

## SWT Planning Committee

Thursday, 19th November, 2020,  
1.00 pm



Somerset West  
and Taunton

[SWT VIRTUAL MEETING WEBCAST LINK](#)

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**Members:** Simon Coles (Chair), Marcia Hill (Vice-Chair), Ian Aldridge, Mark Blaker, Dixie Darch, Roger Habgood, Mark Lithgow, Chris Morgan, Craig Palmer, Andrew Sully, Ray Tully, Brenda Weston and Loretta Whetlor

### Agenda

**1. Apologies**

To receive any apologies for absence.

**2. Minutes of the previous meeting of the Planning Committee**

To approve the minutes of the previous meeting of the Committee.

**3. Declarations of Interest or Lobbying**

To receive and note any declarations of disclosable pecuniary or prejudicial or personal interests or lobbying in respect of any matters included on the agenda for consideration at this meeting.

(The personal interests of Councillors and Clerks of Somerset County Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)

**4. Public Participation**

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

For those members of the public who have requested to speak, please note, a three minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

(Pages 5 - 10)

### **Temporary measures during the Coronavirus Pandemic**

Due to the Government guidance on measures to reduce the transmission of coronavirus (COVID-19), we will holding meetings in a virtual manner which will be live webcast on our website. Members of the public will still be able to register to speak and ask questions, which will then be read out by the Governance and Democracy Case Manager during Public Question Time and will either be answered by the Chair of the Committee, or the relevant Portfolio Holder, or be followed up with a written response.

- 5. 01/20/0007** (Pages 11 - 16)  
Formation of access track at Normans Farm, Pockeridge Bottom Road, Ashbrittle
- 6. 10/20/0002** (Pages 17 - 28)  
Variation of Condition No. 05 of application 10/16/0028 to vary the wording to include 15 breeding bitches, 3 stud dogs and puppies at Fairfield Stables, Moor Lane, Churchinford
- 7. 14/20/0016** (Pages 29 - 38)  
Variation of Condition No. 03 (allow the commercial sale of birds of prey) of application 14/19/0022 on land opposite Broomhay, White Street, Ham
- 8. 14/20/0017** (Pages 39 - 48)  
Variation of Condition No. 05 and No. 06 (to allow for the sale of birds of prey and to remove the restriction of the number of birds allowed to be kept) of application 14/16/0022 on land opposite Broomhay, White Street, Ham
- 9. 20/20/0011** (Pages 49 - 56)  
Change of use of land from agricultural to domestic including erection of wall and additional patio slabs at Ilbeare, Cattlewash, Fitzroy Road, Norton Fitzwarren (retention of works already undertaken).
- 10. 36/19/0032** (Pages 57 - 66)  
Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/19/0010) (retention of part works already undertaken)
- 11. 36/19/0033** (Pages 67 - 76)  
Erection of an agricultural building for the housing of

livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/19/0009) (retention of part works already undertaken)

**12. 36/19/0034**

(Pages 77 - 86)

Erection of an agricultural storage building at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (amended scheme to 36/18/0017) (retention of part works already undertaken)

**13. 36/19/0035**

(Pages 87 - 96)

Erection of an agricultural storage building at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/18/0016) (retention of part works already undertaken)

**14. Latest appeals and decisions received**

(Pages 97 - 108)



**JAMES HASSETT  
CHIEF EXECUTIVE**

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If you would like to ask a question or speak at a meeting, you will need to submit your request to a member of the Governance Team in advance of the meeting. You can request to speak at a Council meeting by emailing your full name, the agenda item and your question to the Governance Team using [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

Any requests need to be received by 4pm on the day that provides 2 clear working days before the meeting (excluding the day of the meeting itself). For example, if the meeting is due to take place on a Tuesday, requests need to be received by 4pm on the Thursday prior to the meeting.

The Governance and Democracy Case Manager will take the details of your question or speech and will distribute them to the Committee prior to the meeting. The Chair will then invite you to speak at the beginning of the meeting under the agenda item Public Question Time, but speaking is limited to three minutes per person in an overall period of 15 minutes and you can only speak to the Committee once. If there are a group of people attending to speak about a particular item then a representative should be chosen to speak on behalf of the group.

Please see below for Temporary Measures during Coronavirus Pandemic and the changes we are making to public participation:-

Due to the Government guidance on measures to reduce the transmission of coronavirus (COVID-19), we will holding meetings in a virtual manner which will be live webcast on our website. Members of the public will still be able to register to speak and ask questions, which will then be read out by the Governance and Democracy Case Manager during Public Question Time and will be answered by the Portfolio Holder or followed up with a written response.

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For further information about the meeting, please contact the Governance and Democracy Team via email: [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

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**SWT Planning Committee - 8 October 2020 held via Zoom Video Conference**

Present: Councillor Simon Coles (Chair)

Councillors Marcia Hill, Ian Aldridge, Mark Blaker, Dixie Darch, Roger Habgood, Chris Morgan, Craig Palmer, Derek Perry, Ray Tully, Brenda Weston, Keith Wheatley and Loretta Whetlor

Officers: Rebecca Miller (Principal Planning Specialist), Martin Evans (Shape Legal Partnership), Abigail James (Planning Specialist), Alex Lawrey (Planning Specialist), Karen Wray (Planning Specialist), Jo O'Hara (Specialist - Heritage at Risk) and Tracey Meadows (Democracy and Governance)

Also Present: Councillor Janet Lloyd

(The meeting commenced at 1.00 pm)

**82. Apologies**

Apologies were received from Councillors Buller (who has now stood down from the Planning committee), Firmin, Lithgow and Sully.

**83. Minutes of the previous meeting of the Planning Committees**

(Minutes of the meetings of the Planning Committee's held on 6, 20 August, 3 and 17 September 2020 circulated with the agenda)

**Resolved** that the minutes of the Planning Committee held on 6, 20 August, 3 and 17 September 2020 be confirmed as a correct record.

Proposed by Councillor Hill, seconded by Councillor Whetlor

The **Motion** was carried.

**84. Declarations of Interest or Lobbying**

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr M Blaker	44/19/0017	Letter received from applicant	Personal	Spoke and Voted
Cllr S Coles	44/19/0017	Letter received from applicant	Personal	Spoke and Voted
Cllr D Darch	44/19/0017	Letter received from applicant	Personal	Spoke and Voted
Cllr R	44/19/0017	Letter received	Personal	Spoke and Voted

Habgood		from applicant		
Cllr Mrs Hill	44/19/0017	Letter received from applicant	Personal	Spoke and Voted
Cllr C Morgan	44/19/0017, Confidential item	Letter received from applicant	Personal	Spoke and Voted on 44/19/0017 only
Cllr C Palmer	44/19/0017	Letter received from applicant	Personal	Spoke and Voted
Cllr R Tully	44/19/0017	Letter received from applicant	Personal	Spoke and Voted
Cllr B Weston	44/19/0017	Letter received from applicant	Personal	Spoke and Voted
Cllr L Whetlor	44/19/0017	Letter received from applicant	Personal	Spoke and Voted

85. **Public Participation**

Application No.	Name	Position	Stance
43/20/0061	Wellington Town Council Cllr Janet Lloyd	Wellington TC Member	Objecting  Objecting
44/19/0017	S Shorney P Weymouth A Boyd Mr Quinlan A Smith Cllr Janet Lloyd	Local resident Local resident Local resident Local resident Agent Ward Member	

86. **Advice from Natural England regarding the high levels of phosphates in the Somerset Levels and Moors.**

The Council has recently received a letter from Natural England about the high levels of phosphates in the Somerset Levels and Moors. The same letter has also been sent to the other Local Planning Authorities in Somerset.

In light of a court Judgement (known as Dutch N), Natural England have advised SWT that, in light of the unfavourable condition of the Somerset Levels and Moors Ramsar Site, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should undertake a Habitats Regulations Assessment (HRA).

The types of development include:

- New residential units – including tourist accommodation, gypsy sites /pitches
- Commercial developments – new commercial floor space including extensions to existing, change of use from one business to another where

there is an increase in employees and/or to a use that would impact on wastewater

- Agricultural Development – additional barns, slurry stores etc. where it is likely to lead to an increase in herd size
- Prior Notifications of agricultural development where, as a result of the development, the herd size may increase. Also, prior notifications for change of use of office to dwellings and agricultural buildings to dwellings
- Anaerobic Digesters
- Possibly some tourism attractions

As a consequence of the above some items which would otherwise be considered by this planning committee namely applications **42/20/0031** and **21/20/0009** will no longer be determined at this committee. Officers are working on a resolution to this matter and carefully considering how and when these applications can be determined in light of the above. Officers are also liaising with colleagues in the other Somerset planning authorities to ensure a consistent County-wide approach to the issue.

87. **42/20/0031 - DEFERRED/WITHDRAWN**

**Application for approval of reserved matters in respect of appearance, landscape, layout and scale, following outline application 42/14/0069, for Phase H1A for the erection of 76 No. dwellings, hard and soft landscaping, car parking including garages, internal access roads, footpaths and circulation areas, public open space and drainage with associated infrastructure and engineering works on land at Comeytrove/Trull**

**Application Deferred**

88. **21/20/0009 - DEFERRED/WITHDRAWN**

**Replacement of agricultural storage building with the erection of 1 No. detached dwelling with associated works at Three Ashes, Langford Common Road, Langford Budville**

**Application Deferred**

89. **43/20/0061**

**Change of use of land to domestic at the side of 21 Sylvan Road, Wellington (resubmission of 43/19/0103)**

**Comments from members of the public included;**

- Concerns with the visibility splay when exiting Birch Road onto Sylvan Road from a south westerly direction;
- The road is used as a rat run into Wellington;
- Concerns with the cars parked on the very narrow road;
- Concerns with the height of the fence;
- The site is an open plan site;
- Concerns with the height of the Conifers on the site;

**Comments from Members included;**

- Concerns with safety issues on the road;
- Concerns with visibility issues;
- Concerns with the hedge height;
- Concerns with the height of the fence;
- Concerns with the loss of green space;

Councillor Hill proposed and Councillor Coles seconded a motion for the application to be given **Conditional Approval** as per Officer Recommendation.

The **motion** was carried

90. **44/19/0017**

**Erection of building for mixed agricultural and dog agility training use (retention of works already undertaken) Brook Farm, Rackfield, Wellington**

**Comments from members of the public included;**

- Rackfield is a Public Pedestrian Right of Way with vehicular access limited to the residents only which is maintained by the frontage's of the properties who use the access;
- Concerns with the increased traffic on a single track lane;
- Concerns with noise from the dogs barking;
- Concerns on the environmental impacts to local residents;
- Concerns with the impact of the AstroTurf flooring in a level 2 flood zone and leeching into the watercourse;
- Concerns that without diversification of the farm these types of businesses cannot survive;
- The activity makes best use of the applicants skill set and integrated well with the farming operation and can be managed to ensure that no significant offsite impacts occur;
- Concerns from local residents regarding dog barking activities have been addressed;

**Comments from Members included;**

- Concerns with access issues;



- Concerns with barking dogs;
- Concerns with the hours of business;
- A condition requiring the dog training to cease in 18 months' time should noise impact prove to be unreasonable should allay concerns for residents;
- No issues raised by SCC;

Councillor Hill proposed and Councillor Coles seconded a motion for Conditional Approval **APPROVED** as per officer recommendation with noise management measured and itemised in the conditions;

The **motion** was carried.

At this point in the meeting Councillor Blaker left the meeting.

A 5 minute comfort break was proposed.

91. **3/32/20/004**

**Outline application with some matters reserved, except for access and scale, for the erection of 5 No. dwellings at Tanyard Farm, 16 Castle Street, Stogursey, TA5 1TG**

**Committee update**

The recommendation of approval is subject to a Section 106 Legal Agreement for off-site play contributions totalling up to £16,641 for the entire development. This was not made clear when the application was previously brought before committee on the 23 July 2020. Advice from SWT's Legal service stated that it was considered a requirement to bring back the item to committee to allow for the amended recommendation to be evaluated by committee members.

**Comments from Members included;**

- There were lots of play equipment for younger children in Stogursey, could the off-site play contributions be used to provide facilities for youngsters with Mental Health provisions due to the Covid-19 pandemic;

Councillor Hill proposed and Councillor Coles seconded a motion for a Section 106 legal agreement to be **APPROVED** for off-site play contributions;

The **motion** was carried.

Only members of the committee that were present at the previous meeting on the 23 July 2020 were able to vote on this application.

92. **Latest appeals and decisions received**

Latest appeal and decisions noted

93. **Access to information - Exclusion of Press and Public**

94. **Confidential item**

At the start of the presentation Councillor Morgan left the meeting.

An extension of 30 minutes was proposed and seconded

Proposed by Councillor Hill seconded by Councillor Coles

**Resolved** that the Planning Committee approved the recommendations numbered 7, 1-2 within the confidential report.

(The Meeting ended at 4.30 pm)

01/20/0007

EXECUTORS OF THE LATE M J E HAYES

**Formation of access track at Normans Farm, Pockeridge Bottom Road, Ashbrittle**

Location: NORMANS FARM, POCKERIDGE BOTTOM ROAD, ASHBRITTLE,  
WELLINGTON, TA21 0HX

Grid Reference: 304533.122998 Full Planning Permission

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

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

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

(A4) DrNo 003 Annotated Block Plan  
(A4) DrNo 001 Location Plan  
(A3) DrNo 002 Site Plan

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

3. The existing hedgerow to the East of the allowed access track shall be permanently retained and maintained at all times thereafter.

Reason: In interests of visual amenity.

### **Notes to Applicant**

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

## **Proposal**

The proposal is for the formation of access track at Normans Farm, Pockeridge Bottom Road, Ashbrittle

## **Site Description**

The site is located outside of any defined settlement in a rural location. The existing access is wide and level, with farm buildings on the northern side of the access and trees/hedging on the southern side. The access measures approximately 96m and has a wide opening on to the highway. The highway is mainly single carriageway.

## **Relevant Planning History**

None

## **Consultation Responses**

*ASHBRITTLE PARISH COUNCIL* - Do not support this application

- As noted in the planning design and access statement accompanying the application, there is already a well formed broad concrete access track to Norman's Farm house and all the associated barns from the same road.
- Much of the rationale in the statement is overstated, and some is contested
- The statement also omits a shorter additional track route available across the bottom of the field to the immediate North of the farm buildings, which would link up with an existing concrete ramp into the courtyard, at less cost, less loss of grassland and less visual impact to the public.
- It is widely understood in the Parish that the intention is to redevelop the agricultural buildings as dwellings, for which this access track is a precursor, and therefore disingenuous to frame this as access for agricultural machinery.
- It is believed that an additional access track should be considered as and when such a change of use application is made.

*SCC - TRANSPORT DEVELOPMENT GROUP* - No observations

## **Habitats Regulations Assessment**

The site is outside the area that requires a HRA.

## **Representations Received**

5 x Objections

- Express concern at the above proposal obviously designed with regard to future property developments.
- The overall effect will be increased traffic on these very small roads designed for horse and cart.
- Walking on these narrow lanes has become a hazardous occupation.
- The existing drive way to Normans Farm is a wide concrete purposely built drive, designed to take farm equipment and vehicles, another drive is not required to take this traffic to the West of the farm yard.
- There are no footpaths or brideways in the vicinity of the current drive on which the public would be in danger.

- The application should only be considered if and when development of the barns come forwarded.
- The roads and lanes are already pressurised by the amount of vehicles. please do not find an excuse for more.
- The track will have a massive impact on my house as I have full legal access to the lane on the planning application as it is a shared lane with Normans Farm and I have to pay for 50 % of any lane maintenance now and going forward in the future.
- Why is a new drive wanted when the farm is currently not being used as a working farm
- The planned drive that is being proposed would mean damage to a area that is green belt land that would mean damage to newt and frog habitat that has been used by both species for many years.
- There have been a number of minor accidents and in fact 2 cars were written off here less than a week ago from me writing this it is a matter of time before someone is hurt.
- I cant see why any new drive is needed as it would bring an excess of vehicles to a small country lane that the planned access drive is connected to
- Damage to my shared lane and cattle grid is not needed as there is another perfectly good entrance to the farm very close by.
- The small lane the proposed drive would be attached to is used by a large number of local people for exercising their horses and by many cyclists and walkers as it joins up with a Taunton Deane footpath close by and so any excess of traffic as a consequence of the new access drive being permitted would in mind cause a potential incident that is avoidable.
- The proposed new drive at Normans farm would have a negative impact to me as I live less than 2 mins away from the planned Access drive and should the it be given permission it would mean more traffic on the lane which is used as a cut through to the main village of Ashbrittle.
- My farm is situated on this lane and as I need access to cross the lane on a regular basis to access my fields on the other side for my cows and sheep any more traffic that uses this small lane would cause much inconvenience to all parties concerned.

## Planning Policy Context

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

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

Relevant policies of the development plan are listed below.

CP8 - Environment,

CP8 - Environment

CP1 - Climate Change

DM1 - General requirements  
DM2 - Development in the Countryside

SB1 - Settlement Boundaries

## **Determining issues and considerations**

### The Principle of Development

The principle of development is accepted, subject to the proposal addressing the relevant planning policies, as the proposal relates to an existing farming business.

Policy DM2.4 relates to agriculture, forestry and related business. Any new non residential agricultural development should be commensurate with the role and function of the agricultural unit and it is considered that to have a separate agricultural access track leading directly to the farmyard would accord with this policy requirement. Furthermore the proposal is considered to accord with policy CP8 as it is considered to be appropriate in terms of scale, siting and design.

### Design

The proposed access will connect an existing track leading to Hearts Farm with another extending from the western end of the farmyard of Normans Farm which would allow agricultural machinery to access the yard without having to pass the farmhouse. The agent has stated that this existing arrangement is unsatisfactory as agricultural vehicles must negotiate a narrow 'pinch-point' between the farm buildings. The issue of visibility has also been raised with the agent considering the visibility at the point at which the track to Hearts Farm meets the public highway is significantly better than the existing access. There is an existing public right of way that runs along part of the existing agricultural access to the farm which is considered to pose a danger to the public. The agent also considered that as the existing access serves both the farmhouse and the farmyard there is 'a potentially dangerous conflict between agricultural and residential/pedestrian movements.'

The proposal is not expected to increase vehicles movements, but merely relocate the point of access to/from Normans Farm for agricultural vehicles. The proposal would result in two accesses for the site; one that would serve the large farm buildings to the north of the existing access track and the Farmhouse itself, the other (new) access would directly serve the Farmyard to the west of the Farmhouse.

The Planning Statements gives the tracks length as 90m however it is considered to be approximately 111m. The 3m width and the proposed surface treatment (topped with crushed and compacted stone for the entirety of its length) in addition to the track being contoured in order to allow it to drain either side is considered acceptable.

### Impact on Landscape

The proposed track would travel upwards from its junction with the highway towards the farmyard, therefore considerations will have to be given to its visual impact. The Planning Statement considered that soft landscaping will not be required because the use of natural features (such as the mature hedgerow to the east) and the topography of the surrounding land effectively screen the site and because the use of natural materials in construction of the track will ensure that it remains unobtrusive within the landscape'.

As the access track would run upwards from its junction with the highway this view is shared by the planning authority as the use of landscaping is likely to highlight the track rather than screen the proposal.

From the information submitted it would appear that the proposal would accord with policy DM1 (d) as the appearance and character of any affected landscape, settlement, building or street scene would not be unacceptably harmed by the development.

### Ecology

As the proposed track would cross agricultural land which has been farmed and cultivated both mechanically and chemically at regular intervals and the hedgerow to the east is not impacted upon from the development, it is considered that there are no ecology issues to address. A condition for the hedgerow to the east to be retained and maintained will be included to ensure that any ecology within is protected.

### Highway Matters

The Highway Authority have stated that their Standing Advice should be applied and have not objected to, or supported the proposal. As the proposal would use an existing access it is considered that visibility is acceptable, as it is for the existing access.

The existing access track has good visibility with a pull-in to its fore, which would allow for some vehicles to wait whilst others exited the access track, this would however be dependant on the length and size of the vehicle. The original access is for part of its length also a public right of way and there is a further public right of way to the west of the access track that this proposal relates to; it however is not impacted by a public right of way and therefore its use for agricultural vehicles is considered reasonable.

### Other Matters

The Parish Council do not support this application and 5 letters of objection have been received. The objections relate to increase in traffic, traffic accidents, lane is used as a cut through to Ashbrittle therefore an increase in traffic would have an adverse impact, making walking in the area hazardous, there are no footpaths or bridleways in the vicinity of the current drive, proposal should be considered if/when the barns are developed, legal rights in terms of repair and maintenance of shared access and cattle grid, the Farm is not in use at present and impact on ecology.

The Parish Council are unable to support the proposal as they consider that 'much of the rationale in the statement is overstated, and some is contested. The statement also omits a shorter additional track route available across the bottom of the field to the immediate North of the farm buildings, which would link up with an existing concrete ramp into the courtyard, at less cost, less loss of grassland and less visual impact to the public.' The Parish Council have also raised the issue of the access being used for possible future conversion of the existing barns on site, however the application has been submitted as 'formation of access track at Normans Farm' and has therefore been assessed as such. If in future any planning application is made regarding the conversion of the barns to residential use the issue of agricultural and domestic traffic using the access track would need to be considered then.

It would appear that the main concern is an increase in traffic, however the proposal would not increase traffic movements for the site, only re-direct the agricultural traffic to the western side of the farm yard. Unfortunately any possible future development of the farm and its outbuildings can not be considered by the planning application. If future proposals come forward any possible increase in traffic would be considered then. Legal issues regarding repair and maintenance of the shared access and cattle grid fall outside of planning legislation and therefore can not be considered when assessing the planning application. It is confirmed that there is a public right of way along part of the existing driveway to the east of the farm yard. The land is agricultural therefore it is considered that any ecology will be limited due to the working of the land. It is understood that the farm has not been in use as a working farm recently, however in planning terms the site is still considered to be a farm

It is accepted that the existing access is a well formed broad concrete access Norman's Farmhouse and all the associated barns, however that does not mean that this application can not be considered.

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

**Contact Officer: Denise Todd**



10/20/0002

MS S LOCK

**Variation of Condition No. 05 of application 10/16/0028 to vary the wording to include 15 breeding bitches, 3 stud dogs and puppies at Fairfield Stables, Moor Lane, Churchinford**

Location: FAIRFIELD STABLES, MOOR LANE, CHURCHINFORD, TAUNTON,  
TA3 7RW

Grid Reference: 321848.112402

Removal or Variation of Condition(s)

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

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

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

(A1) DrNo 200.03 Rev C Site Location and Block Plan

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

3. The use of the site for the stationing of a caravan for residential purposes, hereby permitted, shall be for a limited period being the period of three years from the date of this decision. The use hereby permitted shall be discontinued and the land restored to its former condition on or before three years from the date of this decision in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.

Reason: The site lies in area where new development is generally restricted to that for which there is a proven need.

4. The occupation of the caravan shall be limited to a person solely or mainly

working, or last working, in the commercial dog breeding business at Fairfield Stables, Moor Lane, Churchinford, Taunton, Somerset TA3 7RW, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.

Reason: The site lies in area where new development is generally restricted to that for which there is a proven need.

5. No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale and 3 stud dogs.

Reason : In the interest of the amenity of neighbouring occupiers, impact on the tranquility of the AONB and in accordance with Policies DM1 and CP8 of the Core Strategy.

#### Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.

## Proposal

Application 10/16/0028 was refused by the Local Planning Authority in February 2017 but subsequently approved on appeal in August 2017.

The condition 05 attached to the aforementioned permission states that;

*"No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale"*

This application seeks to vary condition No. 05 of application 10/16/0028 to include 3 stud dogs, 15 bitches and puppies. The suggested wording for the condition reads:

*'No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale and 3 stud dogs'.*

## Site Description

The application site concerns Fairfield Stables; a former equestrian site, situated approximately 400m from the edge of the village of Churchinford within the Blackdown Hills AONB. The site is accessible via Moor Lane to the south. The site

currently operates a commercial dog breeding business approved on appeal. The site is situated in a reasonably remote and rural location, with agricultural land surrounding the majority of the site. However, there is a residential property, Fairhouse Farm, situated some 100m to the south east of the site on the opposite side of Moor Lane. The next nearest property is some 200m to the west along Moor Lane. A sewage treatment works is situated to the west of the site. The dogs are currently all housed in the concrete block kennels formed inside the existing pole barn. In front of each kennel and extending out into the field, there are outdoor run areas utilising temporary (moveable) metal fencing panels, a separate pedestrian walkway and direct access to an exercise area which runs alongside the neighbouring sewage works. A mobile home is located to the east of the kennels. An isolation kennel exists in one of the stables. In addition the applicant utilises some of the existing facilities on site as exercise areas for the dogs on site.

A subsequent appeal was allowed by the Planning Inspectorate on 17th June 2020 for the provision of 8 kennels to the north east of the stable block and adjacent to the existing set of kennels. Once built, this housing will be used for whelping and for the young, post weaning, to enable them to be housed away from the mother, prior to being sold. There is a portable kennel sited within the red line boundary and to be removed once permanent structures have been completed.

The applicant's commercial dog breeding business is focused on breeding four different dog breeds. Currently there are 15 bitches (7no. golden retriever, 3no. springer spaniel, 3no. German shepherd and 2no English cocker spaniel) and 3 dogs (a German shepherd, a golden retriever and an English Cocker Spaniel). They produce up to 10 litters of puppies each year, one from each of the breeding bitches.

## Relevant Planning History

10/20/0012 - Decision pending for the erection of temporary dwelling at Fairfield Stables, Moor Lane, Churchinford (retention of works already undertaken)

10/16/0008 -Change of use of the land and buildings from equine to commercial dog breeding business and retention of a mobile home for use as a temporary workers dwelling refused 7.11.16

10/16/0028 -Change of use of the land and buildings from equine to commercial dog breeding business and retention of a mobile home for use as a temporary workers dwelling refused 3.2.17 Allowed on appeal 4.8.17 One of the conditions stated:

*"No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale"*

10/19/0011 - permission refused on for the erection of dog kennel and log store at Fairfield Stables, Moor Lane, Churchinford. Appeal ref: APP/W3330/W/19/3243730 allowed 17.06.2020

E/0196/10/15 – Enforcement application relating to the unauthorised mobile home.

Appeal decision ref. APP/D3315/C/16/3149290.

10/14/0025 - Permission for a new detached dwelling was sought in association with the equestrian business. However, the financial information submitted was insufficient to demonstrate that the business was financially viable and was refused on these grounds 2<sup>nd</sup> October 2014. An appeal decision (ref. APP/D3315/A/14/2228121) was subsequently dismissed 19<sup>th</sup> February 2015.

10/08/0026 – Change of use of land for the provision of a temporary occupational dwelling in the form of a mobile home for a period of three years. Permission was refused 27<sup>th</sup> November 2008, as the development was considered to be visually intrusive within the AONB and would result in increased traffic generation to a site that would have been car dependant. However, permission was subsequently allowed at appeal (ref. APP/D3315/A/09/2105152) 3<sup>rd</sup> September 2009.

## **Consultation Responses**

*CHURCHSTANTON PARISH COUNCIL object to this application.*

*If the Planning Team are minded to approve this application to increase the number of dogs, then the Parish Council request that conditions are agreed in order to limit the area in which the dogs are kennelled to the North of the site, within the Pole Barn and no other areas.*

*SCC - TRANSPORT DEVELOPMENT GROUP - has no observations on this planning application.*

*PLANNING ENFORCEMENT - There is an outstanding planning enforcement case relating to this site.*

*BLACKDOWN HILLS AONB SERVICE -*

Further to initial comments below, from having looked further into the history of the application and seeing other comments it appears that not only are there are indeed issues regarding noise and disturbance, but there is a question mark and lack of clarity about the usage of the site (i.e. approved plans relating to where and how dogs are kept, and what measures should be in place regarding noise) and as such compliance with approved applications. It seems that the condition under consideration is ambiguous at best, but that when it was applied it related to an application that referred to 10 bitches and 2 dogs, and the intention of it was to limit the total number of adult dogs on site to 15. To now try to secure a condition that refers to 18 adult animals is a considerable increase in numbers, when much was made of controlling numbers in the interests of protecting the quiet enjoyment of the AONB. With outstanding issues around the site it seems a precautionary approach should be taken meaning that until all matters are resolved there should be no consideration of an increase in numbers.

If this application is to regularise an existing situation, and there are no current issues regarding noise and disturbance, then it is difficult to raise concerns over this application. However, the condition is very specific and is related to protecting the tranquillity of the AONB. It would therefore have been helpful to see evidence as to whether keeping breeding bitches and stud dogs together can be a cause of additional noise (aggression, barking, whining, howling) and a such materially alter the situation. In any event, should the planning authority be minded to approve the application it is considered that the wording should be as per the condition and not the description, i.e. 15 breeding bitches and their puppies.

*LANDSCAPE* - No comments received

*Environmental Health* - all Areas including Housing Standards -

The Planning Statement with the application outlines the existing condition (imposed by the Planning Inspector on appeal) and a proposed condition.

Existing condition “No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale”.

Proposed condition

‘No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale and 3 stud dogs’.

The Statement does mention noise from dog barking and references the Planning Inspector’s decision in 2017, where the appeal was upheld but the condition was imposed to restrict the number of animals on site, so as to limit the potential disturbance.

The Planning Statement concludes that “The noise impact of the development would not be unacceptable”. However, there is no noise assessment of the potential for the additional 3 dogs to add to the barking on site, or how they could affect the behaviour of the other bitches or puppies, so it is not clear how this conclusion was reached.

The Council’s Environmental Health Team have received complaints about the noise from dog barking at Fairfield Stables, however, the investigations have not found that the noise is persistent or severe enough to be causing a statutory nuisance. However, it is possible that the noise from the kennels will be audible at neighbouring properties, and it could affect people passing the property (which is something that is not covered by statutory nuisance legislation).

Assessing the potential noise from dogs/kennels is not straightforward, as there is no standard way to measure or assess noise from dog barking, and no criteria against which to compare any predicted noise levels. Also, noise from dogs can be very varied depending on the individual dog and the management of the operation. Therefore, it is not possible to confirm whether or not the noise from the additional dogs will lead to an unacceptable increase in noise levels in the area. However, it is likely that 3 more dogs in site could lead to some increase in barking. I note that the Planning Statement says (sec 1.2).

“This application only relates to the non-residential element of the application”.

I would suggest that if the condition is varied it should apply to the whole site, as this would prevent the possibility of other dogs being kept on the residential part of the site, in addition to those on the non-residential areas.

*CPRE* - CPRE Somerset welcomes the opportunity to comment on the above planning application for variation of Condition 5 and wishes to **object** to this development proposal. In addition, the development site is within the setting of Blackdown Hills AONB. The Countryside and Rights of Way (CRoW) Act 2000

confirmed the significance of AONBs, and Section 85 places a statutory duty on all relevant authorities to have regard to the purpose of conserving and enhancing natural beauty when discharging any function in relation to, or affecting land within an Area of Outstanding Natural Beauty. The primary purpose of the AONB designation is to conserve and enhance natural beauty. The National Planning Policy Framework (NPPF) 2019 under paragraph 172 requires that; **‘great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.’**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determination of the planning application must be made in accordance with the development plan unless material considerations indicate otherwise. The relevant development plan is Taunton Deane Core Strategy (2011-2028).

The appeal decision related to this site was dated 04 August 2017 was allowed and planning permission was granted for change of use from equestrian use to a mixed use of equestrian, a commercial dog breeding business and the stationing of a caravan for residential purposes at Fairfield Stables, Moor Lane, Churchinford, Taunton, Somerset TA3 7RW in accordance with the terms of the application, Ref 10/16/0028, dated 22 November 2016, and the plans submitted with it, subject to the following conditions.

- ‘1) The development hereby permitted shall begin not later than 3 years from the date of this decision.*
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans;*
  - i) Drawing number 200.03 Rev C Site location and block plan*
  - ii) Drawing number 200.04 Rev B Site plan as proposed*
  - iii) Drawing number 200.05 Rev A Plans and elevations as proposed*
  - iv) Drawing number 200.09 Proposed plans and elevations*
  - v) Drawing number 200.10 Indicative floor plans and elevations.*
- 3) The use of the site for the stationing of a caravan for residential purposes, hereby permitted, shall be for a limited period being the period of three years from the date of this decision. The use hereby permitted shall be discontinued and the land restored to its former condition on or before three years from the date of this decision in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.*
- 4) The occupation of the caravan shall be limited to a person solely or mainly working, or last working, in the commercial dog breeding business at Fairfield Stables, Moor Lane, Churchinford, Taunton, Somerset TA3 7RW, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.*
- 5) No dogs other than those kept for breeding purposes shall be kept on the site and the number of dogs shall be limited to no more than 15 breeding bitches and their puppies awaiting sale.’*

Whilst the present application seeks to vary Condition 5, CPRE Somerset considers that condition 3 is pertinent to the determination of this application. Under the appeal decision condition 3, the present use of must be discontinued as of 4th August 2020, therefore should the case officer be minded to approve this variation in condition 5, CPRE Somerset requests that Taunton Deane DC insists that Condition is complied with and the use as a commercial puppy breeding facility be discontinued on or before 4th August 2020 in the interest of proper planning and to

enhance and conserve the special quality of tranquillity of Blackdown Hills Area of Outstanding Natural Beauty. CPRE Somerset considers that there is insufficient information in the proposed application to ascertain whether or not the keeping breeding bitches with stud dogs will change the present noise dynamics. The Inspector applied Condition 5 in the interests of tranquillity of the AONB, therefore CPRE Somerset considers this application for variation of Condition 5 cannot be determined until such information is submitted to and evaluated by TDC.

It should be noted that the appeal decision stated;

*'18. The National Planning Policy Framework (the Framework) sets out a presumption in favour of sustainable development, sustainability having three dimensions,; economic, environmental and social.*

*Noise disturbance clearly weighs against environmental sustainability and potentially social sustainability'.*

In summary, CPRE Somerset objects to this variation in condition 5 at present.

**ECONOMIC DEVELOPMENT** - No comments received

## **Representations Received**

Ward Cllr Ross Henley: I wish to support the comments of the Parish Council in relation to the location of dogs kept on site. As Ward Councillor I would like to ask if officers were ever minded to recommend approval I wish to exercise my prerogative as Ward Councillor for the application to come to Planning Committee.

Cllr Ken Pearson: Given the number of objections, and particularly that from CPRE also about Condition 3, that the temporary caravan should be being removed by the 4th August 2020, is it not relevant to keep things as they are until we have a definitive outcome of the whole site?

Five letters together with (video/audio tape of recorded dog barking during a two year period) received with the following comments:

- The proposal represents an increase in dogs on site which can only lead to increased noise levels
- The increase in noise will add to the existing neighbour disturbance. Noise levels from dog barking has increased in recent months.
- Keeping stud dogs on site will increase the barking when the bitches come into season
- The dogs are still often in the front of the kennels adjacent to the lane and they all bark if anyone walks along that lane
- This establishment makes considerable noise pollution which in certain conditions echoes further up the lane to the village.
- The barking of the older dogs also makes any puppies yap as well so the sound levels are pretty loud.
- This noise is disturbing for anyone walking Moor Lane as well as being intrusive to any homes in the vicinity.
- There are enough kennels already and any extra will add to the discomfort of those living in Moor Lane and/or using it for recreational walking.
- The Planning Inspector fixed the numbers of dogs on that site to be a maximum of 15 dogs, based on the application for 12 dogs. When you add in the estimated 16 extra puppies on site at any one time, there will be 34 dogs on the site which is too close to the roadside and to our house and our immediate neighbours

behind us at Little Fayrehouse.

- The proposal is detrimental to the tranquillity and character of the AONB
- Residents at Fairfield no longer enjoy their garden and are disturbed by the loud barking, particularly the dogs around the mobile home.
- I live 1/4 mile from the site and the noise from Fairfield Stables in average weather conditions is a nuisance. On a still, peaceful day the noise is a significant nuisance.
- The condition of maximum of 15 dogs was based on 15 breeding bitches. As a consequence the site does not permit stud dogs on the site.
- The idea that the *nearest stud dogs are currently in the north of England* is ridiculous as they are not unusual breeds and particularly as we believe that very local stud dogs have recently been used.
- This increase in dog numbers amounts to a 20% increase which is significant and can only mean a significant increase in noise, as has been noted and monitored since before last year.
- There is no system imposed on this business to keep a clear record of numbers of dogs on the site, including dates of birth of the puppies and therefore no way of knowing the ages of these dogs.
- We have seen dogs being moved into different areas which shows there is a clear intention to push for the re-use of the old stabling area and stable nearest the roadside, as dog kennelling.
- All the breeding dogs should be housed in the kennelling building to comply with the terms of the appeal decision. They are not as some have been kept in the old stabling block and outside the mobile home and right next to the roadside
- In case the application was approved, the council should issue an enforceable condition which clearly restricts all the dogs to be inside the designated kennelling building and isolation kennel and nowhere else on site.
- While the old metal fencing panels/run areas are still kept in place in front of the old stable block (where the dogs were kept originally), the applicant will continue to take advantage and try to move dogs in to that area to house dogs, as and when she wants to. We would like the council to ask for these to be removed as they do not form part of the approved plans or impose a condition that prevents their future use.
- With outstanding issues around the site it seems a precautionary approach should be taken meaning that until all matters are resolved there should be no consideration of an increase in numbers.
- Previously imposed condition not being complied with regarding number of dogs.
- Number of inconsistencies with the permission and enforcement issues relating to the activities that have occurred on site.
- The applicant has cut down for hedge laying most of the roadside screening trees and bushes which means that the site is completely open to view and any noise from dogs escapes much more freely.
- We don't need more 'puppy farms' or expansion to existing ones when there are so many dogs awaiting adoption at animal rescue centres in the UK.

## Planning Policy Context

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

The development plan for Taunton Deane comprises the Taunton Deane Core



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

Relevant policies of the development plan are listed below.

DM1 - General requirements,  
DM2 - Development in the countryside,  
CP8 - Environment,

## **Local finance considerations**

### **Community Infrastructure Levy**

n/a

## **Determining issues and considerations**

The main issues for consideration in determining this application is the impact of the proposal on the noise and therefore in relation to residential amenity and the tranquillity and character of the AONB.

It seems that the wording of the condition under consideration is ambiguous at best, but that when it was applied it related to an application that referred to 10 bitches and 2 dogs. The Inspector's Report states that *'all dogs kept at the premises would be breeding dogs and would be used to their environment and local circumstances, and the number of dogs can be controlled by condition as can a restriction ensuring that only the 'resident' dogs, kept for breeding purposes, are housed on the application site'*.

The Inspector's Report further states that;

*'It is not possible to predict or place strict controls on the level of noise resulting from barking dogs. However by restricting the operation to housing only breeding dogs and limiting the numbers by condition, it would be possible to limit the likely levels of noise to that which would not adversely affect the tranquillity of the AONB. In that event the proposal would not be contrary to the development plan policies or with the Framework'.*

Regardless of whether the intention of condition 05 was ever to impose restrictions on the number of stud dogs on site, the comments received through public consultation demonstrates that there are current and ongoing issues and disturbance regarding noise resulting from dog barking at Fairfield Stables. The Statement does mention noise from dog barking and references the Planning Inspector's decision in 2017, where the appeal was upheld but the condition was imposed to restrict the number of breeding bitches on site, so as to limit the potential disturbance.

The Planning Statement concludes that "The noise impact of the development would not be unacceptable". However, there is no noise assessment of the potential for the

additional 3 dogs to add to the barking on site, or how they could affect the behaviour of the other bitches or puppies, so it is not clear how this conclusion was reached. The applicant has since confirmed that the dogs need to be KC registered and health tested. The nature of the business means that to try and find anything with the same pedigree as the applicant's dogs would mean she would have to travel miles. Bringing new and unfamiliar outside dogs would stress the bitches and therefore create more noise. Such practise would also place an unnecessary risk on bringing disease, infection or virus.

The Council's Environmental Health Team have received complaints about the noise from dog barking at Fairfield Stables, however, the investigations have not found that the noise is persistent or severe enough to be causing a statutory nuisance. However, it has been noted that it is possible that the noise from the kennels will be audible at neighbouring properties, and it could affect people passing the property (which is something that is not covered by statutory nuisance legislation).

The comments received from the Council's Environmental Health Consultees note that ' Assessing the potential noise from dogs/kennels is not straightforward, as there is no standard way to measure or assess noise from dog barking, and no criteria against which to compare any predicted noise levels. Also, noise from dogs can be very varied depending on the individual dog and the management of the operation. Therefore, it is not possible to confirm whether or not the noise from the additional dogs will lead to an unacceptable increase in noise levels in the area. However, it is likely that 3 more dogs in site could lead to some increase in barking.

The applicant currently keeps 15 bitches, and 3 stud dogs on site along with puppies awaiting sale. Given that the nature of the condition is to limit the number of breeding bitches, and not the number of stud dogs or puppies, her opinion is that the keeping of the stud dogs is compliant with the condition. The condition 05 only makes a reference to breeding bitches, and their puppies awaiting sale. When it was applied it related to an application that referred to 10 bitches and 2 dogs so it is clear that at the time the condition was applied the intention was to house stud dogs on the application site. For clarity purposes, the current application seeks to vary the condition to include three stud dogs. It is clear that the proposal will not lead to any increase in bitches, and therefore no increase in puppies. In fact, the amended wording is considered to provide somewhat more clarity by restricting the total number of adult dogs allowed on the application site.

Some of the comments received through the public consultation have recommended that in order to reduce the nuisance from dog barking additional conditions should be imposed in order to limit the area in which the dogs are kennelled. Whilst it is acknowledged that there are on-going issues with dog barking, the monitoring undertaken by the Environmental Health have not found a statutory nuisance. This application seeks to vary one condition of an already approved scheme, and it cannot be concluded that the proposal represents an expansion of the existing dog breeding business. Clearly all dogs need fresh air and exercising regardless of their status as breeding dogs. It is also unclear how such condition could be enforced. Exercising the dogs within the approved red line area does not constitute a breach of the original planning consent. Additionally, the provision of 8 kennels to the north east of the stable block and adjacent to the existing set of kennels was approved on appeal in June 2020. These additional kennels are outside the red lined site area which was the subject of the 2017 appeal decision. To avoid any doubt the Inspector

included a condition restricting the total number of dogs that may be housed across the combined area, and this was included as a condition in the 2020 appeal decision. In view of the above, it is not considered appropriate to impose additional conditions or restrictions that do not form part of the approved schemes.

**Conclusion:**

It is clear that the intention of condition 05 was aimed at controlling the numbers and the operation of the dog breeding business in the interest of protecting the residential amenity, and the quiet enjoyment of the AONB, and its tranquillity. It appears that the condition 05 and how it's currently worded is ambiguous at best and subject to different interpretation. It could be argued that the three stud dogs would equally fall under the definition of 'resident dogs housed on site' for breeding purposes. It cannot therefore be concluded that the proposal represents an expansion of the commercial dog breeding business.

Notwithstanding the above, it is considered that there is a fully justifiable reason for keeping stud dogs on the application site, as was the case with the 2 dogs, when the condition was applied. Out sourcing outside stud dogs for breeding purposes seems impractical which is likely to affect the breeding business itself. There is also a concern over animal welfare due to the risk of infection and virus. Whilst it is acknowledged that there are on-going issues with dog barking at Fairfield Stables, the monitoring undertaken by the Environmental Health have not found a statutory nuisance. It is clear that there is no intention to increase the number of breeding bitches on the site as that would clearly contravene the current condition. On balance, it is considered that the proposal is compliant with policies DM1, DM2 and CP8.

In view of the above considerations, the proposal is considered to be acceptable and is recommended for approval.

Whilst the principle for the development has been established by the previous planning permission it is considered necessary to impose previous conditions applicable to the proposal to ensure enforcement is possible.

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

**Contact Officer: Mrs A-M Galliett**



14/20/0016

MR PHILLIPS

**Variation of Condition No. 03 (allow the commercial sale of birds of prey) of application 14/19/0022 on land opposite Broomhay, White Street, Ham**

Location: LAND OPPOSITE, BROOMHAY, WHITE STREET, HAM, NR  
TAUNTON, TA3 5NZ

Grid Reference: 328793.125116 Removal or Variation of Condition(s)

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**Recommendation**

**Recommended decision: Conditional Approval**

**Recommended Conditions (if applicable)**

1. Notwithstanding the time limits given to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission (being granted under section 73A of the Act in respect of development already carried out) shall have effect from 2017.  
Reason: To comply with Section 73A of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans permitted under planning approval 14/19/0022:

- (A4) DrNo. Location Plan
- (A4) DrNo. Site Plan (Proposed)
- (A4) DrNo. 001 Tool Shed (Proposed Eelevations)
- (A4) DrNo. 002 Flight Pen (Proposed)
- (A4) DrNo. 003 Elevations (Proposed)
- (A4) DrNo. 004 Elevations (Proposed)
- (A4) DrNo. Floor Plans (Proposed - Tool Shed and Flight Pen)

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

3. The development hereby permitted shall be used as a private aviary for the keeping, breeding, and sale of raptors bred on the site only. There shall be no other commercial and/or retail activity or ancillary retail activity of any kind.

Reason: In the interests of residential amenity, highway safety and flood risk in accordance with Policies CP8, DM1 & DM2 of the Taunton Deane Core Strategy.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification), no fencing other than that expressly authorised by permission 14/19/0022 shall be carried out without the further grant of planning permission.

Reason: To prevent development that would harm the character and appearance of the area in accordance with Policies DM1 and CP8 of the Taunton Deane Core Strategy.

5. No lighting shall be installed on the site without the further grant of planning permission.

Reason: To prevent development that would harm the character and appearance of the rural area in accordance with Policies DM1 and CP8 of the Taunton Deane Core Strategy

#### Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

#### **Proposal**

The applicant wishes to amend condition 03 of permission reference 14/19/0022. There is an associated concurrent application relating to the adjacent aviary building under reference 14/20/0017.

Condition 03 states:

*“The development hereby permitted shall be used as a private aviary for the keeping and breeding of raptors only. It shall at no other time be used in connection with any commercial and/or retail activity of any kind.*

*Reason: In the interests of residential amenity, highway safety and flood risk in accordance with Policies CP8, DM1 and DM2 of the Taunton Deane Core Strategy”.*

The applicant has requested that the condition is amended to the following:

The development hereby permitted shall be used as a private aviary for the keeping, breeding, and commercial selling of raptors only. It shall at no other time be used in connection with any other commercial and/or retail activity of any kind.

The application in 2019 for the ‘flight pen’ stated that the use of the building is not for additional birds on the site but provides an exercise area for young birds. The agent has confirmed verbally under this application that the building would be used for activities ancillary to the breeding activities, such as housing young but also adult

birds that are not currently actively breeding.

The applicant states the following in support of the proposal:

- There is no intention for the public to visit the site. The sale of raptors is primarily undertaken online. Occasional visits may typically be once a year by an agent.
- Delivery of the raptors would happen around twice a year to Heathrow Airport with the majority of sales overseas.
- A small percentage would be retained for falconry/private use.
- There is no intention for any other sales from the site other than birds of prey.
- If required, numbers of visitations by the public could be controlled via condition.
- The aviary building could be used to accommodate 4 additional breeding pairs as a result of the condition being removed and this will not increase existing vehicular movements.
- There are no deliveries to the site now, and this will not change if permission is granted.
- There are no proposed opening hours as the site will not be open to the public. Anyone visiting the site would be by appointment only.
- There is an existing access into the site and there is sufficient space to accommodate a vehicle to park off road if there was a visitor or courier collection. There is also sufficient space to turn within the site.
- An area for parking within the site has never been requested or formed part of a planning application. Due to the future infrequent visits to the site a designated area for parking is not considered necessary.

### **Site Description**

The application site concerns a parcel of land to the south of the main linear cluster of houses that run through Ham; a small hamlet situated adjacent to White Street. Ham itself lies approximately 0.5 miles south-east of the village of Creech St Michael.

The application site itself is triangular in shape and relatively flat. Drainage ditches surround the boundary of the site and there are numerous trees and other vegetation situated on the banks of the boundary. The land itself has been largely cleared of overgrown vegetation over recent months but two areas of tree planting have been maintained centrally within the site.

The site is accessible via White Street to the north and there is a vehicular access gate adjacent to the road.

The area is predominantly rural, with the majority of land surrounding the site used for agricultural purposes. The closest residential properties are situated to the north of the site on the opposite side of the road; the river Tone lies to the rear of these properties. The site itself is within a designated flood risk area and is situated within flood zones 2 & 3.

### **Relevant Planning History**

14/16/0022- Erection of an aviary building on land opposite Broomhay, White Street, Ham, Creech St Michael- Permitted with conditions.

14/19/0022- Erection of 1 No. tool shed and 1 No. flight pen for birds on land opposite Broomhay, White Street, Ham- Permitted with conditions.

## Consultation Responses

*CREECH ST MICHAEL PARISH COUNCIL* - I would advise that this application has been considered by the CSM PC and a decision was taken

NOT TO SUPPORT for the following reasons;

The original planning application 14/16/0022 was granted, but only considered to be "acceptable" for approval by the Case Officer as the aviary was to enable the applicant to expand his birds of prey "hobby" therefore specifying the number of 8 pens, (2 for housing young birds, 2 pens for retired birds, 3 pens could potentially house breeding birds with 1 pen remaining as spare), all the pens were designed to a specification suitable specifically for the breeding of peregrine falcons. The Case Officer's Report stated "Peregrine falcons are particularly secretive birds which would not generally generate significant levels of noise within an aviary type of environment. To ensure potential noise nuisance is not exacerbated beyond unacceptable levels, it is deemed reasonable to restrict the number of breeding birds housed within the aviary. It is therefore considered that a condition should be attached to restrict the number of birds to maximum of 8 breeding pairs."

The Agent's proposed wording of a Condition on the 27th April 2020 of "The development hereby shall be used as a private aviary for the breeding, and sale of birds of prey only. There shall be no other commercial and/or retail activity of any kind. The majority of all sales will take place on line for overseas sales. It is expected that from within the UK sales would not exceed that of 6 birds". This would not be acceptable as the keeping, specifically breeding to sell/selling would constitute a "commercial" operation, as the applicant would be selling in the open world market, and it not therefore be "private possession" use.

Removing the restriction on peregrine falcons and permitting any types of birds of prey, together with removing the restriction of a maximum of 8 breeding pairs could result in residential amenity of noise nuisance occurring and would be in breach of policy DM2 of the Core Strategy.

There is insufficient information given in the application regarding the proposed numbers/types of breed/housing/signage/visitor parking/opening hours. For the aforementioned reason the Case Officer was very careful to include restrictive conditions as this "private" aviary is situated outside the defined settlement limits of the area, where new forms of development are generally resisted. It is the CSM's PCllrs considered opinion that had this planning application been submitted as "commercial" in 2016 it would have been refused, and the PCllrs cannot see any justification to now remove Conditions 05 and 06.

*SCC - TRANSPORT DEVELOPMENT GROUP* - Standing Advice applies.  
*Environmental Health - all Areas including Housing Standards* - I'm afraid it's very hard to comment on the potential noise impact of something like this.

There is no information about noise from the birds and so no way to make an objective assessment of whether or not the noise would disturb any neighbours. (and I'm afraid I have no experience of noise from falcons, nor does anyone else in Env Health)



Environmental Health have not had any complaints about the premises and so have had no reason to visit or make any assessment of the noise.

It is likely that more birds would mean more noise, but as there are 8 pair there already it's hard to say if another 4 pairs would make a notable difference. The issue is with this sort of noise is that it's very intermittent and the impact is subjective.

Comments under the original application (14/16/0022):

Following verbal discussions with the EH Officer, it was agreed that the number and species of birds proposed was highly unlikely to cause any significant noise nuisance. It was also confirmed that no noise complaints have ever been received from the applicants' neighbours, where birds of prey are currently kept at home (in excess of 10 years). EH have since confirmed in writing that they have no objection to the proposal.

*ENVIRONMENT AGENCY* - No comments received.

*LANDSCAPE* - No comments received.

### **Representations Received**

Following consultation representations have been received from 10 nearby dwellings objecting to the proposal. The following objections are raised:

- Lack of detail within the applications on various matters such as highways, vehicular movements, hours of operation, predicted bird numbers, alterations to buildings etc.
- Existing number of vehicular movements and birds create a significant amount of noise
- Increase in vehicle movements
- No certainty on the upper limit for bird numbers.
- Natural England Licensing does not require consideration of neighbour amenity or whether a proposal is acceptable in planning terms.
- Lack of detail on parking arrangements for customers, including whether any hardstanding is proposed. Under the original application, the EA required that the ground remains permeable.
- Concerns over highway safety- Site is accessed via a busy road used by pedestrians and cyclists. The road is a national cycle route.
- Site is visible from the road. This is contrary to the original committee recommendation.
- Automatic bird feeders would increase the noise impact
- Possibility of lighting being proposed
- This would be a new business venture/no detail of existing business.
- Concerns over the principle of development against planning policy DM2- the

proposed use is not agricultural. The proposed use is a Class B business use.

- There are building materials and a digger stored on the site.
- The original application required evidence that the proposed use would be agricultural to comply with the NPPF and Policy DM2 of the Local Plan. The application does not address the requirements of DM2 in relation to business uses in the countryside.
- The application does not indicate details on the business such as whether the eggs are incubated on site, how many breed per year.
- Conditions should limit the number of vehicular movements to 4 per year and should limit the number of breeding pairs to 12.
- Conditions from the original consents including landscaping, fencing and lighting should be restated should permission be granted.
- A condition should exclude parking, serving or deliveries within the redline boundary of the site.

### **Planning Policy Context**

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

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

The Creech St Michael Neighbourhood Plan 2018-2028 is a material consideration.

The National Planning Policy Framework 2018 (the NPPF) is a material consideration

Relevant policies of the development plan are listed below.

CP8 - Environment,  
DM1 - General requirements,  
DM2 - Development in the countryside,  
ENV1 - Protection of trees, woodland, orchards and hedgerows,  
ENV2 - Tree planting within new developments,

### **Local finance considerations**

#### **Community Infrastructure Levy**

The development is not CIL liable.

### **Determining issues and considerations**

#### **Principle of development**

The application site is situated outside the defined settlement limits of the area,

where there are greater restrictions over development compared to within defined settlement limits. The use of the site will not change significantly, however the condition imposed on the original permission would prevent the applicant from selling birds of prey bred on the site. Policy DM2 of the Taunton Deane Core Strategy relates to development within the open countryside. Under the original permission, although the aviary building did not fit into the list in DM2 of development categories that will be supported in the countryside, it was considered to be acceptable as it would be similar in nature and character to agricultural development and was a use for which a countryside location is appropriate.

On the basis of the information provided by the applicant, this proposal would not fundamentally alter the character of the site and the nature of the use, although the applicant would be able to sell their birds. It is understood that sales would take place online and by similar communication. The site would not be open to members of the public and there would be no retail sales from the site. Potential purchasers or agents would visit by appointment only.

Concerns have been raised by neighbours in relation to the lack of compliance with Policy DM2. As mentioned above, the use is considered to be similar in character to many agricultural uses. Although there is not explicit support within Policy DM2 for the proposal, this policy does not state that uses not included within the list should be refused.

The nature and scale of the use is considered to be acceptable in this rural location.

The NPPF refers to 'land-based rural businesses in the countryside and states:

"Planning Policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;

(para 83 a and b)

There is no definition of a land based enterprise, however it considered a broad category that would include other enterprises outside agriculture, forestry and horticulture such as this proposal.

Having regard to the above considerations it is considered that the proposal is acceptable in principle subject to assessment against the policy requirements of Policy CP8. These considerations are set out in the relevant sections of the report below.

### **Landscape/Visual amenity**

The building is set away from the road and were previously considered to be acceptable under the original application. This proposal would not result in any direct alterations to the physical characteristics of the site and is therefore considered to be acceptable in this regard. The proposal would therefore comply with Policies DM1

and CP8 of the Taunton Deane Core Strategy.

### **Residential amenity**

The 'flight pen' building is located to the south of the aviary building and the closest neighbouring properties are situated on the opposite side of White Street, with the closest front garden boundary being situated approximately 55m from the building and the closest front elevation approximately 75 metres away.

Comments have been raised in relation to noise. The Environmental Health Department have commented that noise from falcons is difficult to assess as there are no known guidelines. Information from the Hawk Conservancy Trust (HCT) under the original application confirmed that peregrine falcons are particularly secretive birds, which would not generally generate significant levels of noise within an aviary type environment. Under the original application, the Environmental Health department also commented that the applicant had kept birds of prey in their garden in excess of 10 years with no recorded complaints from neighbours about noise.

This application, in tandem with the concurrent application under reference 14/20/0017 will allow the applicant to sell birds that are raised on the site, other than this, there are no other changes proposed to the way the site is currently operated. The applicant has stated that birds are kept within the flight pen building which are ancillary to the breeding pairs within the aviary, for example, young birds or mature birds that are currently not breeding. Notwithstanding this, it is noted that there were no restrictions on the flight pen building under the original consent in terms of either numbers or type of bird. Given the lack of current restrictions, it is not considered reasonable to introduce additional restrictions via planning conditions on this building to be able to justify the sale of birds raised on the site. Planning permission will be required should the applicant wish to develop the site further such as with new buildings and this will enable further scrutiny on the issue of residential amenity.

The Environmental Health Department have commented that there have been no noise complaints relating to this site. In terms of the impact of the proposal, they further comment that it is very difficult to measure and assess impacts from potential intermittent noise. No objections are raised by Environmental Health. It is further noted that the Environmental Health Department have enforcement powers themselves to investigate and enforce against uses that generate undue noise and harm residential amenity. It is therefore in an operators interests to operate a site in an appropriate way.

Overall, the amendment to condition 05 to allow commercial sales is considered to be acceptable subject to the following wording which allows the sale of birds bred on the site only and excludes ancillary retail activity from the site:

*The development hereby permitted shall be used as a private aviary for the keeping, breeding, and sale of raptors bred on the site only. There shall be no other commercial and/or retail activity or ancillary retail activity of any kind.*

*Reason: In the interests of residential amenity, highway safety and flood risk in accordance with Policies CP8, DM1 & DM2 of the Taunton Deane Core Strategy.*

Subject to the above condition the proposal is considered to have an acceptable

impact on residential amenity.

### **Highways**

There is an existing access available to the site via White Street to the north but no changes are proposed to this access point itself. The original application was approved without any formal hard surfacing to facilitate parking and turning as it was considered that the use would be very low key and therefore these facilities would not be necessary.

On the basis of the information provided, these considerations equally apply to this application. The sale of birds from the site would not give rise to an appreciable increase in vehicular movements. There are no retail activities that can be carried out on the site and visits are considered to be infrequent and by appointment only. On the basis of these considerations there would be a minimal impact on highway safety and therefore the application is considered to be acceptable in this regard.

### **Ecology**

The County Ecologist has commented that they have no comments to make on the application. Overall it is considered that there would be no impacts on ecology and protected species as a result of the proposal. Accordingly it is considered that the proposal would comply with Policy CP8 of the Taunton Deane Core Strategy.

### **Flood risk**

The application site is situated within flood zones 2 & 3, which is identified as an area at risk of flooding. The proposal would not have any implications in terms of flood risk. Accordingly it is considered that the proposal would comply with Policy CP8 of the Taunton Deane Core Strategy.

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



14/20/0017

MR PHILLIPS

**Variation of Condition No. 05 and No. 06 (to allow for the sale of birds of prey and to remove the restriction of the number of birds allowed to be kept) of application 14/16/0022 on land opposite Broomhay, White Street, Ham**

Location: LAND OPPOSITE BROOMHAY WHITE STREET, HAM, NR  
TAUNTON TA3 5NZ

Grid Reference: 328793.125116 Removal or Variation of Condition(s)

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**Recommendation**

**Recommended decision: Conditional Approval**

**Recommended Conditions (if applicable)**

1. Notwithstanding the time limits given to implement planning permission as prescribed by Sections 91 and 92 of the Town and Country Planning Act 1990 (as amended), this permission (being granted under section 73A of the Act in respect of development already carried out) shall have effect from 2017.  
Reason: To comply with Section 73A of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans permitted under planning approval 14/16/0022:

- (A4) Location Plan
- (A4) Site Plan
- (A4) DrNo 001 West and East Elevations
- (A4) DrNo 002 South and North Elevation
- (A4) DrNo 003 First Floor Plan
- (A4) DrNo 004 Section A-A

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

3. For a period of five years after the completion of the landscaping scheme approved under condition 04 of planning approval 14/16/0022, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow shall be replaced by trees or shrubs of similar size and species, or the appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policies DM1 and

CP8 of the Taunton Deane Core Strategy.

4. The tree screens illustrated on the approved site plan planning approval 14/16/0022 shall be maintained as such in perpetuity.

Reason: To ensure that the proposed development does not harm the character and appearance of the area in accordance with Policies DM1 and CP8 of the Taunton Deane Core Strategy.

5. The development hereby permitted shall be used as a private aviary for the keeping, breeding, and sale of peregrine falcons bred on the site only. There shall be no other commercial and/or retail activity or ancillary retail activity of any kind.

Reason: In the interests of residential amenity, highway safety and flood risk in accordance with Policies CP8, DM1 & DM2 of the Taunton Deane Core Strategy.

6. The development hereby permitted shall accommodate a maximum of 12 breeding pairs of birds of prey at any one time.

Reason: In the interests of residential amenity in accordance with Policy DM1(e) of the Taunton Deane Core Strategy.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking and re-enacting the 2015 Order with or without modification), no fencing other than that expressly authorised by permission 14/16/0022 shall be carried out without the further grant of planning permission.

Reason: To prevent development that would harm the character and appearance of the area in accordance with Policies DM1 and CP8 of the Taunton Deane Core Strategy.

8. No lighting shall be installed on the site without the further grant of planning permission.

Reason: To prevent development that would harm the character and appearance of the rural area in accordance with Policies DM1 and CP8 of the Taunton Deane Core Strategy

#### Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning



permission.

### **Proposal**

The applicant wishes to amend condition 05 and delete 06 of permission 14/16/0022.

Condition 05 states:

The development hereby permitted shall be used as a private aviary for the keeping and breeding of peregrine falcons only. It shall at no other time be used in connection with any commercial and/or retail activity of any kind.

Reason: In the interests of residential amenity, highway safety and flood risk in accordance with Policies CP8, DM1 & DM2 of the Taunton Deane Core Strategy.

The applicant wishes for condition 05 to be varied or removed to allow the following:

- commercial sales of birds in association with the aviary (the concurrent application under reference 14/20/0016 also seeks to vary or remove condition 03 to allow commercial use of the flight pen).
- amend the wording 'peregrine falcons' to either 'birds of prey' or 'raptors'.

The applicant has suggested that the condition 05 is varied as follows: "*The development hereby permitted shall be used as a private aviary for the keeping, breeding, and sale of birds of prey only. There shall be no other commercial and/or retail activity of any kind.*"

Condition 06 states:

The development hereby permitted shall accommodate a maximum of 8 breeding pairs of birds of prey at any one time.

Reason: In the interests of residential amenity in accordance with Policy DM1(e) of the Taunton Deane Core Strategy.

Following discussions, the applicant has agreed to an amended wording for condition 05 to retain the wording 'peregrine falcon' and to extend the numbers of breeding pairs allowed by condition 06 from 8 to 12 as opposed to deleting the condition entirely.

The applicant states the following in support of the proposal:

- There is no intention for the public to visit the site. The sale of raptors is primarily undertaken online. Occasional visits may typically be once a year by an agent.
- Delivery of the raptors would happen around twice a year to Heathrow Airport with the majority of sales overseas.
- A small percentage would be retained for falconry/private use.
- There is no intention for any other sales from the site other than birds of prey.
- If required, numbers of visitations by the public could be controlled via condition.
- The aviary building could be used to accommodate 4 additional breeding pairs as a result of the condition being removed and this will not increase existing vehicular movements.
- There are no deliveries to the site now, and this will not change if permission is granted.
- There are no proposed opening hours as the site will not be open to the public.

Anyone visiting the site would be by appointment only.

- There is an existing access into the site and there is sufficient space to accommodate a vehicle to park off road if there was a visitor or courier collection. There is also sufficient space to turn within the site.
- An area for parking within the site has never been requested or formed part of a planning application. Due to the future infrequent visits to the site a designated area for parking is not considered necessary.

### **Site Description**

The application site concerns a parcel of land to the south of the main linear cluster of houses that run through Ham; a small hamlet situated adjacent to White Street. Ham itself lies approximately 0.5 miles south-east of the village of Creech St Michael.

The application site itself is triangular in shape and relatively flat. Drainage ditches surround the boundary of the site and there are numerous trees and other vegetation situated on the banks of the boundary. The land itself has been largely cleared of overgrown vegetation over recent months but two areas of tree planting have been maintained centrally within the site.

The site is accessible via White Street to the north and there is a vehicular access gate adjacent to the road.

The area is predominantly rural, with the majority of land surrounding the site used for agricultural purposes. The closest residential properties are situated to the north of the site on the opposite side of the road; the river Tone lies to the rear of these properties. The site itself is within a designated flood risk area and is situated within flood zones 2 & 3.

### **Relevant Planning History**

14/16/0022- Erection of an aviary building on land opposite Broomhay, White Street, Ham, Creech St Michael- Permitted with conditions.

14/19/0022- Erection of 1 No. tool shed and 1 No. flight pen for birds on land opposite Broomhay, White Street, Ham- Permitted with conditions.

### **Consultation Responses**

*CREECH ST MICHAEL PARISH COUNCIL* - I would advise that this application has been considered by the CSM PC and a decision was taken

NOT TO SUPPORT for the following reasons;

The original planning application 14/16/0022 was granted, but only considered to be “acceptable” for approval by the Case Officer as the aviary was to enable the applicant to expand his birds of prey “hobby” therefore specifying the number of 8 pens, (2 for housing young birds, 2 pens for retired birds, 3 pens could potentially house breeding birds with 1 pen remaining as spare), all the pens were designed to a specification suitable specifically for the breeding of peregrine falcons. The Case Officer’s Report stated “Peregrine falcons are particularly secretive birds which would not generally generate significant levels of noise within an aviary type of environment. To ensure potential noise nuisance is not exacerbated beyond

unacceptable levels, it is deemed reasonable to restrict the number of breeding birds housed within the aviary. It is therefore considered that a condition should be attached to restrict the number of birds to maximum of 8 breeding pairs.”

The Agent’s proposed wording of a Condition on the 27th April 2020 of “The development hereby shall be used as a private aviary for the breeding, and sale of birds of prey only. There shall be no other commercial and/or retail activity of any kind. The majority of all sales will take place on line for overseas sales. It is expected that from within the UK sales would not exceed that of 6 birds”. This would not be acceptable as the keeping, specifically breeding to sell/selling would constitute a “commercial” operation, as the applicant would be selling in the open world market, and it not therefore be “private possession” use.

Removing the restriction on peregrine falcons and permitting any types of birds of prey, together with removing the restriction of a maximum of 8 breeding pairs could result in residential amenity of noise nuisance occurring and would be in breach of policy DM2 of the Core Strategy.

There is insufficient information given in the application regarding the proposed numbers/types of breed/housing/signage/visitor parking/opening hours. For the aforementioned reason the Case Officer was very careful to include restrictive conditions as this “private” aviary is situated outside the defined settlement limits of the area, where new forms of development are generally resisted. It is the CSM’s PCllrs considered opinion that had this planning application been submitted as “commercial” in 2016 it would have been refused, and the PCllrs cannot see any justification to now remove Conditions 05 and 06.

*SCC - TRANSPORT DEVELOPMENT GROUP - Standing Advice applies.*  
*Environmental Health - all Areas including Housing Standards - I’m afraid it’s very hard to comment on the potential noise impact of something like this.*

There is no information about noise from the birds and so no way to make an objective assessment of whether or not the noise would disturb any neighbours. (and I’m afraid I have no experience of noise from falcons, nor does anyone else in Env Health)

Environmental Health have not had any complaints about the premises and so have had no reason to visit or make any assessment of the noise.

It is likely that more birds would mean more noise, but as there are 8 pair there already it’s hard to say if another 4 pairs would make a notable difference. The issue is with this sort of noise is that it’s very intermittent and the impact is subjective.

Comments under the original application (14/16/0022):

Following verbal discussions with the EH Officer, it was agreed that the number and species of birds proposed was highly unlikely to cause any significant noise nuisance. It was also confirmed that no noise complaints have ever been received from the applicants’ neighbours, where birds of prey are currently kept at home (in excess of 10 years). EH have since confirmed in writing that they have no objection to the proposal.

*ENVIRONMENT AGENCY* - No comments received.  
*LANDSCAPE* - No comments received.

### **Representations Received**

Following consultation representations have been received from 10 nearby dwellings objecting to the proposal. The following objections are raised:

- Lack of detail within the applications on various matters such as highways, vehicular movements, hours of operation, predicted bird numbers, alterations to buildings etc.
- Existing number of vehicular movements and birds create a significant amount of noise
- Increase in vehicle movements
- No certainty on the upper limit for bird numbers.
- Natural England Licensing does not require consideration of neighbour amenity or whether a proposal is acceptable in planning terms.
- Lack of detail on parking arrangements for customers, including whether any hardstanding is proposed. Under the original application, the EA required that the ground remains permeable.
- Concerns over highway safety- Site is accessed via a busy road used by pedestrians and cyclists. The road is a national cycle route.
- Site is visible from the road. This is contrary to the original committee recommendation.
- Automatic bird feeders would increase the noise impact
- Possibility of lighting being proposed
- This would be a new business venture/no detail of existing business.
- Concerns over the principle of development against planning policy DM2- the proposed use is not agricultural. The proposed use is a Class B business use.
  - There are building materials and a digger stored on the site.
  - The original application required evidence that the proposed use would be agricultural to comply with the NPPF and Policy DM2 of the Local Plan. The application does not address the requirements of DM2 in relation to business uses in the countryside.
  - The application does not indicate details on the business such as whether the eggs are incubated on site, how many breed per year.
  - Conditions should limit the number of vehicular movements to 4 per year and should limit the number of breeding pairs to 12.
  - Conditions from the original consents including landscaping, fencing and lighting should be restated should permission be granted.
  - A condition should exclude parking, serving or deliveries within the redline boundary of the site.

### **Planning Policy Context**

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

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

The Creech St Michael Neighbourhood Plan 2018-2028 is a material consideration.

The National Planning Policy Framework 2018 (the NPPF) is a material consideration

Relevant policies of the development plan are listed below.

CP8 - Environment,  
DM1 - General requirements,  
DM2 - Development in the countryside,  
ENV1 - Protection of trees, woodland, orchards and hedgerows,  
ENV2 - Tree planting within new developments,

## **Local finance considerations**

### **Community Infrastructure Levy**

The development is not CIL liable.

## **Determining issues and considerations**

### **Principle of development**

The application site is situated outside the defined settlement limits of the area, where there are greater restrictions over development compared to within defined settlement limits. The use of the site will not change significantly, however the condition imposed on the original permission would prevent the applicant from selling birds of prey bred on the site. Policy DM2 of the Taunton Deane Core Strategy relates to development within the open countryside. Under the original permission, although the aviary building did not fit into the list in DM2 of development categories that will be supported in the countryside, it was considered to be acceptable as it would be similar in nature and character to agricultural development and was a use for which a countryside location is appropriate.

On the basis of the information provided by the applicant, this proposal would not fundamentally alter the character of the site and the nature of the use, although the applicant would be able to sell their birds. It is understood that sales would take place online and by similar communication. The site would not be open to members of the public and there would be no retail sales from the site. Potential purchasers or agents would visit by appointment only.

Concerns have been raised by neighbours in relation to the lack of compliance with

Policy DM2. As mentioned above, the use is considered to be similar in character to many agricultural uses. Although there is not explicit support within Policy DM2 for the proposal, this policy does not state that uses not included within the list should be refused.

The nature and scale of the use is considered to be acceptable in this rural location.

The NPPF refers to 'land-based rural businesses in the countryside and states:

"Planning Policies and decisions should enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;

b) the development and diversification of agricultural and other land-based rural businesses;

(para 83 a and b)

There is no definition of a land based enterprise, however it considered a broad category that would include other enterprises outside agriculture, forestry and horticulture such as this proposal.

Having regard to the above considerations it is considered that the proposal is acceptable in principle subject to assessment against the policy requirements of Policy CP8. These considerations are set out in the relevant sections of the report below.

### **Landscape/Visual amenity**

The building is set away from the road and were previously considered to be acceptable under the original application. This proposal would not result in any direct alterations to the physical characteristics of the site and is therefore considered to be acceptable in this regard. The proposal would therefore comply with Policies DM1 and CP8 of the Taunton Deane Core Strategy.

### **Residential amenity**

The closest neighbouring properties are situated on the opposite side of White Street, with the closest front garden boundary being situated approximately 35m from the building and the closest front elevation approximately 55 metres away.

Comments have been raised in relation to noise. The Environmental Health Department have commented that noise from falcons is difficult to assess as there are no known guidelines. Information from the Hawk Conservancy Trust (HCT) under the original application confirmed that peregrine falcons are particularly secretive birds, which would not generally generate significant levels of noise within an aviary type environment. Under the original application, the Environmental Health department also commented that the applicant had kept birds of prey in their garden in excess of 10 years with no recorded complaints from neighbours about noise.

The impacts from this proposal would arise from the increase in numbers from 8 breeding pairs to 12. As originally proposed, the application would also have resulted in a wider range of birds being kept, however the applicant has since confirmed they are happy to retain the restriction to Peregrine falcons only. The Environmental Health Department have commented that there have been no noise complaints relating to this site. In terms of the impact of the proposal, they further comment that it is very difficult to measure and assess impacts from potential intermittent noise. No objections are raised by Environmental Health.

It is further noted that the Environmental Health Department have enforcement powers themselves to investigate and enforce against uses that generate undue noise and harm residential amenity. It is therefore in an operators interests to operate a site in an appropriate way. Having regard to these considerations and the reasonable distance of the site from nearby occupiers, it is considered that an increase of 4 breeding pairs from 8 to 12 with the restriction to Peregrine Falcons only will not have an adverse impact on the amenities of nearby occupiers.

The amendment to condition 05 to allow commercial sales is considered to be acceptable. The applicant has stated that the site would not be open to the public, sales would take place predominantly online, there would be no change to deliveries and that visits would be via appointment only. The sale of birds from the site is not considered to be an intensive use and would be unlikely to result in any perceptible change over and above the hobby use that was originally approved. The condition suggested by the applicant would limit the commercial use to the sale of birds of prey only. It is considered necessary to amend the condition to state that the sale of birds includes those bred on the site only and to exclude ancillary retail activity from the site.

Subject to the above conditions the proposal is considered to have an acceptable impact on residential amenity.

### **Highways**

There is an existing access available to the site via White Street to the north but no changes are proposed to this access point itself. The original application was approved without any formal hard surfacing to facilitate parking and turning as it was considered that the use would be very low key and therefore these facilities would not be necessary.

On the basis of the information provided, these considerations equally apply to this application. The sale of birds from the site would not give rise to an appreciable increase in vehicular movements. There are no retail activities that can be carried out on the site and visits are considered to be infrequent and by appointment only. On the basis of these considerations there would be a minimal impact on highway safety and therefore the application is considered to be acceptable in this regard.

### **Ecology**

The County Ecologist has commented that they have no comments to make on the application. Overall it is considered that there would be no impacts on ecology and protected species as a result of the proposal. Accordingly it is considered that the proposal would comply with Policy CP8 of the Taunton Deane Core Strategy.

## **Flood risk**

The application site is situated within flood zones 2 & 3, which is identified as an area at risk of flooding. The proposal would not have any implications in terms of flood risk. Accordingly it is considered that the proposal would comply with Policy CP8 of the Taunton Deane Core Strategy.

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



20/20/0011

MRS E EDWARDS

**Change of use of land from agricultural to domestic including erection of wall and additional patio slabs at Ilbeare, Cattlewash, Fitzroy Road, Norton Fitzwarren (retention of works already undertaken).**

Location: CATTLEWASH, ILBEARE, FITZROY ROAD, NORTON  
FITZWARREN, TAUNTON, TA2 6PL

Grid Reference: 319428.127931 Retention of Building/Works etc.

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

1. The development hereby permitted shall be completed within 12 months of the date of this permission.

Reason: In order to regularise the development.

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

(A4) DrNo Location Plan  
(A4) Site Plan  
(A1) Proposed Revised Plan

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) or any order revoking and re-enacting the 2015 Order with or without modification, no development as identified in Class E or Class F, Part 1, Schedule 2 of the GPDO is permissible, other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: To ensure that the development does not harm the amenities of the neighbouring property or the character and appearance of the area.

4. The hedges and trees around the perimeter of the site shall be not be altered and shall be retained thereafter.

Reason: To avoid potential harm to the landscape.

5. The stock fencing which runs along side the Public Footpath shall be retained and maintained thereafter.

Reason: In the interests of public amenity.

#### Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.
2. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with

#### Proposal

This application seeks retrospective permission for the change of use of an area of land to the east of Cattlewash from agricultural to domestic use.

The application was deferred from Planning Committee as the panel wished to see a wall built between the Public Footpath as concerns were raised regarding the dogs being too close to users of the footpath. As such the revised plans show a brick built wall which runs to the north of the site and the enclosed area for the dogs. It would be stone built, 1.1 metres high and topped with shrubbery. The fencing that runs alongside the Public Footpath would remain and will be conditioned. The revised plans also include the improvement and repair of the existing patio surrounding the dog kennel.

#### Site Description

The site is a long parcel of land, measuring approximately 3600 sq metres, located to the east of the residential curtilage of the property known as Cattlewash. There is an existing dog kennel within this area of land which has been deemed to be permitted development by the Council. The kennel and area of land is used by the applicants dogs.

The site is bound by typical rural tall trees and hedges to the south and east and a wooden fence binds the west and north. A watercourse runs immediately adjacent to the north boundary of the site. The site is accessed from an unclassified road which passes the site. There are two other properties, one which adjoins the site, known as Illbeare and another, Willows Watch, which is further to the north east.

There is also a public footpath accessed at the entrance to the site which then proceeds across the adjoining field to the south east which meets up with Langford Road and another footpath T/15/50 which crosses the proposal site and also meets up with Langford Road.

### **Relevant Planning History**

20/12/0032 Certificate of Lawful Development for the continued use of building as a residential dwelling – Approval – 20/11/2012.

20/17/0017 Demolition and erection of replacement dwelling with associated works- Conditional Approval – 30/10/2017.

### **Consultation Responses**

KINGSTON ST MARY PARISH COUNCIL - Kingston St Mary Parish Council has reviewed the planning application and objects to the change of use of the land from agricultural to domestic. It is considered detrimental and inappropriate to introduce such a large domestic area into a predominantly agricultural setting, which would adversely affect the rural character of the area.

The Parish Council would like to see this planning application withdrawn and resubmitted with an application which is acceptable to the applicant and the majority of residents residing in the Fitzroy Hamlet.

Change of use of land from agricultural to domestic including erection of wall and additional patio slabs at Ilbeare, Cattlewash, Fitzroy Road, Norton Fitzwarren (retention of works already undertaken).

2nd consultation -

Kingston St Mary Parish Council met on 9 November 2020 and would like to make the following comments relating to the above planning application.

The Parish Council has taken into consideration that the Planning Officer has recommended conditional approval of this planning application. In addition, the Planning Officer states that 'The fact that the applicant keeps dogs on this land cannot be a material planning consideration as the keeping of dogs is a domestic use and therefore this application will consider the amenity impacts of the use of this land as domestic only'.

The Parish Council has been advised, by local residents, that the applicant currently keeps a large number of big dogs on the land, including Alaskan Malamutes and several large Dobermanns. The applicant may be keeping these dogs for commercial purposes rather than as domestic pets. It would be prudent to resolve this area of concern before approving this planning application, as a change of use to 'Business Use' may be required rather than a change of land from agricultural to domestic.

The applicant's 'Proposed Revised Plan' does not show PROW T15/50 and it is

difficult to understand how a secure dog enclosure can be created using walls of 1.2m in height, when Dobermans can jump 1.8m. The Dobermans have recently escaped through the existing stock fencing. This has resulted in the neighbours being intimidated and reluctant to enter their gardens for fear of these large dogs running wild. Without a secure dog enclosure surrounding this parcel of land the proposed development will, create a hazard to users of the PROW and make the PROW less convenient for continued public use.

The current use of the land for keeping several large dogs is currently unsatisfactory and intimidatory for users of the PROW and the neighbouring properties. The proposed works are therefore needed as a matter of urgency and should be completed promptly.

In addition, to its concerns regarding the use of the Cattlewash site for business purposes, the Parish Council would like to see the following included as conditions, should approval be granted.

1. To prevent any further domestic development on this site, which is located outside of defined settlement limits, planning applications be required before any permitted developments take place;
2. That the walls shown on the applicant's 'Proposed Revised Plan' be increased to a height of 2m.
3. That the stock fences surrounding and within the property be made and maintained as dog proof. To prevent the dogs from getting through or digging under the fence and escaping onto the PROW or neighbouring land.
4. The proposed works should be completed promptly, within a period of 3-6 months from any permission being granted.

SCC - TRANSPORT DEVELOPMENT GROUP – Refer to Standing Advice.

PLANNING ENFORCEMENT – would like to be informed of the outcome.

PUBLIC RIGHTS OF WAY - We have no objections to the proposal, subject to the following:

#### 1. Specific Comments

The local planning authority needs to be confident that the applicant can demonstrate that they have an all-purpose vehicular right to the property along path T 15/50. If they are unable to and permission is granted, then the local planning authority could potentially be encouraging criminal activity through permitting driving on a public path without lawful authority.

#### 1. General Comments

Any proposed works must not encroach onto the width of the PROW.

The following bold text must be included as an informative note on any permission granted:

Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.

The health and safety of the public using the PROW must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) has maintenance responsibilities for the surface of a PROW, but only to a standard suitable for the public use. SCC will not be responsible for

putting right any damage occurring to the surface of a PROW resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a public footpath, public bridleway or restricted byway unless the driver has lawful authority (private rights) to do so.

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.
- Installing any apparatus within or across the 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. For more information, please visit Somerset County Council's Rights of Way pages to apply for a temporary closure:

<http://www.somerset.gov.uk/environment-and-planning/rights-of-way/apply-for-a->

Landscaping - no comment.

## **Representations Received**

4 objections have been received which raised concerns regarding:

- The revoked Certificate of Lawfulness should be discounted;
- The size of the area of land;
- The use of this agricultural land in open countryside;
- Potential significant environmental impact;
- Use of the area of land for dogs;
- The potential increase in number of dogs;
- The precedent it may set;
- Future building on the land;
- The use of the footpath;
- Restrictions and conditions that should be imposed; and
- Noise.

Following Planning Committee a second consultation was undertaken which received 1 objection which raised concerns regarding:

- The land remains Grade 2 agricultural land;

- Domestic use is not a supported use in the open countryside;
- Material economic loss from approving the application which needs to be considered against Policy SD1;
- The land could be used for agricultural purposes;
- Issues with previous permissions and development on site;
- The height of the wall; and
- The stock fencing.

## **Planning Policy Context**

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

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

Relevant policies of the development plan are listed below.

DM1 - General requirements,  
 SB1 - Settlement Boundaries,  
 DM2 - Development in the countryside,  
 CP8 - Environment,  
 CP1 - Climate change,

## **Determining issues and considerations**

The main issues in the determination of this application are the principle of the change of use, and whether there are any design and amenity implications.

In regards to the request that the application be determined the application against Core Strategy Policy SD1, the Council has worked proactively with the applicant to find solutions which mean that proposals secure development that improves the economic, social and environmental conditions

in the area.

In order to maintain the quality of the rural environment and ensure a sustainable approach to development, proposals outside of the boundaries of settlements identified in Core Strategy policy SP1 will be treated as being within open countryside and assessed against Core Strategy policies CP1, CP8 and DM2.

Core Policy DM2 states that outside of defined settlement limits, a number of uses will be supported.

The list of acceptable uses within such areas under this policy allows for:

1. Community Uses;
2. Class B Business Use;
3. Holiday and Tourism;
4. Agriculture, Forestry and related uses;

5. Replacement Dwellings;
6. Affordable Housing;
7. Conversion of existing buildings; and
8. Development for essential utilities infrastructure.

Whilst the change of use of land to domestic is not in the list of uses above, this area of land is near to two other domestic curtilages and arguably if the applicant was to apply for one of the uses deemed as acceptable this would cause more harm than its use as domestic garden.

In regards to the request that the application be determined the application against Core Strategy Policy SD1, the Council has worked proactively with the applicant to find solutions which ensures the proposal will improve the social and environmental conditions. Whilst not economic development, it is considered it would be unreasonable for the LPA to have requested that the applicant used the land for economic purposes.

The site is a continuation of the existing domestic curtilage of Cattlewash, it extends along the southern boundary of the garden of Ilbeare and finishes in line with the group of trees to the rear. Whilst the change of use of the land makes this application 'development'. The development would not alter the lay of the land and so there would be very limited, if any, visual impact. The Council's tree officer suggested that a condition is added to prevent the hedgerow that lines the boundary of the domestic development being replaced with a fence, which could harm the rural landscape. The Council appreciate that the previously approved dwelling is not considered 'substantially large' and therefore not in need of a 'substantially large' garden but it is not abnormal for smaller properties within the countryside to have large gardens and this large garden would not be out of character in the immediate or wider area.

Concerns have been raised regarding this application 'setting a precedent', however, each application would be considered on its own merits and would not be considered acceptable purely because there is an example of an acceptable domestic extension elsewhere. Whilst there would be a loss of Grade II agricultural land, this particular area of land is not, has not been, and won't be used for the growing of crops whilst it remains in the applicants control and as such, its loss would not be significant.

The fact that the applicant keeps dogs on this land cannot be a material planning consideration as the keeping of dogs is a domestic use and therefore this application will consider the amenity impacts of the use of this land as domestic only. The land abuts the boundary of the garden at Ilbeare. It is not considered that the use of the site as domestic would impinge upon their amenities. It is however considered necessary to restrict specific permitted development rights in order to protect their future amenities. It is not considered that this extension of domestic curtilage would have negative implications for the residents of wider area.

In response to the Parish comments regarding a potential commercial use taking place at the site. This matter was settled after this item was deferred from the last planning committee and the LPA is satisfied the applicant is not using the site for commercial purposes.

In regard to the environment and Policy CP8, the proposal does not drastically change the land therefore it is not considered that the change of use to domestic would harm the environment, and as mentioned previously, it abuts the boundary of other domestic curtilages so would not harm the character of this area.

In regard to Policy CP1, the use of the site as domestic would not intensify climate change issues.

The site is located within Flood Zone 2 and whilst its use as domestic is considered acceptable, building for residential purposes is considered to be unlikely and would be subject to consultation with the Environmental Agency.

The comments from the Public Rights of Way Officer are noted and the informative that has been requested has been added to ensure that the development does not affect the right of way.

The applicant sent revised plans showing a 1.1 metre wall topped with shrubbery to satisfy the concerns of the panel raised during the previous committee regarding the dogs getting too close to the public footpath fencing. The wall would separate the dog's enclosure from the fencing next to the public footpath. This fencing that runs alongside the Public Footpath would remain and will be conditioned. The applicant was not willing to increase the wall height on the basis that the wall and fencing would be sufficient to keep the dogs away from the path. A time limiting condition will be added to ensure the wall is complete within 1 year, as 6 months was not considered a reasonable amount of time.

Following the revised plans received the above assessment is still considered to be relevant.

In light of the above assessment it is not possible to identify any harm in terms material planning considerations and therefore the application is recommended for approval.

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

**Contact Officer: Abigail James**



36/19/0032

MR A GOTHARD

**Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/19/0010) (retention of part works already undertaken)**

Location: LOWER HUNTHAM FARM, HUNTHAM ROAD, STOKE ST GREGORY, TAUNTON, TA3 6EY

Grid Reference: 334025.126076 Retention of Building/Works etc.

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

(A1) DrNo: 2777B-DR-A-080-000 Proposed Plans & Elevations

(A1) DrNo: 2777B-DR-A-080-001 Proposed Site Plan, Location Plan, Area Plan

(A1) DrNo: 2777-DR-A-080-002 Plan of land to be bound by condition

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

2. Prior to the use of the development hereby approved samples or digital details of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: To safeguard the character and appearance of the building and area.

3. Prior to occupation or use of the development hereby approved, works for surface water drainage or re-use via a rainwater harvesting system shall be provided on the site to serve the development, hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be retained and maintained in that form.

Reason: To prevent discharge into nearby water courses and ensure the adequate provision of drainage infrastructure.

4. (i) The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the development.

(ii) For a period of five years after the completion of the development, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow, shall be replaced by trees or shrubs of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area.

5. No external lighting shall be installed on the development hereby permitted without the prior written consent of the local planning authority

Reason:

To protect dark skies and in accordance with policy CP8 of the adopted Taunton Deane Core Strategy

6. The cumulative number of cattle kept within the blue line shown on plan 2777-DR-A-080-002, both inside the development hereby approved and externally, shall not be greater than 120

Reason:

To ensure that cattle numbers do not increase over that as existing, and to protect the SSSI and in the interests of amenity. In accordance with policy CP8 of the adopted Taunton Deane Core Strategy.

7. A wooded shelter belt will be provided immediately south of the proposed sheds. A scheme will be produced following guidance produced by the Centre for Ecology and Hydrology

<https://www.farmtreestoair.ceh.ac.uk/ammonia-reductioncalculator>

shall be submitted to and approved in writing by the Local Planning Authority. The scheme will be implemented prior to operational use of the permitted development and maintained thereafter.

Reason:

In the interests of the integrity of a RAMSAR site, biodiversity generally and in accordance policy CP8 of the Taunton Deane Core Strategy.

Notes to Applicant

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

## **Proposal**

Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/19/0010) (retention of part works already undertaken)

## **Site Description**

The proposed development site is an open agricultural field bordered by a mature hedgerow to the western road boundary. The main farm complex is located to the south of the site with various extant agricultural buildings located to the north-east, including livestock sheds, there are also other sites in the locality connected to the agricultural operation. The site is relatively level and is on raised ground above the Sedgemoor marshes to the east. There is an open slurry lagoon next the site proposed for development and a pre-existing access to the highway. The West Sedgemoor SSSI, RAMSAR site and SPA are very close to the site. The land is just outside the settlement boundary to the village of Stoke St Gregory. There are dwellings approximately 100m to the north-west of the site and about 180m to the south-west.

## **Relevant Planning History**

- 36/18/0016/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0017/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0018/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0025/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0026/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0044 - agricultural building for storage of farm machinery (Baileys Farm) - C/A - 26/02/2019
- 36/19/0009 - agricultural livestock building (stage 2) - refused - 16/09/2019
- 36/19/0010 - agricultural livestock building (stage 3) - refused - 16/09/2019
- 36/19/0033 - agricultural livestock building - current
- 36/19/0034 - agricultural livestock building - current
- 36/19/0035 - agricultural livestock building - current

## **Consultation Responses**

*STOKE ST GREGORY PARISH COUNCIL* - The Parish Council offers no comment on this application as the information provided is incomplete and in some instances, contradictory. The Parish Council believe it is appropriate that this application, along with others for the contiguous building, should be put before the planning

committee. It would also recommend that these four applications along with the permitted development contained therein be considered as a single application.

*SCC - TRANSPORT DEVELOPMENT GROUP* - no observations

*Environmental Health - all Areas including Housing Standards* - The proposal is for an agricultural building on an open field. As stated, the buildings will be used to house cattle and agricultural machinery etc.

There were concerns raised about potential odour issues. However, you have confirmed that the applicant has agreed that number of cattle on the land will not be increased over what is already kept on the site, and that the existing slurry storage will continue to be used.

Environmental Health have no record of any complaints about odours from the existing use of the land. It is possible that there could be odours from agricultural uses of land in the country side, however, if the use is not being changed or intensified, then it is not likely to lead to any increase in the potential for odours to affect any neighbouring properties.

If there are issues with odours this can be due to management of waste/slurry, however, if this has not been a problem up until now, then the applicant should be able to continue to manage any waste so that it does not affect any neighbouring properties.

*LANDSCAPE* - no comments received

*PLANNING ENFORCEMENT* - relates to a current enforcement case

*SCC - ECOLOGY* - noted proximity of West Sedgemoor SSSI and Moors SPA RAMSAR sites and presence of cranes which might require condition for construction to be outside of breeding season. Further correspondence and a Habitats Regulation Assessment (HRA) were undertaken, and a condition for implementation of the mitigation (tree plantings) measures arising from the HRA were requested

*NATURAL ENGLAND* - required an initial air quality screening report before commenting. After this was provided and a subsequent Habitat Regulation Assessment provided by the County ecologist Natural England agreed to remove their objection and commented in respect of phosphate issues at the RAMSAR site, that "...regarding phosphorous, we understand that the applications will not increase the herd. You may wish to use a condition to ensure that the number of livestock (and so phosphorous) does not increase as a result of the applications. We note the further information on air quality mitigation to satisfy the HRA. We have no objection to the application subject to the mitigation being secured through a condition."

## **Habitat Regulations Assessment**

Completed, see below

## **Representations Received**

Local councillor Phil Stone wrote an objection noting that:

The building can be used to house large numbers of cattle and it would be difficult to

ensure restrictions on numbers, supplies of feed and bedding will need to be brought in by HGVs, there will be mud on the road and roads are narrow, disposal of slurry could impact upon the SSSI, flooding is a major issue, keeping livestock creates unpleasant smells and the development should be dealt with via a single application for a large building

The RSPB noted their objections to the proposal commenting that:

Without clear proposals regarding waste management (slurry and runoff) that will prevent pollution risk to neighbouring watercourses and the SSSI or restrictions on future use which could see this risk increased, the RSPB objects to this application.  
Yours sincerely, Damon Bridge Somerset Levels and Moors Conservation Officer

Seven households sent letters of objection, including from some of the neighbouring residents, the issues raised were:

- Landscape impacts
- Increased traffic with heavy agricultural vehicles
- Should be sited within an existing farmyard complex
- Will need lighting in the winter
- Should be one application not four
- Should be subject to an EIA
- Incomplete and contradictory information
- Should consult EA, NE and RSPB
- Do SCC Highways have resources to ensure safe roads
- Council have a duty to protect the environment
- There are three large dairy farms within one square mile

One neutral letter was received from the farmer at Huntham Farm to the north, noting that the development would not have negative impacts

Six households sent letters of support, the issues raised were:

- Family has farmed locally for five generations
- Farming practice has modernised
- Applicant has tried to engage with local residents, the parish council etc and reach harmonious accord with them
- Development would reduce traffic movements
- Improvements for animal welfare and in-line with current best practice
- Will allow business to remain viable
- Will not have bad impact on the landscape
- Rainwater harvesting will reduce flood risks
- Applicant has worked with the Woodland Trust to improve habitats/biodiversity

## **Planning Policy Context**

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

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

Relevant policies of the development plan are listed below.

CP8 - Environment,  
DM2 - Development in the countryside,

## **Local finance considerations**

none

## **Determining issues and considerations**

The main issues are the principle of development, function and use, design, landscape impacts, biodiversity and HRA, traffic, and flood risks

Principle of development

This application seeks to regularise an unauthorised, part-built livestock building, and is one of four concurrent applications which encompass one large building and are intended to address a situation in which parts of the building benefit from extant permissions. Two previous applications (reference 36/19/0009 and 36/19/0010) at the same site were refused in 2019 and it was further ascertained that extant prior notifications had not been built in accordance with approved plans and that the overall larger building was intended to be used for keeping livestock so the prior notification procedure was not appropriate for the type of agricultural building proposed. This application represents a resubmission of 36/19/0010 and relates to a central part of the larger building (so does not include end elevations). It is noted that in legal terms the applicant is perfectly entitled to apply separately for parts of a building forming one larger whole, and this means of applying for planning permission should not prejudice any eventual decision regarding the suitability of the proposal and its compliance with the relevant policies, locally and nationally.

It is proposed to be sited in a field between two parts of the enterprise with a range of agricultural buildings, including livestock buildings and silage clamps, located to the north and served by the same access.

The application site is not subject to any landscape or heritage designations, however the site is very close to the west Sedgemoor RAMSAR site and SSSI, additionally issues with phosphates are of relevance, which are discussed below. There is a public right of way across the field to the north of Huntham Road towards Stoke Road. The site is within the Open Countryside outside of defined settlement limits to North Curry and Stoke St Gregory. The main Core Strategy policies of relevance are CP8 Environment and DM2 (Development in the Countryside) which states that outside of defined settlement limits, that developments for agricultural uses will be supported subject to the buildings being 'commensurate with the role and function of the agricultural ...unit'.

The applicant contends that the building will allow for livestock to be kept in well-ventilated conditions thereby improving animal welfare and production. It is also stated that the development will reduce travel between various sites serving the agricultural enterprise and allow the business to function in a more efficient manner.

Policy CP8 'Environment' supports development provided that it protects habitats and biodiversity, protects and conserves the landscape, and natural and historic assets, and is appropriate in terms of scale, siting and design.

The proposal therefore has in principle support subject to an assessment of details and other materials considerations.

The application is not considered to be an EIA development because it does not represent an 'intensive' form of farming as the maximum number of cattle (120) to be kept internally and/or externally would remain the same as existing, and this would be subject to a condition which has been agreed with the agent and applicant. Additionally only part of the larger building would be used for housing livestock with the remainder used for storage of feed, hay and machinery. The application therefore falls below the criteria set for new agricultural buildings for intensive livestock operations under Schedule 2, 1(c) (intensive livestock installations) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), and does not meet criteria under Schedule 2 (a) (Projects for the use of uncultivated land.. for intensive agricultural purposes) as the land is not 'uncultivated' as it is classed as permanent pasture land, so in an existing agricultural use. Therefore an Environmental Impact Assessment is not required.

#### Function and use

The proposed building overall is intended be a combined storage building and for keeping livestock which would be young stock kept in the barn over winter and outdoors during the summer. No increase in current herd numbers at the site is proposed and the applicant has agreed to a condition restricting numbers to 120 cattle in both the building and the wider field. This would be enforceable as farmers have to keep stock records and it is considered that with such a condition the proposed scale of use is acceptable. The submitted details include reference to comments from a local veterinarian who deals with livestock and who notes that the building would offer vastly proved facilities for livestock with better animal welfare and a likely reduction in livestock movements by road as well. The proposed scale of use is therefore considered to be acceptable, subject to the condition restricting numbers.

#### Design and materials

The design is for a large, pitched roof (using cement sheeting and with rooflights), open-sided agricultural building, with concrete panels, open above and Yorkshire boarding to the top, (and with galvanized metal doors to the end elevations which are in a separate part of the building to this application). The design is standard for its purpose (and very similar to consent reference 36/18/0044), and appropriate to its intended function, with good ventilation providing for improved animal welfare. The design whilst utilitarian but as expected for a modern agricultural building and

proposes to use materials consistent with other agricultural buildings in the locality. The design and proposed materials are considered acceptable subject to approval details by condition.

#### Landscape impacts

This application has to be considered alongside the three concurrent applications for various stages of the same overall building, which are yet to be determined, and extant permission on the site (36/18/0044) for a joined machinery building (part of the larger structure). As there would be several buildings located in close proximity to one another the application is considered as part of one larger building. The landscape impacts of 36/18/0044 were assessed by the officer as acceptable subject to a condition for landscaping.

This application, and its concurrent sister applications (36/19/0033 & 34 & 35), are assessed in a cumulative manner. Whilst the design has not significantly changed from that as per the previously refused applications, other than the inclusion of rooflights, the current applications included significantly increased landscaping and tree plantings which would soften visual impacts. Although when viewed from immediately adjacent to the site the overall building is large from road viewpoints (Huntham Lane and Huntham Road) it can only be seen in very close proximity to the site, although there are wider views into the site from places such as the Fivehead area. As landscaping and ecological mitigation features (see below) would be part of the development and conditioned as such, it is considered that landscape impacts do not represent a substantive reason to refuse the application. The site is close to extant agricultural buildings and would not fundamentally change the rural character of the area. It is also well setback from the highway and benefits from screening provided by existing hedgerows. New plantings and trees will take time to mature but in the longer term it is considered that landscape impacts will be relatively minor.

#### Amenity

The main issue in relation to amenity is the possible impacts from the keeping of livestock on 'protected' dwellings, which are those that are not part of the agricultural enterprise. The nearest is Orchard Cottage, approximately 80m north-west from the site, with other dwellings about 180m south-west. The LPA's environmental health officer has not objected to the development and noted that cattle have traditionally been kept in the fields forming the site and adjacent to it. Additionally there are pre-existing cattle sheds to the north of the site and the proposal is not considered to represent significant impacts on amenity over and above those from cattle sheds already in situ and use of the land for pasture by young calves. The Environmental Health officer also noted mooted conditions for restricting numbers of cattle at the site, which would stop an intensification in the use of the land. As numbers would not increase there would be very little potential for a marked increase in unpleasant smells. Therefore it is considered that amenity will not be unduly impacted by the proposed development.

#### Access and traffic impacts

The site benefits from a pre-existing access which also serves agricultural buildings located to the north. The access is considered acceptable. The proposal should reduce travel as the enterprise currently keeps young animals at several locations and the proposed (multi-stage building) would consolidate calves in one location.



There would therefore be potential for traffic reduction overall as a result. The highways authority have raised no objections to the development and whilst concerns from objectors are noted in relation to transport impacts, the submitted documentation proposes that there would be a marked reduction in trip generation resulting from the use of the development.

#### Biodiversity

The site is in close proximity to the RAMSAR and SSSI sites on Sedgemoor where there is an identified issue with phosphate pollution. Accordingly the application has been subject to Habitats Regulation Assessment (HRA) and consultee comments from Natural England and the County ecologist. Natural England have not objected to the development but recommended that the LPA could impose a condition restricting numbers. Additionally the County ecologist has recommended a condition for the enhanced landscaping measures used to offset potential impacts highlighted in the HRA. Any permission granted will be subject to these conditions. The HRA and response from both the County ecologist and Natural England have taken on-board the full implications of the so-called 'Dutch nitrogen' case in regards to potential phosphate issues with the development. Given the condition for maximum numbers to be kept within the wider site including the building and surrounding field

An additional condition restricting exterior lighting will also be included in any permission granted to prevent detrimental impacts on dark skies in the locality. (The application does not propose any outside lighting.)

#### Drainage and slurry

The application proposed use of large tanks for storage and re-use of rainwater run-off which is fully in accordance with SUDS principles. However no other details have been supplied so these will be set by condition. In regards to slurry there is an existing slurry lagoon adjacent to the site and as no increase in cattle numbers is proposed (and will be mandated by planning condition) the existing facility is considered adequate for purpose. The RSPB's concerns are noted however it is considered that all matters related to biodiversity have been thoroughly addressed in consultation with Natural England and the County ecologist. The development is not considered to represent an increased flood risk as it would be subject to a condition for approval of details of drainage.

#### Other matters

The parish council have presented a neutral viewpoint but requested that the application is heard and determined at the SWT planning committee. One of the local ward councillors has written objecting to the proposal citing concerns about landscape impacts, biodiversity, traffic, flooding, slurry and the fact that the application is split into parts when it should be single application.

Seven households sent in letters of objection, citing concerns about landscape impacts, smells, and HGVs and traffic impacts. Whilst it is acknowledged that there may be a minor increase in trip generation to and from the site the overall impact of the development should decrease traffic on the road network in the local area for reasons cited above. Other matters are also discussed above.

One neutral letter has been received from a neighbouring farmer and six households

sent in letters of support.

#### Conclusion

Subject to conditions cited above the proposed development is recommended for approval. As the application is in part retrospective no time limit for commencement condition is needed.

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

**Contact Officer: Mr Alex Lawrey**

36/19/0033

MR A GOTHARD

**Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/19/0009) (retention of part works already undertaken)**

Location: LOWER HUNTHAM FARM, HUNTHAM ROAD, STOKE ST GREGORY, TAUNTON, TA3 6EY

Grid Reference: 333995.126041 Retention of Building/Works etc.

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

(A1) DrNo 2777D-DR-A-080-000 Proposed Plans and Elevations

(A1) DrNo 2777D-DR-A-080-001 Proposed Site Plan, Location Plan, Area Plan

(A1) DrNo: 2777-DR-A-080-002 Plan of land to be bound by condition

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

2. Prior to the use of the development hereby approved samples or digital details of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: To safeguard the character and appearance of the building and area.

3. Prior to occupation or use of the development hereby approved, works for surface water drainage or re-use via a rainwater harvesting system shall be provided on the site to serve the development, hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be retained and maintained in that form.

Reason: To prevent discharge into nearby water courses and ensure the adequate provision of drainage infrastructure.

4. (i) The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the development.

(ii) For a period of five years after the completion of the development, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow, shall be replaced by trees or shrubs of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area.

5. No external lighting shall be installed on the development hereby permitted without the prior written consent of the local planning authority

Reason:

To protect dark skies and in accordance with policy CP8 of the adopted Taunton Deane Core Strategy

6. The cumulative number of cattle kept within the blue line shown on plan 2777-DR-A-080-002, both inside the development hereby approved and externally, shall not be greater than 120

Reason:

To ensure that cattle numbers do not increase over that as existing, and to protect the SSSI and in the interests of amenity. In accordance with policy CP8 of the adopted Taunton Deane Core Strategy

7. A wooded shelter belt will be provided immediately south of the proposed sheds. A scheme will be produced following guidance produced by the Centre for Ecology and Hydrology

<https://www.farmtreestoair.ceh.ac.uk/ammonia-reductioncalculator>

shall be submitted to and approved in writing by the Local Planning Authority. The scheme will be implemented prior to operational use of the permitted development and maintained thereafter.

Reason:

In the interests of the integrity of a RAMSAR site, biodiversity generally and in accordance policy CP8 of the Taunton Deane Core Strategy.

Notes to Applicant

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

## **Proposal**

Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/19/0009) (retention of part works already undertaken)

## **Site Description**

The proposed development site is an open agricultural field bordered by a mature hedgerow to the western road boundary. The main farm complex is located to the south of the site with various extant agricultural buildings located to the north-east, including livestock sheds, there are also other sites in the locality connected to the agricultural operation. The site is relatively level and is on raised ground above the Sedgemoor marshes to the east. There is an open slurry lagoon next the site proposed for development and a pre-existing access to the highway. The West Sedgemoor SSSI, RAMSAR site and SPA are very close to the site. The land is just outside the settlement boundary to the village of Stoke St Gregory. There are dwellings approximately 100m to the north-west of the site and about 180m to the south-west.

## **Relevant Planning History**

- 36/18/0016/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0017/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0018/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0025/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
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- 36/18/0044 - agricultural building for storage of farm machinery (Baileys Farm) - C/A - 26/02/2019
- 36/19/0009 - agricultural livestock building (stage 2) - refused - 16/09/2019
- 36/19/0010 - agricultural livestock building (stage 3) - refused - 16/09/2019
- 36/19/0032 - agricultural livestock building - current
- 36/19/0034 - agricultural livestock building - current
- 36/19/0035 - agricultural livestock building - current

## **Consultation Responses**

*STOKE ST GREGORY PARISH COUNCIL* - The Parish Council offers no comment on this application as the information provided is incomplete and in some instances, contradictory. The Parish Council believe it is appropriate that this application, along

with others for the contiguous building, should be put before the planning committee. It would also recommend that these four applications along with the permitted development contained therein be considered as a single application

*SCC - TRANSPORT DEVELOPMENT GROUP* - no observations

*Environmental Health - all Areas including Housing Standards* - The proposal is for an agricultural building on an open field. As stated, the buildings will be used to house cattle and agricultural machinery etc.

There were concerns raised about potential odour issues. However, you have confirmed that the applicant has agreed that number of cattle on the land will not be increased over what is already kept on the site, and that the existing slurry storage will continue to be used.

Environmental Health have no record of any complaints about odours from the existing use of the land. It is possible that there could be odours from agricultural uses of land in the country side, however, if the use is not being changed or intensified, then it is not likely to lead to any increase in the potential for odours to affect any neighbouring properties.

If there are issues with odours this can be due to management of waste/slurry, however, if this has not been a problem up until now, then the applicant should be able to continue to manage any waste so that it does not affect any neighbouring properties

*LANDSCAPE* - no comments received

*PLANNING ENFORCEMENT* - this application relates to a current enforcement case

*NATURAL ENGLAND* - required an initial air quality screening report before commenting. After this was provided and a subsequent Habitat Regulation Assessment provided by the County ecologist Natural England agreed to remove their objection and commented in respect of phosphate issues at the RAMSAR site, that "...regarding phosphorous, we understand that the applications will not increase the herd. You may wish to use a condition to ensure that the number of livestock (and so phosphorous) does not increase as a result of the applications.

We note the further information on air quality mitigation to satisfy the HRA. We have no objection to the application subject to the mitigation being secured through a condition

*SCC - ECOLOGY* - noted proximity of West Sedgemoor SSSI and Moors SPA RAMSAR sites and presence of cranes which might require condition for construction to be outside of breeding season. Further correspondence and a Habitats Regulation Assessment (HRA) were undertaken, and a condition for implementation of the mitigation (tree plantings) measures arising from the HRA were requested

## **Habitats Regulations Assessment**

completed, see below

## **Representations Received**

Local councillor Phil Stone wrote an objection noting that:

The building can be used to house large numbers of cattle and it would be difficult to ensure restrictions on numbers, supplies of feed and bedding will need to be brought in by HGVs, there will be mud on the road and roads are narrow, disposal of slurry could impact upon the SSSI, flooding is a major issue, keeping livestock creates unpleasant smells and the development should be dealt with via a single application for a large building

The RSPB noted their objections to the proposal commenting that:

Without clear proposals regarding waste management (slurry and runoff) that will prevent pollution risk to neighbouring watercourses and the SSSI or restrictions on future use which could see this risk increased, the RSPB objects to this application.  
Yours sincerely, Damon Bridge Somerset Levels and Moors Conservation Officer

Seven households sent letters of objection, including from some of the neighbouring residents, the issues raised were:

- Landscape impacts
- Increased traffic with heavy agricultural vehicles
- Should be sited within an existing farmyard complex
- Will need lighting in the winter
- Should be one application not four
- Should be subject to an EIA
- Incomplete and contradictory information
- Should consult EA, NE and RSPB
- Do SCC Highways have resources to ensure safe roads
- Council have a duty to protect the environment
- There are three large dairy farms within one square mile

One neutral letter was received from the farmer at Huntham Farm to the north, noting that the development would not have negative impacts

Six households sent letters of support, the issues raised were:

- Family has farmed locally for five generations
- Farming practice has modernised
- Applicant has tried to engage with local residents, the parish council etc and reach harmonious accord with them
- Development would reduce traffic movements
- Improvements for animal welfare and in-line with current best practice
- Will allow business to remain viable
- Will not have bad impact on the landscape
- Rainwater harvesting will reduce flood risks
- Applicant has worked with the Woodland Trust to improve habitats/biodiversity

## **Planning Policy Context**

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

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

Relevant policies of the development plan are listed below.

CP8 - Environment,  
DM2 - Development in the countryside,

## **Local finance considerations**

none

## **Determining issues and considerations**

The main issues are the principle of development, function and use, design, landscape impacts, biodiversity and HRA, traffic, and flood risks

### **Principle of development**

This application seeks to regularise an unauthorised, part-built livestock building, and is one of four concurrent applications which encompass one large building and are intended to address a situation in which parts of the building benefit from extant permissions. Two previous applications (reference 36/19/0009 and 36/19/0010) at the same site were refused in 2019 and it was further ascertained that extant prior notifications had not been built in accordance with approved plans and that the overall larger building was intended to be used for keeping livestock so the prior notification procedure was not appropriate for the type of agricultural building proposed. This application represents a resubmission of 36/19/0009 and relates to the north-east end part of the larger building so includes the end elevation. It is noted that in legal terms the applicant is perfectly entitled to apply separately for parts of a building forming one larger whole, and this means of applying for planning permission should not prejudice any eventual decision regarding the suitability of the proposal and its compliance with the relevant policies, locally and nationally. It is proposed to be sited in a field between two parts of the enterprise with a range of agricultural buildings, including livestock buildings and silage clamps, located to the north and served by the same access.

The application site is not subject to any landscape or heritage designations, however the site is very close to the west Sedgemoor RAMSAR site and SSSI, additionally issues with phosphates are of relevance, which are discussed below. There is a public right of way across the field to the north of Huntham Road towards Stoke Road. The site is within the Open Countryside outside of defined settlement limits to North Curry and Stoke St Gregory. The main Core Strategy policies of relevance are CP8 Environment and DM2 (Development in the Countryside) which states that outside of defined settlement limits, that developments for agricultural uses will be supported subject to the buildings being 'commensurate with the role and function of the agricultural ...unit'.

The applicant contends that the building will allow for livestock to be kept in well-ventilated conditions thereby improving animal welfare and production. It is also stated that the development will reduce travel between various sites serving the



agricultural enterprise and allow the business to function in a more efficient manner.

Policy CP8 'Environment' supports development provided that it protects habitats and biodiversity, protects and conserves the landscape, and natural and historic assets, and is appropriate in terms of scale, siting and design.

The proposal therefore has in principle support subject to an assessment of details and other materials considerations.

The application is not considered to be an EIA development because it does not represent an 'intensive' form of farming as the maximum number of cattle (120) to be kept internally and/or externally would remain the same as existing, and this would be subject to a condition which has been agreed with the agent and applicant. Additionally only part of the larger building would be used for housing livestock with the remainder used for storage of feed, hay and machinery. The application therefore falls below the criteria set for new agricultural buildings for intensive livestock operations under Schedule 2, 1(c) (intensive livestock installations) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), and does not meet criteria under Schedule 2 (a) (Projects for the use of uncultivated land.. for intensive agricultural purposes) as the land is not 'uncultivated' as it is classed as permanent pasture land, so in an existing agricultural use. Therefore an Environmental Impact Assessment is not required.

#### Function and use

The proposed building overall is intended be a combined storage building and for keeping livestock which would be young stock kept in the barn over winter and outdoors during the summer. No increase in current herd numbers at the site is proposed and the applicant has agreed to a condition restricting numbers to 120 cattle in both the building and the wider field. This would be enforceable as farmers have to keep stock records and it is considered that with such a condition the proposed scale of use is acceptable. The submitted details include reference to comments from a local veterinarian who deals with livestock and who notes that the building would offer vastly proved facilities for livestock with better animal welfare and a likely reduction in livestock movements by road as well. The proposed scale of use is therefore considered to be acceptable, subject to the condition restricting numbers.

#### Design and materials

The design is for a large, pitched roof (using cement sheeting and with rooflights), open-sided agricultural building, with concrete panels, open above and Yorkshire boarding to the top of the gable-end elevations, and with 5no. galvanized metal doors to the north-east end elevation, which are part of this application. The design is standard for its purpose, and appropriate to its intended function, with good ventilation providing for improved animal welfare. The design whilst utilitarian is as expected for a modern agricultural building and proposes to use materials consistent with other agricultural buildings in the locality. The design and proposed materials are considered acceptable subject to approval of details of materials to be set by condition.

### Landscape impacts

This application has to be considered alongside the three concurrent applications for various stages of the same overall building, which are yet to be determined, and extant permission on the site (36/18/0044) for a joined machinery building (part of the larger structure). As there would be several buildings located in close proximity to one another the application is considered as part of one larger building. The landscape impacts of 36/18/0044 were assessed by the officer as acceptable subject to a condition for landscaping.

This application, and its concurrent sister applications (36/19/0032 & 34 & 35), are assessed in a cumulative manner. Whilst the design has not significantly changed from that as per the previously refused applications, other than the inclusion of rooflights, the current applications included significantly increased landscaping and tree plantings which would soften visual impacts. Although when viewed from immediately adjacent to the site the overall building is large from road viewpoints (Huntham Lane and Huntham Road) it can only be seen in very close proximity to the site, although there are wider views into the site from places such as the Fivehead area. As landscaping and ecological mitigation features (see below) would be part of the development and conditioned as such, it is considered that landscape impacts do not represent a substantive reason to refuse the application. The site is close to extant agricultural buildings and would not fundamentally change the rural character of the area. It is also well setback from the highway and benefits from screening provided by existing hedgerows. New plantings and trees will take time to mature but in the longer term it is considered that landscape impacts will be relatively minor.

### Amenity

The main issue in relation to amenity is the possible impacts from the keeping of livestock on 'protected' dwellings, which are those that are not part of the agricultural enterprise. The nearest is Orchard Cottage, approximately 80m north-west from the site, with other dwellings about 180m south-west. The LPA's environmental health officer has not objected to the development and noted that cattle have traditionally been kept in the fields forming the site and adjacent to it. Additionally there are pre-existing cattle sheds to the north of the site and the proposal is not considered to represent significant impacts on amenity over and above those from cattle sheds already in situ and use of the land for pasture by young calves. The Environmental Health officer also noted mooted conditions for restricting numbers of cattle at the site, which would stop an intensification in the use of the land. As numbers would not increase there would be very little potential for a marked increase in unpleasant smells. Therefore it is considered that amenity will not be unduly impacted by the proposed development.

### Access and traffic impacts

The site benefits from a pre-existing access which also serves agricultural buildings located to the north. The access is considered acceptable. The proposal should reduce travel as the enterprise currently keeps young animals at several locations and the proposed (multi-stage building) would consolidate calves in one location. There would therefore be potential for traffic reduction overall as a result.

### Biodiversity

The site is in close proximity to the RAMSAR and SSSI sites on Sedgemoor where there is an identified issue with phosphate pollution. Accordingly the application has been subject to Habitats Regulation Assessment (HRA) and consultee comments from Natural England and the County ecologist. Natural England have not objected to the development but recommended that the LPA could impose a condition restricting numbers. Additionally the County ecologist has recommended a condition for the enhanced landscaping measures used to offset potential impacts highlighted in the HRA. Any permission granted will be subject to these conditions. The HRA and response from both the County ecologist and Natural England have taken on-board the full implications of the so-called 'Dutch nitrogen' case in regards to potential phosphate issues with the development. An additional condition restricting exterior lighting will also be included in any permission granted to prevent detrimental impacts on dark skies in the locality. (The application does not propose any outside lighting.)

#### Drainage and slurry

The application proposed use of large tanks for storage and re-use of rainwater run-off which is fully in accordance with SUDS principles. However no other details have been supplied so these will be set by condition. In regards to slurry there is an existing slurry lagoon adjacent to the site and as no increase in cattle numbers is proposed (and will be mandated by planning condition) the existing facility is considered adequate for purpose. The RSPB's concerns are noted however it is considered that all matters related to biodiversity have been thoroughly addressed in consultation with Natural England and the County ecologist. The development is not considered to represent an increased flood risk as it would be subject to a condition for approval of details of drainage.

#### Other matters

The parish council have presented a neutral viewpoint but requested that the application is heard and determined at the SWT planning committee. One of the local ward councillors has written objecting to the proposal citing concerns about landscape impacts, biodiversity, traffic, flooding, slurry and the fact that the application is split into parts when it should be single application.

Seven households sent in letters of objection, citing concerns about landscape impacts, smells, and HGVs and traffic impacts. Whilst it is acknowledged that there may be a minor increase in trip generation to and from the site the overall impact of the development should decrease traffic on the road network in the local area for reasons cited above. Other matters are also discussed above.

One neutral letter has been received from a neighbouring farmer and six households sent in letters of support.

#### Conclusion

Subject to conditions cited above the proposed development is recommended for approval. As the application is in part retrospective no time limit for commencement condition is needed.

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

**Contact Officer: Mr Alex Lawrey**

36/19/0034

MR A GOTHARD

**Erection of an agricultural storage building at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (amended scheme to 36/18/0017) (retention of part works already undertaken)**

Location: LOWER HUNTHAM FARM, HUNTHAM ROAD, STOKE ST  
GREGORY, TAUNTON, TA3 6EY

Grid Reference: 334018.126062 Retention of Building/Works etc.

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

(A1) DrNo 2777C-DR-A-080-000 Proposed Plans and Elevations

(A1) DrNo 2777C-DR-A-080-001 Proposed Site Plan, Location Plan, Area Plan

(A1) DrNo: 2777-DR-A-080-002 Plan of land to be bound by condition

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

2. Prior to the use of the development hereby approved samples or digital details of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: To safeguard the character and appearance of the building and area

3. Prior to occupation or use of the development hereby approved, works for surface water drainage or re-use via a rainwater harvesting system shall be provided on the site to serve the development, hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be retained and maintained in that form.

Reason: To prevent discharge into nearby water courses and ensure the adequate provision of drainage infrastructure

4. (i) The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the development.

(ii) For a period of five years after the completion of the development, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow, shall be replaced by trees or shrubs of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area.

5. No external lighting shall be installed on the development hereby permitted without the prior written consent of the local planning authority

Reason:

To protect dark skies and in accordance with policy CP8 of the adopted Taunton Deane Core Strategy

6. The cumulative number of cattle kept within the blue line shown on plan 2777-DR-A-080-002, both inside the development hereby approved and externally, shall not be greater than 120

Reason:

To ensure that cattle numbers do not increase over that as existing, and to protect the SSSI and in the interests of amenity. In accordance with policy CP8 of the adopted Taunton Deane Core Strategy

7. A wooded shelter belt will be provided immediately south of the proposed sheds. A scheme will be produced following guidance produced by the Centre for Ecology and Hydrology  
<https://www.farmtreestoair.ceh.ac.uk/ammonia-reductioncalculator>  
shall be submitted to and approved in writing by the Local Planning Authority. The scheme will be implemented prior to operational use of the permitted development and maintained thereafter.

Reason:

In the interests of the integrity of a RAMSAR site, biodiversity generally and in accordance policy CP8 of the Taunton Deane Core Strategy.

#### Notes to Applicant

- . In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and

has negotiated amendments to the application to enable the grant of planning permission.

## **Proposal**

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## **Site Description**

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## **Relevant Planning History**

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- 36/19/0033 - agricultural livestock building - current
- 36/19/0035 - agricultural livestock building - current

## **Consultation Responses**

*STOKE ST GREGORY PARISH COUNCIL* - The Parish Council offers no comment on this application as the information provided is incomplete and in some instances, contradictory. The Parish Council believe it is appropriate that this application, along with others for the contiguous building, should be put before the planning committee. It would also recommend that these four applications along with the

permitted development contained therein be considered as a single application

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We note the further information on air quality mitigation to satisfy the HRA. We have no objection to the application subject to the mitigation being secured through a condition

*SCC - ECOLOGY* - noted proximity of West Sedgemoor SSSI and Moors SPA RAMSAR sites and presence of cranes which might require condition for construction to be outside of breeding season. Further correspondence and a Habitats Regulation Assessment (HRA) were undertaken, and a condition for implementation of the mitigation (tree plantings) measures arising from the HRA were requested

## **Habitats Regulations Assessment**

completed, see below

## **Representations Received**

Local councillor Phil Stone wrote an objection noting that:

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ensure restrictions on numbers, supplies of feed and bedding will need to be brought in by HGVs, there will be mud on the road and roads are narrow, disposal of slurry could impact upon the SSSI, flooding is a major issue, keeping livestock creates unpleasant smells and the development should be dealt with via a single application for a large building

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- Should be sited within an existing farmyard complex
- Will need lighting in the winter
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- Incomplete and contradictory information
- Should consult EA, NE and RSPB
- Do SCC Highways have resources to ensure safe roads
- Council have a duty to protect the environment
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- Rainwater harvesting will reduce flood risks
- Applicant has worked with the Woodland Trust to improve habitats/biodiversity

## **Planning Policy Context**

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

The development plan for Taunton Deane comprises the Taunton Deane Core

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

Relevant policies of the development plan are listed below.

CP8 - Environment,  
DM2 - Development in the countryside,

## **Local finance considerations**

none

## **Determining issues and considerations**

The main issues are the principle of development, function and use, design, landscape impacts, biodiversity and HRA, traffic, and flood risks

### Principle of development

This application seeks to regularise an unauthorised, part-built livestock building, and is one of four concurrent applications which encompass one large building and are intended to address a situation in which parts of the building benefit from extant permissions. Two previous applications (reference 36/19/0009 and 36/19/0010) at the same site were refused in 2019 and it was further ascertained that extant prior notifications had not been built in accordance with approved plans and that the overall larger building was intended to be used for keeping livestock so the prior notification procedure was not appropriate for the type of agricultural building proposed. This application represents a resubmission of 36/18/0018/AGN which was one of the prior notification applications, and relates to a central part of the larger building (so does not include end elevations). It is noted that in legal terms the applicant is perfectly entitled to apply separately for parts of a building forming one larger whole, and this means of applying for planning permission should not prejudice any eventual decision regarding the suitability of the proposal and its compliance with the relevant policies, locally and nationally.

It is proposed to be sited in a field between two parts of the enterprise with a range of agricultural buildings, including livestock buildings and silage clamps, located to the north and served by the same access.

The application site is not subject to any landscape or heritage designations, however the site is very close to the west Sedgemoor RAMSAR site and SSSI, additionally issues with phosphates are of relevance, which are discussed below. There is a public right of way across the field to the north of Huntham Road towards Stoke Road. The site is within the Open Countryside outside of defined settlement limits to North Curry and Stoke St Gregory. The main Core Strategy policies of relevance are CP8 Environment and DM2 (Development in the Countryside) which states that outside of defined settlement limits, that developments for agricultural uses will be supported subject to the buildings being 'commensurate with the role

and function of the agricultural ...unit'.

The applicant contends that the building will allow for livestock to be kept in well-ventilated conditions thereby improving animal welfare and production. It is also stated that the development will reduce travel between various sites serving the agricultural enterprise and allow the business to function in a more efficient manner.

Policy CP8 'Environment' supports development provided that it protects habitats and biodiversity, protects and conserves the landscape, and natural and historic assets, and is appropriate in terms of scale, siting and design.

The proposal therefore has in principle support subject to an assessment of details and other materials considerations.

The application is not considered to be an EIA development because it does not represent an 'intensive' form of farming as the maximum number of cattle (120) to be kept internally and/or externally would remain the same as existing, and this would be subject to a condition which has been agreed with the agent and applicant. Additionally only part of the larger building would be used for housing livestock with the remainder used for storage of feed, hay and machinery. The application therefore falls below the criteria set for new agricultural buildings for intensive livestock operations under Schedule 2, 1(c) (intensive livestock installations) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), and does not meet criteria under Schedule 2 (a) (Projects for the use of uncultivated land.. for intensive agricultural purposes) as the land is not 'uncultivated' as it is classed as permanent pasture land, so in an existing agricultural use. Therefore an Environmental Impact Assessment is not required.

#### Function and use

The proposed building overall is intended be a combined storage building and for keeping livestock which would be young stock kept in the barn over winter and outdoors during the summer. No increase in current herd numbers at the site is proposed and the applicant has agreed to a condition restricting numbers to 120 cattle in both the building and the wider field. This would be enforceable as farmers have to keep stock records and it is considered that with such a condition the proposed scale of use is acceptable. The submitted details include reference to comments from a local veterinarian who deals with livestock and who notes that the building would offer vastly proved facilities for livestock with better animal welfare and a likely reduction in livestock movements by road as well. The proposed scale of use is therefore considered to be acceptable, subject to the condition restricting numbers.

#### Design and materials

The design is for a large, pitched roof (using cement sheeting and with rooflights), open-sided agricultural building, with concrete panels, open above (and Yorkshire boarding to the top with galvanized metal doors to the end elevations which are in a separate part of the building to this application). The design is standard for its purpose and appropriate to its intended function, with good ventilation providing for improved animal welfare. The design whilst utilitarian is as expected for a modern agricultural building and proposes to use materials consistent with other agricultural

buildings in the locality. The design and proposed materials are considered acceptable subject to approval of details by condition.

#### Landscape impacts

This application has to be considered alongside the three concurrent applications for various stages of the same overall building, which are yet to be determined, and extant permission on the site (36/18/0044) for a joined machinery building (part of the larger structure). As there would be several buildings located in close proximity to one another the application is considered as part of one larger building. The landscape impacts of 36/18/0044 were assessed by the officer as acceptable subject to a condition for landscaping.

This application, and its concurrent sister applications (36/19/0032 & 33 & 35), are assessed in a cumulative manner. Whilst the design has not significantly changed from that as per the previously refused applications, other than the inclusion of rooflights, the current applications included significantly increased landscaping and tree plantings which would soften visual impacts. Although when viewed from immediately adjacent to the site the overall building is large from road viewpoints (Huntham Lane and Huntham Road) it can only be seen in very close proximity to the site, although there are wider views into the site from places such as the Fivehead area. As landscaping and ecological mitigation features (see below) would be part of the development and conditioned as such, it is considered that landscape impacts do not represent a substantive reason to refuse the application. The site is close to extant agricultural buildings and would not fundamentally change the rural character of the area. It is also well setback from the highway and benefits from screening provided by existing hedgerows. New plantings and trees will take time to mature but in the longer term it is considered that landscape impacts will be relatively minor.

#### Amenity

The main issue in relation to amenity is the possible impacts from the keeping of livestock on 'protected' dwellings, which are those that are not part of the agricultural enterprise. The nearest is Orchard Cottage, approximately 80m north-west from the site, with other dwellings about 180m south-west. The LPA's environmental health officer has not objected to the development and noted that cattle have traditionally been kept in the fields forming the site and adjacent to it. Additionally there are pre-existing cattle sheds to the north of the site and the proposal is not considered to represent significant impacts on amenity over and above those from cattle sheds already in situ and use of the land for pasture by young calves. The Environmental Health officer also noted mooted conditions for restricting numbers of cattle at the site, which would stop an intensification in the use of the land. As numbers would not increase there would be very little potential for a marked increase in unpleasant smells. Therefore it is considered that amenity will not be unduly impacted by the proposed development.

#### Access and traffic impacts

The site benefits from a pre-existing access which also serves agricultural buildings located to the north. The access is considered acceptable. The proposal should reduce travel as the enterprise currently keeps young animals at several locations and the proposed (multi-stage building) would consolidate calves in one location. There would therefore be potential for traffic reduction overall as a result.

### Biodiversity

The site is in close proximity to the RAMSAR and SSSI sites on Sedgemoor where there is an identified issue with phosphate pollution. Accordingly the application has been subject to Habitats Regulation Assessment (HRA) and consultee comments from Natural England and the County ecologist. Natural England have not objected to the development but recommended that the LPA could impose a condition restricting numbers. Additionally the County ecologist has recommended a condition for the enhanced landscaping measures used to offset potential impacts highlighted in the HRA. Any permission granted will be subject to these conditions. The HRA and response from both the County ecologist and Natural England have taken on-board the full implications of the so-called 'Dutch nitrogen' case in regards to potential phosphate issues with the development. An additional condition restricting exterior lighting will also be included in any permission granted to prevent detrimental impacts on dark skies in the locality. (The application does not propose any outside lighting.)

### Drainage and slurry

The application proposed use of large tanks for storage and re-use of rainwater run-off which is fully in accordance with SUDS principles. However no other details have been supplied so these will be set by condition. In regards to slurry there is an existing slurry lagoon adjacent to the site and as no increase in cattle numbers is proposed (and will be mandated by planning condition) the existing facility is considered adequate for purpose. The RSPB's concerns are noted however it is considered that all matters related to biodiversity have been thoroughly addressed in consultation with Natural England and the County ecologist. The development is not considered to represent an increased flood risk as it would be subject to a condition for approval of details of drainage.

### Other matters

The parish council have presented a neutral viewpoint but requested that the application is heard and determined at the SWT planning committee. One of the local ward councillors has written objecting to the proposal citing concerns about landscape impacts, biodiversity, traffic, flooding, slurry and the fact that the application is split into parts when it should be single application.

Seven households sent in letters of objection, citing concerns about landscape impacts, smells, and HGVs and traffic impacts. Whilst it is acknowledged that there may be a minor increase in trip generation to and from the site the overall impact of the development should decrease traffic on the road network in the local area for reasons cited above. Other matters are also discussed above.

One neutral letter has been received from a neighbouring farmer and six households sent in letters of support.

### Conclusion

Subject to conditions cited above the proposed development is recommended for approval. As the application is in part retrospective no time limit for commencement condition is needed.

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

**Contact Officer: Mr Alex Lawrey**

36/19/0035

MR A GOTHARD

**Erection of an agricultural storage building at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/18/0016) (retention of part works already undertaken)**

Location: LOWER HUNTHAM FARM, HUNTHAM ROAD, STOKE ST  
GREGORY, TAUNTON, TA3 6EY

Grid Reference: 333995.126041 Retention of Building/Works etc.

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## **Recommendation**

**Recommended decision: Conditional Approval**

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

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

(A1) DrNo: 27772-DR-A-080-000 Proposed Plans and Elevations

(A1) DrNo: 2777A-DR-A-080-001 Rev A Proposed Site Plan, Location Plan & Area Plan

(A1) DrNo: 2777-DR-A-080-002 Plan of land to be bound by condition

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

2. Prior to the use of the development hereby approved samples or digital details of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter maintained as such.

Reason: To safeguard the character and appearance of the building and area.

3. Prior to occupation or use of the development hereby approved, works for surface water drainage or re-use via a rainwater harvesting system shall be provided on the site to serve the development, hereby permitted, in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be retained and maintained in that form.

Reason: To prevent discharge into nearby water courses and ensure the adequate provision of drainage infrastructure

4. (i) The landscaping/planting scheme shown on the submitted plan shall be completely carried out within the first available planting season from the date of commencement of the development.

(ii) For a period of five years after the completion of the development, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow, shall be replaced by trees or shrubs of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the character and appearance of the area.

5. No external lighting shall be installed on the development hereby permitted without the prior written consent of the local planning authority

Reason:

To protect dark skies and in accordance with policy CP8 of the adopted Taunton Deane Core Strategy

6. The cumulative number of cattle kept within the blue line shown on plan 2777-DR-A-080-002, both inside the development hereby approved and externally, shall not be greater than 120

Reason:

To ensure that cattle numbers do not increase over that as existing, and to protect the SSSI and in the interests of amenity. In accordance with policy CP8 of the adopted Taunton Deane Core Strategy

7. A wooded shelter belt will be provided immediately south of the proposed sheds. A scheme will be produced following guidance produced by the Centre for Ecology and Hydrology

<https://www.farmtreestoair.ceh.ac.uk/ammonia-reductioncalculator>

shall be submitted to and approved in writing by the Local Planning Authority. The scheme will be implemented prior to operational use of the permitted development and maintained thereafter.

Reason:

In the interests of the integrity of a RAMSAR site, biodiversity generally and in accordance policy CP8 of the Taunton Deane Core Strategy.

Notes to Applicant



In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.

## **Proposal**

Erection of an agricultural building for the housing of livestock at Lower Huntham Farm, Huntham Lane, Stoke St Gregory (resubmission of 36/18/0016) (retention of part works already undertaken)

## **Site Description**

The proposed development site is an open agricultural field bordered by a mature hedgerow to the western road boundary. The main farm complex is located to the south of the site with various extant agricultural buildings located to the north-east, including livestock sheds, there are also other sites in the locality connected to the agricultural operation. The site is relatively level and is on raised ground above the Sedgemoor marshes to the east. There is an open slurry lagoon next the site proposed for development and a pre-existing access to the highway. The West Sedgemoor SSSI, RAMSAR site and SPA are very close to the site. The land is just outside the settlement boundary to the village of Stoke St Gregory. There are dwellings approximately 100m to the north-west of the site and about 180m to the south-west.

## **Relevant Planning History**

- 36/18/0016/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0017/AGN - Agricultural Building - No Objection - 9/7/2018
- 36/18/0018/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0025/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0026/AGN - Agricultural Building - Planning Permission Required - 21/8/2018
- 36/18/0044 - agricultural building for storage of farm machinery (Baileys Farm) - C/A - 26/02/2019
- 36/19/0009 - agricultural livestock building (stage 2) - refused - 16/09/2019
- 36/19/0010 - agricultural livestock building (stage 3) - refused - 16/09/2019
- 36/19/0032 - agricultural livestock building - current
- 36/19/0033 - agricultural livestock building - current
- 36/19/0034 - agricultural livestock building - current

## **Consultation Responses**

*STOKE ST GREGORY PARISH COUNCIL* - The Parish Council offers no comment on this application as the information provided is incomplete and in some instances, contradictory. The Parish Council believe it is appropriate that this application, along

with others for the contiguous building, should be put before the planning committee. It would also recommend that these four applications along with the permitted development contained therein be considered as a single application

*SCC - TRANSPORT DEVELOPMENT GROUP* - no observations

*Environmental Health - all Areas including Housing Standards* - The proposal is for an agricultural building on an open field. As stated, the buildings will be used to house cattle and agricultural machinery etc.

There were concerns raised about potential odour issues. However, you have confirmed that the applicant has agreed that number of cattle on the land will not be increased over what is already kept on the site, and that the existing slurry storage will continue to be used.

Environmental Health have no record of any complaints about odours from the existing use of the land. It is possible that there could be odours from agricultural uses of land in the country side, however, if the use is not being changed or intensified, then it is not likely to lead to any increase in the potential for odours to affect any neighbouring properties.

If there are issues with odours this can be due to management of waste/slurry, however, if this has not been a problem up until now, then the applicant should be able to continue to manage any waste so that it does not affect any neighbouring properties

*LANDSCAPE* - no comments received

*PLANNING ENFORCEMENT* - this application relates to a current enforcement case

*NATURAL ENGLAND* - required an initial air quality screening report before commenting. After this was provided and a subsequent Habitat Regulation Assessment provided by the County ecologist Natural England agreed to remove their objection and commented in respect of phosphate issues at the RAMSAR site, that "...regarding phosphorous, we understand that the applications will not increase the herd. You may wish to use a condition to ensure that the number of livestock (and so phosphorous) does not increase as a result of the applications.

We note the further information on air quality mitigation to satisfy the HRA. We have no objection to the application subject to the mitigation being secured through a condition

*SCC - ECOLOGY* - noted proximity of West Sedgemoor SSSI and Moors SPA RAMSAR sites and presence of cranes which might require condition for construction to be outside of breeding season. Further correspondence and a Habitats Regulation Assessment (HRA) were undertaken, and a condition for implementation of the mitigation (tree plantings) measures arising from the HRA were requested

## **Habitats Regulations Assessment**

completed, see below

## **Representations Received**

Local councillor Phil Stone wrote an objection noting that:

The building can be used to house large numbers of cattle and it would be difficult to ensure restrictions on numbers, supplies of feed and bedding will need to be brought in by HGVs, there will be mud on the road and roads are narrow, disposal of slurry could impact upon the SSSI, flooding is a major issue, keeping livestock creates unpleasant smells and the development should be dealt with via a single application for a large building

The RSPB noted their objections to the proposal commenting that:

Without clear proposals regarding waste management (slurry and runoff) that will prevent pollution risk to neighbouring watercourses and the SSSI or restrictions on future use which could see this risk increased, the RSPB objects to this application.  
Yours sincerely, Damon Bridge Somerset Levels and Moors Conservation Officer

Seven households sent letters of objection, including from some of the neighbouring residents, the issues raised were:

- Landscape impacts
- Increased traffic with heavy agricultural vehicles
- Should be sited within an existing farmyard complex
- Will need lighting in the winter
- Should be one application not four
- Should be subject to an EIA
- Incomplete and contradictory information
- Should consult EA, NE and RSPB
- Do SCC Highways have resources to ensure safe roads
- Council have a duty to protect the environment
- There are three large dairy farms within one square mile

One neutral letter was received from the farmer at Huntham Farm to the north, noting that the development would not have negative impacts

Six households sent letters of support, the issues raised were:

- Family has farmed locally for five generations
- Farming practice has modernised
- Applicant has tried to engage with local residents, the parish council etc and reach harmonious accord with them
- Development would reduce traffic movements
- Improvements for animal welfare and in-line with current best practice
- Will allow business to remain viable
- Will not have bad impact on the landscape
- Rainwater harvesting will reduce flood risks
- Applicant has worked with the Woodland Trust to improve habitats/biodiversity

## **Planning Policy Context**

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

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

Relevant policies of the development plan are listed below.

CP8 - Environment,  
DM2 - Development in the countryside,

## **Local finance considerations**

none

## **Determining issues and considerations**

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The application site is not subject to any landscape or heritage designations, however the site is very close to the west Sedgemoor RAMSAR site and SSSI, additionally issues with phosphates are of relevance, which are discussed below. There is a public right of way across the field to the north of Huntham Road towards Stoke Road. The site is within the Open Countryside outside of defined settlement limits to North Curry and Stoke St Gregory. The main Core Strategy policies of relevance are CP8 Environment and DM2 (Development in the Countryside) which

states that outside of defined settlement limits, that developments for agricultural uses will be supported subject to the buildings being 'commensurate with the role and function of the agricultural ...unit'.

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#### Function and use

The proposed building overall is intended be a combined storage building and for keeping livestock which would be young stock kept in the barn over winter and outdoors during the summer. No increase in current herd numbers at the site is proposed and the applicant has agreed to a condition restricting numbers to 120 cattle in both the building and the wider field. This would be enforceable as farmers have to keep stock records and it is considered that with such a condition the proposed scale of use is acceptable. The submitted details include reference to comments from a local veterinarian who deals with livestock and who notes that the building would offer vastly proved facilities for livestock with better animal welfare and a likely reduction in livestock movements by road as well. The proposed scale of use is therefore considered to be acceptable, subject to the condition restricting numbers.

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The design is for a large, pitched roof (using cement sheeting and with rooflights), open-sided agricultural building, with concrete panels, open above (and Yorkshire boarding to the top with galvanized metal doors to the end elevations which are in a separate part of the building to this application). The design is standard for its purpose and appropriate to its intended function, with good ventilation providing for

improved animal welfare. The design whilst utilitarian is as expected for a modern agricultural building and proposes to use materials consistent with other agricultural buildings in the locality. The design and proposed materials are considered acceptable subject to approval of details by condition.

#### Landscape impacts

This application has to be considered alongside the three concurrent applications for various stages of the same overall building, which are yet to be determined, and extant permission on the site (36/18/0044) for a joined machinery building (part of the larger structure). As there would be several buildings located in close proximity to one another the application is considered as part of one larger building. The landscape impacts of 36/18/0044 were assessed by the officer as acceptable subject to a condition for landscaping.

This application, and its concurrent sister applications (36/19/0032 & 33 & 35), are assessed in a cumulative manner. Whilst the design has not significantly changed from that as per the previously refused applications, other than the inclusion of rooflights, the current applications included significantly increased landscaping and tree plantings which would soften visual impacts. Although when viewed from immediately adjacent to the site the overall building is large from road viewpoints (Huntham Lane and Huntham Road) it can only be seen in very close proximity to the site, although there are wider views into the site from places such as the Fivehead area. As landscaping and ecological mitigation features (see below) would be part of the development and conditioned as such, it is considered that landscape impacts do not represent a substantive reason to refuse the application. The site is close to extant agricultural buildings and would not fundamentally change the rural character of the area. It is also well setback from the highway and benefits from screening provided by existing hedgerows. New plantings and trees will take time to mature but in the longer term it is considered that landscape impacts will be relatively minor.

#### Amenity

The main issue in relation to amenity is the possible impacts from the keeping of livestock on 'protected' dwellings, which are those that are not part of the agricultural enterprise. The nearest is Orchard Cottage, approximately 80m north-west from the site, with other dwellings about 180m south-west. The LPA's environmental health officer has not objected to the development and noted that cattle have traditionally been kept in the fields forming the site and adjacent to it. Additionally there are pre-existing cattle sheds to the north of the site and the proposal is not considered to represent significant impacts on amenity over and above those from cattle sheds already in situ and use of the land for pasture by young calves. The Environmental Health officer also noted mooted conditions for restricting numbers of cattle at the site, which would stop an intensification in the use of the land. As numbers would not increase there would be very little potential for a marked increase in unpleasant smells. Therefore it is considered that amenity will not be unduly impacted by the proposed development.

#### Access and traffic impacts

The site benefits from a -pre-existing access which also serves agricultural buildings located to the north. The access is considered acceptable. The proposal should reduce travel as the enterprise currently keeps young animals at several locations

and the proposed (multi-stage building) would consolidate calves in one location. There would therefore be potential for traffic reduction overall as a result.

#### Biodiversity

The site is in close proximity to the RAMSAR and SSSI sites on Sedgemoor where there is an identified issue with phosphate pollution. Accordingly the application has been subject to Habitats Regulation Assessment (HRA) and consultee comments from Natural England and the County ecologist. Natural England have not objected to the development but recommended that the LPA could impose a condition restricting numbers. Additionally the County ecologist has recommended a condition for the enhanced landscaping measures used to offset potential impacts highlighted in the HRA. Any permission granted will be subject to these conditions. The HRA and response from both the County ecologist and Natural England have taken on-board the full implications of the so-called 'Dutch nitrogen' case in regards to potential phosphate issues with the development. An additional condition restricting exterior lighting will also be included in any permission granted to prevent detrimental impacts on dark skies in the locality. (The application does not propose any outside lighting.)

#### Drainage and slurry

The application proposed use of large tanks for storage and re-use of rainwater run-off which is fully in accordance with SUDS principles. However no other details have been supplied so these will be set by condition. In regards to slurry there is an existing slurry lagoon adjacent to the site and as no increase in cattle numbers is proposed (and will be mandated by planning condition) the existing facility is considered adequate for purpose. The RSPB's concerns are noted however it is considered that all matters related to biodiversity have been thoroughly addressed in consultation with Natural England and the County ecologist. The development is not considered to represent an increased flood risk as it would be subject to a condition for approval of details of drainage.

#### Other matters

The parish council have presented a neutral viewpoint but requested that the application is heard and determined at the SWT planning committee. One of the local ward councillors has written objecting to the proposal citing concerns about landscape impacts, biodiversity, traffic, flooding, slurry and the fact that the application is split into parts when it should be single application.

Seven households sent in letters of objection, citing concerns about landscape impacts, smells, and HGVs and traffic impacts. Whilst it is acknowledged that there may be a minor increase in trip generation to and from the site the overall impact of the development should decrease traffic on the road network in the local area for reasons cited above. Other matters are also discussed above.

One neutral letter has been received from a neighbouring farmer and six households sent in letters of support.

#### Conclusion

Subject to conditions cited above the proposed development is recommended for

approval. As the application is in part retrospective no time limit for commencement condition is needed.

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

**Contact Officer: Mr Alex Lawrey**



## APPEALS RECEIVED – 19 NOVEMBER 2020

**Site:** 106 Upper Holway road, Taunton, TA1 2QA

**Proposal:** Erection of a wooden perimeter fence at 106 Upper Holway Road, Taunton (retention of works already undertaken)

**Application number:** 38/20/0188

**Appeal reference:** APP/W3330/D/20/3259419

**Enforcement Appeal:**

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**Site:** FIELD B, NEW ENGLAND, CURLAND COMMON ROAD, CURLAND, TAUNTON, TA3 5SB

**Proposal:** Alleged unauthorised use of land adjacent to New England, Curland.

**Application number:** E/0105/15/19

**Appeal reference:**

**Enforcement Appeal:** APP/W3330/C/20/3260068

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**Site:** FIELD B, NEW ENGLAND, CURLAND COMMON ROAD, CURLAND, TAUNTON, TA3 5SB

**Proposal:** Alleged unauthorised construction of a building on the land adjacent to New England, Curland.

**Application number:** E/0185/15/20

**Appeal reference:**

**Enforcement Appeal:** APP/W3330/C/20/3260073

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**Site:** FIELD B, NEW ENGLAND, CURLAND COMMON ROAD, CURLAND,  
TAUNTON, TA3 5SB

**Proposal:** Alleged unauthorised laying on the land of a track on land adjacent to  
New England, Curland.

**Application number:** E/0184/15/20

**Appeal reference:**

**Enforcement Appeal:** APP/W3330/C/20/3260071

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# APPEAL DECISIONS – 29 OCTOBER 2020

**Site:** CROSSWAYS FARM, SLOUGH LANE, STOKE ST GREGORY,  
TAUNTON, TA3 6ES

**Proposal:** Replacement of agricultural buildings with the erection of 2 No. dwellings and associated works on land at Crossways Farm, Slough Lane, Stoke St Gregory (resubmission of 36/18/0043)

**Application number:** 36/19/0029

**Reason for refusal:** Allowed

**Planning Application Decision:** Chair – Refused



The Planning Inspectorate

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## Appeal Decision

Site visit made on 21 August 2020 **by L**

**McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 29 September 2020

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**Appeal Ref: APP/W3330/W/20/3248009**

**Crossways Farm, Slough Lane, Stoke-St-Gregory, Taunton, Somerset TA3 6ES**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr P Broom against the decision of Somerset West and Taunton Council.
  - The application Ref 36/19/0029, dated 4 October 2019, was refused by notice dated 16 December 2019.
  - The development proposed is described as 'Replacement of agricultural buildings and erection of 2 no. dwellings with associated works (following previous prior approval under Class Q – Ref 36/18/0008/CQ)'
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## Decision

1. The appeal is allowed and planning permission is granted for replacement of agricultural buildings and erection of 2 no. dwellings with associated works at Crossways Farm, Slough Lane, Stoke-St-Gregory, Taunton, Somerset

TA3 6ES in accordance with the terms of the application, Ref 36/19/0029, dated 4 October 2019, and the plans submitted with it, subject to the conditions in the following Schedule.

## **Main Issues**

2. The main issues are
  - i) whether the appeal site is an appropriate location for the proposed development having regard to the settlement strategy, access to facilities and services and the effect of the proposed development on the character and appearance of the area and on the significance of designated heritage assets; and
  - ii) whether there are any material considerations which indicate a decision otherwise than in accordance with the development plan.

## **Reasons**

### **Location**

3. The appeal site is outside the settlement boundary of Stoke St Gregory as defined in the Taunton Deane Borough Council Core Strategy (2012) (CS). CS Policy SP1 and Policy SB1 of the Council's Site Allocations and Development Management Plan 2016 (SADMP) set out that such proposals will be treated as being in the open countryside. In such locations, Policy SB1 states that proposals will be assessed against CS Policies CP1, CP8 and DM2, and in all cases, must be designed and sited to minimise landscape and other impacts.
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4. CS Policy DM2 supports specific types of development in the countryside, none of which apply to the appeal proposal. However, as acknowledged at previous appeals<sup>1</sup>, it does not state that other types of development will be refused. As such, while the appeal proposal does not benefit from any support from this Policy, neither does it conflict with it.
5. Other uses should be determined against CS Policy CP8, which deals with all development and seeks to conserve and enhance the natural and historic environment. Policy CP8 permits development outside of settlement boundaries where it meets a number of criteria, which I will consider in turn.

### **National, regional and local policies for development in rural areas**

6. The proposal would deliver housing, which is supported by the vision for rural areas set out in CS Policy SP4. There are however only limited services and facilities in Stoke St Gregory, and there is no evidence before me that public transport is available nearby. Furthermore, the route to those services is via narrow, unlit lanes which are likely to discourage cycling after dark, or walking at any time. Consequently, future occupiers of the proposed dwellings would be reliant on the private car. The appeal site is not therefore in an accessible location. Accordingly, the proposal would conflict with CS Policy CP1a, which seeks to address climate change and create a sustainable environment, including by reducing the need to travel through locational decisions.

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<sup>1</sup> APP/D3315/W/17/3179264, APP/D3115/W/19/3220853

7. The proposal is not for housing for rural workers, and as such would not benefit from the support for such development in SADMP Policy H1a, but neither would it conflict with that Policy. CS Policy SP1 seeks to focus development on the most accessible and sustainable locations, but does not preclude development outside those areas. Therefore, although the proposal would not be in an accessible location, I find no direct conflict with that Policy.
8. The site is part of a cluster of dwellings and close to other development along Slough Lane, and as such, it is not an isolated location. The proposal would not therefore conflict with paragraph 79 of the National Planning Policy Framework (the Framework). However, given the limited access to local services and facilities, it has not been demonstrated that the proposal would be located where it would enhance or maintain the vitality of rural communities, as required by Framework paragraph 78.
9. Accordingly, the site would not be a sustainable location for new housing development and would not accord with local and national policies relating to development within rural areas. It would therefore conflict with the first criterion of Policy CP8.

### **Design, character and appearance**

10. The appeal site is set behind Crossway Farm, a Grade II listed farmhouse, and various brick buildings, some of which have been converted into dwellings. This group of buildings is set in a relatively open, agricultural landscape of fields with sporadic clusters of dwellings and other buildings, and larger agricultural developments.
  11. Although partially enclosed by hedging, the existing agricultural buildings on the site can be seen from various public viewpoints, including the proposed access track across the gardens of neighbouring properties, the public footpath to the east, and St Gregory's Church to the south-west. The existing buildings are typical modern agricultural structures of the type commonly seen in such a landscape, however they are somewhat dilapidated and as such detract from their otherwise well-kept surroundings. Consequently, their removal would enhance the appearance of the site.
12. The proposed dwellings would broadly reflect the scale and form of the smaller of the existing barns and would be sited close to the footprint of that building. Their detached form and associated garden areas and parking would nevertheless give the site a domestic appearance, in contrast to the clearly agricultural nature of the existing site. However, the retention of the rear walls of the barn would screen the windows of the dwellings from view from the footpath. As a result, with careful material choices the residential nature of the proposal would not be obvious from that viewpoint. Substantial areas of landscaping are also proposed in front of the proposed dwellings, which would soften the appearance of the site and screen the parking areas. This landscaping would significantly enhance the appearance of the site and mean that the proposed dwellings would not be conspicuous in the landscape.
13. The proposal would also be seen in conjunction with the adjacent converted barns. While they have been sympathetically converted, features such as gate piers, driveways and landscaped gardens are all visible from the road, which give them a domestic appearance. The proposal would not therefore appear significantly different to the neighbouring development, and with the proposed landscaping it would have a rural, rather than suburban, appearance.

14. Consequently, the proposal would be appropriate in terms of scale, siting and design and would enhance the appearance of the site. Although it would result in a significant change to the character of the site, given the contained nature of the site, and with the hard and soft landscaping proposed, the impacts of that change would be limited to the immediate area. Therefore, it would not harm the rural character of the surrounding landscape. I therefore find no conflict with the second and third criteria of Policy CP8, or the requirements of criteria A and B of SADMP Policy D7 to create places with locally inspired characteristics and reflect the site and its context.

### **Designated heritage assets**

15. Crossway Farmhouse is a substantial thatched building with a walled front garden, which is seen together with the traditional red brick buildings arranged around its farmyard. The listed building derives considerable significance from its architecture and from its functional relationship with the existing and former traditional farm buildings. This group of buildings and the rural surroundings forms the setting of the listed building and make an important contribution to its significance. The conversion of several of the buildings to dwellings has however introduced some domestic elements into that setting.
16. The existing buildings on the appeal site and the farmhouse are not seen together from the road or footpath because of the intervening buildings and hedging. While they are seen in close proximity to each other in wider views, including from the nearby church, modern farm buildings are not unusual in the context of traditional farmhouses and they reflect its relationship to the farm. As such, the existing buildings do not significantly detract from the setting of the listed building.
17. The proposed dwellings would be significantly smaller than the existing barns, and due to the intervening buildings and vegetation there would be little or no intervisibility between them and the listed building. In wider views, the proposed landscaping of the site would provide significant screening, such that the domestic nature of the proposed development would not be particularly evident. Accordingly, while the proposal would result in a change to the appearance of the site, the nature of that change would not harmfully alter the setting of the listed building.
18. Consequently, the proposal would preserve the setting, and thereby the significance, of the listed building, and would not harm any features of special architectural and historic interest that it possesses. I therefore find no conflict with the requirement of CS Policy CP8 to conserve or enhance the interests of historic assets or criterion B of SADMP Policy D7 which requires development to reflect its historic context.

### **Flood risk, habitats and mitigation**

19. Subject to the provision of appropriate drainage measures, which could be secured by planning condition, there is no substantive evidence before me to demonstrate that the proposal would adversely affect water resources or contribute to flood risk.
20. The evidence before me is that protected species are not known to be using the site or buildings proposed to be demolished. However, if any were found during site clearance, demolition or construction, harm could be avoided through appropriate working methods, which could be secured by condition. Therefore, the proposal would protect habitats and species and, with the proposed landscaping, would offer opportunities to achieve net gains in biodiversity. As such, there would be no conflict with the final three criteria of CS Policy CP8.

## **Overall conclusion on main issue**

21. While I have found that the proposal would enhance the appearance of the site and would not harm the character of the area or the significance of designated heritage assets, it would conflict with CS Policies CP1 and CP8 in relation to access to services and facilities, and as such with the overall settlement strategy set out in the development plan. Therefore, the appeal site is not an appropriate location for the proposed development.

## **Other considerations – existing planning permissions**

22. The Council granted prior approval in 2018 for conversion of the smaller of the existing barns to two dwellings pursuant to Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)<sup>2</sup>. The appellant suggests that this permission would be implemented should this appeal not succeed. From the evidence before me, I consider that there is a real prospect of this occurring.

23. There is also an extant planning permission for change of use of the remainder of the appeal site for use in conjunction with the Class Q dwellings<sup>3</sup>, including a similar landscaping scheme to that now proposed.

24. National and local policies support re-use of existing buildings, including those in the countryside. Conversion of existing buildings can be more resource efficient than new build, recognising the embedded energy already expended in constructing the building. In this case, the appellant has not sought to suggest that the existing building is not capable of conversion, but instead suggests that the proposed buildings would be better insulated, and therefore more energy efficient than the conversion under Class Q. There is however no detailed comparison of the two schemes before me in terms of their resource use, so it has not been demonstrated that the proposal would be more resource efficient than the approved scheme. Consequently, this does not weigh in favour of the proposal.

25. Class Q does not allow for consideration of the sustainability of the location of the site. Nevertheless, both the appeal proposal and the approved scheme would result in 2 dwellings in the same unsustainable location. Therefore, the proposal would not have a greater impact than the approved scheme in relation to the development plan strategy for housing in the countryside. Both schemes would also make similarly efficient use of land and would provide sufficient parking and suitable access for the proposed dwellings, without harm to the living conditions of neighbours. As such, there would be little difference between them in these respects.

26. The approved plans for the Class Q permission show the intention to demolish the other barns on the site, however no conditions have been imposed to require that demolition to take place within a specified timescale. It also appears that other conditions of the permission, such as parking, could be complied with without demolishing the barns. Moreover, although there is a landscaping condition on the change of use permission, it does not specify a timescale by which the landscaping must be completed. I therefore cannot be certain that the Council could enforce that condition and require the landscaping to be provided. Consequently, if those permissions were implemented, there is no certainty that they would actually deliver

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<sup>2</sup> Council Ref. 36/18/0008/CQ <sup>3</sup> Council Ref. 36/19/0018

the significant benefits to the appearance of the site that would result from removal of the existing buildings and landscaping.

27. However, those benefits could be secured by conditions if I were minded to allow this appeal. Therefore, the proposal would result in significant enhancements to the appearance of the site compared to the existing permissions. Accordingly, although there is potential for the appeal proposal to use more resources than the approved scheme, overall, I consider that it would be a significant improvement on what has previously been permitted.

## **Planning Balance and Conclusion**

28. I have found that the appeal proposal would enhance the appearance of the site and would not harm the character of the area or designated heritage assets. It would also comply with other development plan policies in relation to parking, highway safety and the living conditions of neighbours. It would not however be an appropriate location for housing given the limited access to services and facilities. As such, the proposal would conflict with the development plan taken as a whole.
29. However, there is a realistic fallback position which would result in the same amount of housing being delivered in the same location, and in these circumstances I afford the conflict with the development plan moderate weight. The appeal proposal would however deliver significant benefits to the appearance of the site compared to that fallback position, and this carries significant weight in favour of the appeal proposal.
30. Overall, taking account of the Framework and the above considerations, I find that the benefits of the proposed development compared to the identified fallback position are a material consideration which outweighs the conflict with the development plan and justifies granting planning permission for the proposal. Consequently, I conclude that the appeal should be allowed.

## **Conditions**

31. I have had regard to the conditions suggested by both main parties, and consider that additional conditions are necessary as set out below, which the parties have had the opportunity to comment on.
32. Conditions are necessary to ensure the implementation of the development and compliance with the approved plans, in the interests of certainty. Mitigation of potential impacts on protected species is required to be in place prior to commencement of development as all site clearance, demolition or construction works have the potential to impact reptiles if present. The appellant has not raised any objections to these pre-commencement conditions within the relevant timeframe.
33. Details of any external lighting proposed are required in order to safeguard bats from disturbance, and ecological enhancements are needed to ensure a net gain in biodiversity. Given the site's history, investigation of potential contamination and remediation as appropriate are necessary in the interests of human health. Details of drainage and foul sewage are also needed to ensure the proposal does not increase flood risk or result in pollution.
34. Details of materials are required to ensure the development has an appropriate appearance. A hard and soft landscaping scheme and demolition of the existing buildings are necessary to secure the enhancements set out above. I have however reworded the suggested conditions to secure landscaping for the whole site and



require demolition prior to first occupation of any dwelling, as it is not necessary for this to take place prior to commencement of any other part of the development.

35. Conditions to secure provision of car parking and turning areas are required to prevent parking on the adjacent narrow lane, in the interests of highway safety.  
Cycle parking is needed to encourage use of sustainable transport modes. However, the Council's suggested condition in relation to garages is not necessary as none are proposed. Provision for broadband is necessary to support home working and reduce the need to travel, as required by CS Policy DM1g and supported by Framework paragraph 112.
36. The Council has suggested that permitted development rights be removed, however given the design of the proposed dwellings, it is unlikely that the type of alterations that could be carried out as permitted development would adversely affect the character and appearance of the area. Furthermore, given the small size of the proposed rear gardens, rear extensions and outbuildings of any significant size would require planning permission, as would any to the front of the proposed dwellings. As such, the suggested condition is not necessary.

*L McKay*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 31117/19 Rev A, 31117/20 Rev A, 31117/25 Rev A, 31117/27,
- 3) No development shall commence, including demolition and site clearance, until all site operatives have been inducted by a licensed bat ecologist to make them aware of the possible presence of bats and other protected species, their legal protection, working practices to avoid harming bats, the working strategy for the project and the procedure should any protected species be encountered.  
Written confirmation of the induction shall be submitted to the local planning authority by the licensed bat ecologist within one week of the toolbox talk.
- 4) No development shall take place, including site clearance and demolition, other than as required by this condition, until any vegetation in the construction area has been reduced by hand to a height of 10 centimetres above ground level, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures above 10°C) before clearing. Once cut, vegetation should be maintained at a height of 10cm or less for the duration of the construction period. Written notification of these operations shall be submitted to the local planning authority prior to the work taking place.
- 5) No development, other than demolition of existing buildings, shall take place until the history and current condition of the site has been investigated to determine the likelihood of the existence of contamination arising from previous

uses and a written report has been submitted to the Local Planning Authority, which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site. If the report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment shall be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance (or guidance/procedures which may have superseded or replaced this). A report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority. If the report indicates that remedial works are required, full details shall be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of any development other than demolition, or at some other time that has been agreed in writing by the local planning authority. No dwelling hereby permitted shall be occupied until any required remedial works are complete and written confirmation that the works have been completed in accordance with the agreed remediation strategy has been provided to the Local Planning Authority.

- 6) No works to or demolition of buildings or structures shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation and the buildings for active birds' nests immediately before work commences, and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation shall be submitted to the local planning authority by the ecologist.
- 7) No construction shall take place above slab level of any dwelling hereby permitted until details of the materials to be used in the construction of the external surfaces of that dwelling have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No dwelling hereby permitted shall be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: i) boundary treatments; ii) hard surfacing materials; iii) planting plans;
  - iv) written specifications (including cultivation and other operations associated with plant and grass establishment);
  - v) schedules of plants noting species, plant supply sizes and proposed numbers/densities;
  - vi) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details, including the agreed implementation programme. 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.

- 9) No dwelling hereby permitted shall be occupied until the buildings shown on drawing No 31117/25 Rev A to be demolished have been demolished and the resulting materials removed from the site.
- 10) No dwelling hereby permitted shall be occupied until high speed broadband connectivity has been made available to that dwelling.
- 11) No dwelling hereby permitted shall be occupied until works for the disposal of sewage and surface water drainage have first been provided on the site to serve that dwelling, in accordance with details that shall have first been submitted to and approved in writing by the local planning authority. The works shall thereafter be retained and maintained in accordance with the approved details.
- 12) No dwelling hereby permitted shall be occupied until space has been laid out, drained and surfaced in accordance with the approved plans, for the parking and turning of vehicles for that dwelling. Such areas shall not thereafter be used for any purpose other than the parking and turning of vehicles associated with that dwelling.
- 13) No dwelling hereby permitted shall be occupied until cycle parking has first been provided for that dwelling in accordance with the standards set out in Appendix E of the Taunton Deane Adopted Site Allocations and Development Management Plan 2016. Such provision shall thereafter be retained for that purpose.
- 14) No dwelling hereby permitted shall be occupied until the following ecological enhancement measures have first been integrated into the permitted dwellings or mounted upon suitable trees or buildings, and photographic evidence of their installation has been submitted to the local planning authority:
  - i) one Habitat 001 bat box or similar, built into a structure at least four [4] metres above ground level and away from windows on the west elevation of Plot 1;
  - ii) a cluster of five [5] Schwegler 1a swift bricks or similar, built into the wall at least 60cm apart, at least five [5] metres above ground level on the north facing elevation of Plot 1;
  - iii) one Vivara Pro Woodstone Nest Box (32mm hole version) installed mounted on the northerly facing aspect of a suitable tree;
  - iv) one bee brick built into the wall about 1 metre above ground level on the east elevation of both dwellings;
  - v) accessible hedgehog holes measuring 13cm by 13cm in any new fencing installed within or around the site.
- 15) No external lighting shall be installed on any building hereby permitted, or elsewhere within the site, unless in accordance with details that have been submitted to and approved in writing by the local planning authority. The details shall show how and where external lighting will be installed, including through the provision of technical specifications, so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. Any external lighting installed shall thereafter be maintained in accordance with the approved details.

