

Taunton Deane Borough Council

Planning Committee – 25th April 2018

Planning Officer's Report and Recommendations

Applicant:

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

Description of Development

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

This matter is the responsibility of Executive Councillor Roger Habgood

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

1 EXECUTIVE SUMMARY / PURPOSE OF THE REPORT

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

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

2 RECOMMENDATION AND REASONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

authority.

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

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

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

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development. whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local Planning Authority gives written consent to any variation.

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

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

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

Strategy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Unless otherwise agreed in writing by the local planning authority all external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Notes to Applicant

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

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

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

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

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

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

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

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

3 PROPOSAL AND APPLICATION UPDATE

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

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

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

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

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

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

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

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

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

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

Comeytrove Parish Council

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

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

Trull Parish Council

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

Secretary of State.

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

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

Comments specifically on the viability appraisal.

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

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

Comments on other (non-viability) matters.

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

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

5 LOCAL FINANCE CONSIDERATIONS

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

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

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

6 DETERMINING ISSUES AND CONSIDERATIONS

6.1.0 The Applicant's case.

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

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

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

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

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

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

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

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

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

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

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

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

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

6.2.0 Analysis following the initial findings.

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

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

6.3.0 Final statement received from the Applicants

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

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

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

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

6.4.0 Officers’ opinion on the final offer.

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

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

6.5.0 Other issues arising.

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

7 CONCLUSIONS

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

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

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

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

Contact Officer: Mr J Burton