or is proposed for at least 25 dwellings;
- (B) outside Taunton or Wellington, the site is of a sufficient size and land value for the incorporation of affordable housing to be feasible and there is a need for affordable housing in the parish or adjoining parishes; and
- (C) occupants without the use of a car will have safe and convenient access to shopping, employment and education provision.

The provision of affordable dwellings sought on a site will be based on the overall need to provide for the identified affordable housing need. In assessing the level of provision on individual sites regard will be paid to the need to balance other important planning requirements and to any abnormal costs associated with the development of the site which would threaten its financial viability. Indicative targets for the allocated sites are set out in policy H10.

Proposals which lead to the loss of existing or identified business, industrial or warehousing land to other uses, including retailing, will not be permitted unless the overall benefit of the proposal outweighs the disadvantages of the loss of employment or potential employment on the site.

#### Policy M4 Residential parking requirements

#### Policy C4

In the event of the increased demand for open space not being met by existing facilities, developers of new housing, on sites of six or more dwellings, will provide landscaped and appropriately equipped recreational open space in accordance with the following standards:

- (A) children's play space: 20 square metres per family dwelling to comprise casual play space and LEAPS and NEAPS to the required standard, as appropriate. This standard excludes space required for noise buffer zones;
- (B) adequately constructed and equipped public playing fields: 45 square metres per dwelling. This standard excludes space required for noise buffer zones;
- (C) formal parks, gardens and linear open spaces as required by particular Local Plan allocations;
- (D) in the case of small groups of housing where the site is too small for provision of playing fields or children's play space on-site, or where it is physically unsuitable, off-site provision will be sought; and
- (E) developers will be required to arrange for maintenance of the recreational open space.

Policy EN4 Wildlife in buildings to be converted or demolished.

Policy EN6 Protection of trees, woodland, orchards and hedgerows.

## Policy EN32

Development of contaminated land will not be permitted where harm to wildlife or the public would result. Any necessary remedial measures must be undertaken before any harmful effects can occur and the proposed development comes into use.

#### Policy BL2

New housing development will be restricted to small-scale developments, including infilling, within the defined settlement limits.

# 7.0 **CENTRAL GOVERNMENT POLICY GUIDANCE**

#### Planning Policy Statement 1- Delivering Suitable Development (PPS1)

Paragraph 4 Aims for sustainable development

Paragraph 5 Sustainable and inclusive patterns of urban and rural development.

Paragraphs 17/18 Protection and enhancement of the environment.

Paragraph 27 Delivering sustainable development – general approach.

### Planning Policy Guidance Note 3 - Housing (PPG3)

Paragraph 14

A community's need for a mix of housing types, including affordable housing, is a material planning consideration which should be taken into account in formulating development plan policies and in deciding planning applications involving housing. Where there is a demonstrable lack of affordable housing to meet local needs - as assessed by up-to-date surveys and other information - local plans and UDPs should include a policy for seeking affordable housing in suitable housing developments.

Paragraph 16

Decisions about the amount and types of affordable housing to be provided in individual proposals should reflect local housing need and individual site suitability and be a matter for agreement between the parties. Local planning authorities and developers should be reasonably flexible in deciding the types of affordable housing most appropriate to a particular site. The objective should be to ensure that the affordable housing secured will contribute to satisfying local housing needs as demonstrated by a rigorous assessment.

Paragraph 17

The policy in this guidance on planning and affordable housing is set out in more detail in DETR Circular 6/98 *Planning and Affordable Housing*. Where a local planning authority has decided, having regard to the criteria set out in paragraph 10 of Circular 6/98, that an element of affordable housing should be provided in development of a site, there is a presumption that such housing should be provided as part of the proposed development of the site. Failure to apply this policy could justify the refusal of planning permission.

Paragraph 22

The Government is committed to maximising the re-use of previously-developed land and empty properties and the conversion of non-residential buildings for housing, in order both to promote regeneration and minimise the amount of greenfield land being taken for development.

Paragraph 35

Windfall sites are those which have not been specifically identified as available in the local plan process. They comprise previously-developed sites that have unexpectedly become available. These could include, for example, large sites such as might result from a factory closure or very small changes to

the built environment, such as a residential conversion or a new flat over a shop.

# Paragraph 42(a)

Local planning authorities should consider favourably planning applications for housing or mixed use developments which concern land allocated for industrial or commercial use in saved policies and development plan documents or redundant land or buildings in industrial or commercial use, but which is no longer needed for such use, unless any of the following apply:

- the proposal fails to reflect the policies in this PPG (including paragraph 31), particularly those relating to a site's suitability for development and the presumption that previously-developed sites (or buildings for re-use or conversion) should be developed before greenfield sites:
- the housing development would undermine the planning for housing strategy set out in the regional spatial strategy or the development plan document where this is up-to-date, in particular if it would lead to overprovision of new housing and this would exacerbate the problems of, or lead to, low demand;
- it can be demonstrated, preferably through an up-todate review of employment land' (refer to Annex D for practice guidance), that there is a realistic prospect of the allocation being taken up for its stated use in the plan period or that its development for housing would undermine regional and local strategies for economic development and regeneration

Paragraphs 57/58 Making the best use of land

Paragraph 62 Reviewing parking standards.

# <u>Planning Policy Statement 7 - Sustainable Development in Rural Areas (PPS7)</u>

Paragraph 1 Key principles

Paragraph 8 The Government's planning objectives and policies for housing are set out in PPG3, *Housing*. The key aim is to offer everyone the opportunity of a decent home. The needs of all in the community should be recognised, including those in need of affordable and accessible, special needs housing in rural areas. It is essential that local planning authorities plan to meet housing requirements in rural areas, based on an up to date assessment of local need. To promote more sustainable patterns of development and make better use of

previously developed land, the focus for most additional housing in rural areas should be on existing towns and identified service centres. But it will also be necessary to provide for some new housing to meet identified local need in other villages.

Paragraph 12 Design and the character of rural settlements.

# 8.0 **CONSULTATIONS**

# **County Highway Authority**

The formal consultations response had not been received at the date of compiling this Report.

The following comments were made by the County Highway Authority during preapplication discussions:-

"The access to the proposed site should be based on the existing access.

Visibility splays are to be provided as indicated on the enclosed plan. The distance as measured along the centre line of its access to be 4.5m with site lines to the extremities of the site in both directions.

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

### **County Archaeologist**

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

## **Wessex Water**

"The development is located within a sewered area, with foul and surface water sewers available.

The developer has proposed to dispose of surface water to existing mains.

It will be necessary, if required, for the developer to agree points of connection onto our systems, for the satisfactory disposal of foul flows and surface water flows generated by the proposal. The connection point can be agreed at the detailed design stage.

According to our records, there is a public water main close to the site and a foul sewer crossing the site. Please find enclosed a copy of our sewer records indicating the approximate position of the apparatus. Wessex Water normally requires a minimum, three-metre, easement width on either side of its apparatus, for the purpose of maintenance and repair. Diversion or protection works may need to be agreed.

It is further recommended that a condition or informative is placed on any consent to require the developer to protect the integrity of Wessex systems and agree prior to the commencement of works on site, any arrangements for the protection of infrastructure crossing the site. The developer must agree in writing prior to the commencement of works on site, any arrangements for the protection of our infrastructure crossing the site.

With respect to water supply, there are water mains within the vicinity of the proposal. Again, connection can be agreed at the design stage.

It is recommended that the developer should agree with Wessex Water, prior to the commencement of any works on site, a point of connection onto Wessex systems."

## **Landscape Officer**

"The Mill Lane and Taunton Road hedgerows are important features worthy of retention. Apart from four semi-mature trees within the site there are no significant trees. However the trees (conifer) along the northern boundary (off-site) provide considerable local amenity and minimising any damager to their roots should be a consideration in terms of housing layout.

Plots 19, 20 and 21 are too close to the existing conifers."

#### Wildlife Species Co-ordinator

"Advise that a wildlife survey is undertaken on site. My main concern is the possibility of bats roosting in the buildings, nesting birds and possibly slow worms."

#### **Forward Plan**

"As the site has previously been in employment use this proposal must be considered against policy EC9 of the adopted Taunton Deane Local Plan. This seeks to resist the loss of such land unless there are overriding benefits which outweigh its loss.

In this instance the site appears unused or certainly underused as an employment site. The buildings appear temporary/limited life span in nature and some are in a poor state of repair. It is surrounded on three sides by residential development and there is a new purpose built employment site within the village (Broadgauge).

On balance I conclude that the benefits of removing a site that has the potential to give rise to disturbance to adjoining housing, whilst increasing the supply of previously-developed housing sites at a time when completions within the Borough

are running at a rate below that required by the Structure Plan, outweigh the loss of a vacant or underused employment site, given the availability of a more appropriate alternative close to hand.

Regard must also be given to the advice in paragraph 42(a) of PPG3, concerning proposals for the residential development of redundant land or buildings previously in industrial or commercial use. This states that local planning authorities should consider such proposals favourably unless they fail any of three tests that are set out in the paragraph. In my view this proposal is acceptable in respect of all three, in that:

- it is a suitable site for development in terms of its previously-developed nature and location within a predominantly residential area within the settlement limit of a designated (within the Taunton Deane Local Plan) Rural Centre:
- its development would not undermine the planning strategy for the provision of housing in the Borough, nor would it lead to over-provision of new housing or create problems in relation to low demand; and
- in the light of alternative and better located opportunities for employment uses at the Broadguage Business Park, its loss would not undermine strategies for economic development and regeneration.

If the proposal is permitted it is important that, as a housing site within a Rural Centre, it provides dwellings of types and sizes to meet local needs arising within Bishops Lydeard and the adjoining rural parishes. In particular, it should contain an element of affordable housing in accordance with policy H9 of the adopted Taunton Deane Local Plan (TDLP), and provision of cheaper, entry level open market dwellings.

The provision of recreational open space, or financial contributions in lieu, will be required in accordance with policy C4 of the TDLP."

#### **Environmental Health Officer**

"I refer to your memo dated 4th April, 2005 and the attached report concerning the above development (Interpretative Site Investigation Report. Environ. March 2005).

The report gives details of a site investigation and assessment of the site, which has been used as a repair yard, with storage of fuel/oil. It gives recommendations for additional site investigations and outlines some proposals for remedial works.

It is recommended that the standard contaminated land condition be placed on this application, (attached)

The above report would make up part of the information that would be necessary to meet the condition, along with details of any further sampling and risk assessment. I note that the Report refers to an Environmental Desk Study prepared by Integrate Environment (May 2004 that could also be submitted by the developer.

#### Contaminated Land

Before any work, other than investigative work, is carried out in connection with the use hereby permitted a suitably qualified person shall carry out an investigation and risk assessment to identify and assess any hazards that may be present from contamination in, on or under the land to which this permission refers. Such investigation and risk assessment shall include the following measures:- (a) The collection and interpretation of relevant information to form a conceptual model of the site; and a preliminary risk assessment of all the likely pollutant linkages. The results of this assessment should form the basis of any subsequent site investigations. (b) A ground investigation shall be carried out, if required, before work commences to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants. (c) A site-specific risk assessment shall be carried out to evaluate the risks to existing or potential receptors, which could include human health, controlled waters, the structure of any buildings and the wider environment. All the data should be reviewed to establish whether there are any unacceptable risks that will require remedial action. (d) If any unacceptable risks are identified a remediation strategy shall be produced to deal with them effectively, taking into account the circumstances of the site and surrounding land and the proposed end use of the site. (e) Submission to the Planning Authority of 2 copies of the Consultants written Report which shall include, as appropriate, full details of the initial research and investigations, the risk assessment and the remediation strategy. The Report and remediation strategy shall be accepted in writing by the Local Planning Authority and thereafter (f) If any significant underground structures or contamination is discovered following the acceptance of the written Report, the Local Planning Authority shall be informed within two working days. No remediation works shall take place until a revised risk assessment and remediation strategy has been submitted to and accepted in writing by the Local Planning Authority. (g) On completion of any required remedial works two copies of a certificate confirming the works have been completed in accordance with the agreed remediation strategy, shall be submitted to the Local Planning Authority. (h) All investigations, risk assessments and remedial works shall be carried out in accordance with current and authoritative guidance. (i) All investigations and risk assessments shall be carried out using appropriate, authoritative and scientifically based guidance (Stat guidance B.47). Any remedial works should use the best practicable techniques for ensuring that there is no longer a significant pollutant linkage. (Stat guidance C.18).

Reason: To ensure that the potential land contamination can be adequately dealt with prior to the use hereby approved commencing on site.

#### Note to Applicant

The Applicant is reminded that a Remediation Strategy should include reference to the measures to be taken to safeguard the health and safety of the workforce undertaking the remediation works and any other persons who may be affected by contaminated materials or gases. The site investigation and report should be in line with the latest guidance. Sources of such guidance will include, although not

exclusively, publications by the Department for Environment, Food and Rural Affairs (formally DoE and then DETR) the Environment Agency and the British Standards Institute. The Council has produced a Guide to the Assessment and Remediation of Contaminated Land (attached) which gives more details on the relevant sources of information available."

The following further response following representations received from the applicant's property agents:-

"When advising Planning Control, this section would recommend that remediation proposals should be accepted only if the developer provides relevant information in line with current guidance, and can show that the remedial works would make the site suitable for the proposed use. There could be a number of ways to achieve this and it is up to the developer to decide which they think is most appropriate for the particular site.

Guidance on planning policy does recognise that the presence of contamination may limit or preclude development of land. The real or perceived costs of action to address the risks arising could act as a barrier to successful development, but a considered and informed approach can minimise such barriers.

Government guidance makes it clear that, where new development is taking place, it is the developer's responsibility to carry out the necessary remediation and that, in most cases, the enforcement of remediation requirements will be through planning conditions and building control rather than through a remediation notice under Part IIA of the Environmental Protection Act 1990.

In determining applications the Local Planning Authority will need to be satisfied that the development does not create or allow the continuation of unacceptable risk arising from the condition of the land in question or from adjoining land.

For planning purposes, what constitutes an unacceptable risk is wider that for Part IIA purposes since planning is concerned with proposed development and future use. In addition, the range of receptors is wider that under Part IIA and includes, for example, general fauna and flora, landscape and amenity. When remediation of land affected by contamination is achieved by means of development, these differences between the two regimes should be recognised and allowed for by developers, their advisors and by LPAs.

The standard of remediation to be achieved through the grant of planning permission for new development is the removal of unacceptable risk and making the site suitable for its new use, including the removal of existing pollutant linkages. All receptors relevant to the site should be protected to an appropriate standard. As a minimum, after carrying out the development and commencement of its use, the land should not be capable of being determined as contaminated land under Part IIA of the EPA 1990."

# **Drainage Officer**

"It is a recommendation of this Authority that development of this size investigate the use of Sustainable Drainage Systems (SUDs) for the treatment of surface water disposal. This is in line with PPG25 and Building Regulations 2000 (Part H). I therefore enclose a copy of the Sustainable Drainage Systems produced by Somerset Local Authorities in conjunction with the Parrett Catchment Study and a design guide for on site attenuation.

The developer is advised to contact this section at an early stage and that no approval for the development to be given until an agreed method of surface water disposal is agreed."

### **Leisure Development Manager**

"The proposed development does not make provision for recreation and children's play although it will generate additional needs.

In accordance with the Council's policy every dwelling should contribute towards sport and every house with 2 bedrooms or more should contribute for play at the current calculated rates at the time of permission be implemented."

#### **Housing Officer**

"The Housing Service would require 25%, 6 units for social housing in order to satisfy the sustainable need in this area."

# Parish Council

- "1. The Council supports the application.
- 2. Bearing in mind the open vista from the A358 by-pass, essential to restrict the dwellings to two storeys only.
- Essential to provide footway connecting with existing and adjacent development at Webbers. If possible secure contribution for extension of footway westward along Taunton Road to Gore Square.
- 4. Ensure adequate off-street car parking for each dwelling and that the allocation is easily accessible to residents rather than a communal parking area i.e., not to repeat the Cotford St. Luke concept of collective areas which are grossly under-utilised."

# 9.0 **REPRESENTATIONS**

No representations have been received.

#### 10.0 PRINCIPAL ISSUES FOR CONSIDERATION

A. Does the proposal comply with the Development Plan? POLICY

- B. Does the proposal make adequate arrangements for dealing with contaminated land? CONTAMINATED LAND
- C. Are the requirements for affordable housing provision met? AFFORDABLE HOUSING
- D. Is the proposed development likely to be financially viable? FINANCIAL VIABILITY
- E. Are the proposed access arrangements appropriate? ACCESS
- F. Is the proposed development sustainable? SUSTAINABILITY

### A. Policy

The site lies within the settlement limits of Bishops Lydeard, which is defined as a rural centre. As such Policy S4 of the Taunton Deane Local Plan sees selective development which enhances or maintains the settlements' local social and economic role and environmental quality and is unlikely to lead to a significant increase in car travel as appropriate. Bishops Lydeard has a range of services and employment close to the site and is on a well-served bus route into Taunton.

The proposal would result in the loss of existing employment land and has therefore to be considered against Policy EC9 of the Taunton Deane Local Plan. This seeks to resist the loss of such land unless there are overriding benefits which outweigh its loss. The site is currently vacant with the buildings in a relatively poor state of repair. The site is surrounded on three sides by residential development and there is a relatively new purpose built employment site nearby. Given these factors, alternative use as proposed is considered acceptable.

The density of the scheme proposed would be approximately 40 dwellings per hectare, which is within the required range for residential development.

### **B.** Contaminated Land

Because of the potential for contaminative activities, a site investigation report has been commissioned by the applicant. This recommended that:-

- soil gases are re-monitored on two separate occasions during low atmospheric conditions in order to establish representative results of soil gas concentrations.
- (ii) A more detailed intrusive investigation is likely to be required prior to development. Results from any future investigations can then be used to refine the conceptual site model and provide a greater certainty with regard to the remediation scope.

The Report indicates that there are several options that can be considered with regard to the remediation works associated with the future redevelopment of the site. The first option would be to remove all of the made ground from across the

whole site and replace this with imported inert fill. An indicative total cost estimate for this is between £510,000 - £575,000. This represents the 'worst case' remediation scenario in that all contaminated shallow material must be removed from site. The second option is to remove made ground from garden areas only, which will significantly reduce disposal volumes. This would give a total cost of between £155,000 - £172,000. The consultants consider this option appears to be the most likely in terms of its applicability to the site. The final option is to provide a clean material across the site to include a capillary break layer. This would eliminate the pathway between the future site users and the identified chemical contamination. The approximate cost of this scheme would in the order of £127,500.

The response of the Environmental Health Officer to the proposal is set out in section 8.0 above. He considers that the options given in the Site Investigation Report are only rough outlines of what could be carried out. The applicants would need to do a more site specific risk assessment before deciding what would be acceptable on the site. This is reflected in the recommended conditions.

# C. Affordable Housing

Affordable housing is sought in accordance with Policy H9 of the Taunton Deane Local Plan. On suitable windfall sites such as this, the supporting text in the Local Plan indicates that the level of affordable housing to be provided on each site will be within the range 20 - 35%. The actual level is to be determined by any exceptional costs associated with the site which would threaten its economic viability and whether the provision of affordable housing would threaten other planning objectives which need to be given priority.

The Housing Officer is requesting that the required affordable housing (25%) be provided by 2 one-bed roomed flats, 2 two-bed roomed flats and 1 two-bed roomed house on site, plus a financial contribution equating to 75% of the costs (to the developer) of providing a further two-bed roomed dwelling. The flats would need to be available as rental units with the house on a shared equity basis.

#### **D.** Financial Viability

It is accepted that there are particular and abnormal costs in bringing forward the previously developed site. These include:-

- (i) the current use value of the site, which will have to be given up if it is to be developed residentially, assessed by agents at £350,000.
- (ii) the requirements of the Section 106 Agreement; and
- (iii) the costs of site remediation which has been the subject of a detailed investigation by environmental consultants. The clean up costs could vary from somewhere between £127,000 and a minimum to £575,000 at today's prices.

In recent months, property agents have advised the applicants with regard to the value of the property relating to its existing use and potential value for residential housing, assuming a viable planning consent is granted. Irrespective of the outcome of the current planning application, the applicants have been advised that they must weigh up carefully the marginal decision to dispose of the land given its existing use value, which has been assessed as being in the region of £350,000. There is consistently high demand for 'dirty sites' particularly transport yards which traditionally are not welcome nor provided for on modern employment sites. The high demand for sites is being fuelled by the imminent closure of Taunton Trading Estate where many existing companies are looking to relocate.

The most important issue affecting the decision to release the land for residential development is the amount of affordable housing that the development will be expected to bear. In this respect the viability of the proposal is dependent upon the total cost of ground remediation. In the experience of the applicant's property agent, the majority of residential housebuilders will only be interested in purchasing the site on the basis that a complete remediation package is agreed and then implemented. Of major concern to housebuilders is the need to satisfy purchasers, their surveyors and mortgage companies that the issue of ground contamination has been completely solved and will not return to haunt future property owners.

The Environmental Health Officer considers that, in general terms, both methods of remediation would be acceptable on a site where the site conditions and proposed use allow these methods to be used. There may also be other options that they have not yet considered.

As a valuer and agent specialising in the disposal of residential development land, the representative of the applicant's property agent has reservations regarding the viability of a scheme of 23 dwellings taking into account the requirements of any Section 106 Agreement. As Trustees, the applicants have a duty to obtain best value. They are also already foregoing the value of 4-5 building plots by agreeing to allow the adjoining church to continue in occupation. The church is seen as providing a valuable local facility where it is understood that congregations of between 60-80 are not unusual. Taking into account the required clean-up costs, affordable housing, recreation contributions and existing site value, the property agents consider that there is likely to be a total cost figure of approaching £1m. In their opinion, in order to make the site viable, the affordable housing requirement needs to be removed or at least significantly reduced, otherwise the land will simply not be released for development.

The applicants have indicated their willingness to the Authority considering the viability of remedial development of the site on an 'open book' basis. In the meantime it has been suggested tot the applicants that they seek their property agents' indication of the value of the land taking into account the prevailing costs.

#### E. Access

To date of compiling the report, the consultation response of the County Highways Authority had not been received. However, pre application discussions did not raise any in principle objections to the proposed development. The further views of

the County Highway Authority will be reported verbally. It is not considered that there is any necessity to provide a pedestrian access into the adjacent development at Webbers. The County Highway Authority did not indicate a need for a footway link to Gore Square in pre-application discussions.

# F. Sustainability

The site is located within an existing settlement which has a range of services and employment. The development site comprises previously used brown-field land. There are no wildlife implications of any significance. Bishops Lydeard is on a bus route with regular services linking it with Taunton. The proposed development has the benefit of removing a use or potential use which could have environmental impacts on the adjacent residential area.

#### 11.0 **CONCLUSIONS**

The proposal is considered to be appropriate development of a brown-field site. It is within the limits of a settlement where limited development is considered to be acceptable. Residential development will be compatible with the existing adjacent residential areas.

Because of the size of the site, the proposed development attracts a requirement for developer contributions towards recreational facilities and affordable housing. Because of the value of the land in its existing use and the requirement to deal with contaminated land on the site, the applicants have indicated that the normal requirement for affordable housing should be removed or significantly reduced.

The range of provision for affordable housing in rural areas such as this is between 20 - 35% of the total number of dwellings. Greenfield sites would normally be expected to provide 35% of the dwellings as affordable housing. Other sites would attract a discounted figure band on abnormal costs associated with the development of the site which would threaten its financial viability. With allocated sites, only where it has been proved to the satisfaction of the Local Planning Authority that the site would become economically unviable has the lowest target of 20% been applied. The lower case text of the Taunton Deane Local Plan states that having discounted the targets to take account of site specific costs and constraints and viability considerations, the Council would not normally expect to have to make further reductions.

I consider that similar principles should be applied to windfall sites such as that under consideration. A figure of 25% affordable housing has been requested, reflecting the abnormal costs associated with the site. The onus is on the applicant to demonstrate conclusively to the satisfaction of the Authority that this figure is not attainable without jeopardising the viability of the proposed development. To date this has not been done.

My recommendation therefore reflects the requirements set out in the Taunton Deane Local Plan for appropriate contributions towards leisure facilities and affordable housing. In the absence of satisfactory evidence that the scheme would become unviable, a figure of 25% is sought for the affordable housing contribution

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

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