

## SWT Planning Committee

Thursday, 16th July, 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, Sue Buller, 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 9 July to follow**

**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.

**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. 3/37/18/015**

(Pages 5 - 50)

Outline application with all matters reserved, except for access, for the residential redevelopment of agricultural Land for 136 dwellings with the creation of a new vehicular access (closure of existing), provision of estate roads, pathway, new public rights of way, cycleway and open recreational space. Also, partial re-alignment of existing public highway (Cleeve Hill). at Land at, Cleeve Hill, Watchet, TA23 0BN

**6. 07/20/0011**

(Pages 51 - 62)

Change of use of land and buildings from equestrian/agricultural use to a camping site with the buildings providing facilities incidental to the holiday use and also for the use of holding up to 8 No. events per year (weddings/family parties) with erection of extension to building, formation of footbridge over leat and installation of foul drainage at Mill House Equestrian Centre, Hele Road, Bradford On Tone (resubmission of 07/19/0011) (retention of part works already undertaken)

**7. 20/20/0011**

(Pages 63 - 68)

Change of use of land from agricultural to domestic at Ilbeare, Cattlewash, Fitzroy Road, Norton Fitzwarren (retention of works already undertaken).

**8. Latest appeals and decisions received - no items received**



**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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<b>Application No:</b>	<a href="#">3/37/18/015</a>
<b>Parish</b>	Watchet
<b>Application Type</b>	Outline Planning Permission
<b>Case Officer:</b>	Alex Lawrey
<b>Grid Ref</b>	
<b>Applicant</b>	Cleeve Hill Development
<b>Proposal</b>	Outline application with all matters reserved, except for access, for the residential redevelopment of agricultural Land for 136 dwellings with the creation of a new vehicular access (closure of existing), provision of estate roads, pathway, new public rights of way, cycleways and open recreational space. Also, partial re-alignment of existing public highway (Cleeve Hill).
<b>Location</b>	Land at, Cleeve Hill, Watchet, TA23 0BN
<b>Reason for referral to Committee</b>	

## Recommendation

Recommended decision: Grant

### Recommended Conditions

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

Application for approval of the reserved matters shall be made to the Local Planning Authority not later than the expiration of two years from the date of this permission. The development hereby permitted shall be begun not later than the expiration of two years from the approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule  
 (A4) Red Line Plan (license number 100023932)  
 (A3) 1706 Site Cross Sections  
 (A1) 06288-HYD-XX-XX-DR-TP-0101 Rev P02 Proposed Highway Improvements

Technical Note 06288 Rev P02 (22 October 2019) HYDROCK  
(A4) DrNo: 15.04.2020a Watchet Proposed Road Layouts (grey hatch)  
(A4) DrNo: 15.04.2020b Watchet Proposed Road Layouts (grey lines)

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

- 3 Notwithstanding submitted documents from Hydrock CLE-HYD-PH1-XX-RP-D-5001-S2-P1 and Technical Design Note 06288-HYD-XX-XX -RP-D-5100 prior to the commencement of the development hereby permitted, works for the disposal of sewage and surface water drainage shall be provided on the site to serve the development, 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.

The surface water management and disposal strategy shall use surface based attenuation features, not underground storage, and shall follow Sustainable Urban Drainage System (SuDS) principles, unless otherwise agreed in writing by the local planning authority,

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

- 5 Prior to development commencing, details of the proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/ bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture and a timetable for their implementation shall be submitted to and approved by the Local Planning Authority. For this purpose, details should include, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction as appropriate.

Reason: In the interests of highway and pedestrian safety

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

Reason: In the interests of highway safety

- 7 No development shall commence unless a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:
- o Construction vehicle movements;
  - o Construction operation hours;
  - o Construction vehicular routes to and from site;
  - o Construction delivery hours;
  - o Expected number of construction vehicles per day;

- o Car parking for contractors;
- o Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
- o A scheme to encourage the use of Public Transport amongst contractors; and
- o Measures to avoid traffic congestion impacting upon the Strategic Road Network.

Reason: In the interests of highway safety and amenity

- 8 The development hereby permitted shall not be commenced until details of a strategy to protect wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Blackdown environmental's Preliminary Ecological appraisal dated March 2016, Blackdown environmental's Survey report dated December 2016 and SW Ecology's Ecological assessment dated January 2018 and an up to date badger survey and include:
1. Details of protective measures to include method statements to avoid impacts on protected species during all stages of development;
  2. Details of the timing of works to avoid periods of work when the species could be harmed by disturbance
  3. Measures for the retention and replacement and enhancement of places of rest for dormice, reptiles, bats and birds
  4. Lighting details
  5. A Construction and environmental management plan (CEMP)
  6. A Landscape and environmental management plan (LEMP)

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

Reason: To protect wildlife and their habitats from damage bearing in mind these species are protected by law.

Prior to commencement reason: Groundworks could impact on protected species therefore the protective measures and associated methods for ecological mitigation and harm reduction must be in place before any works commence.

- 9 No works shall be undertaken on site until the Local Planning Authority has first approved in writing details of a programme of access which will be afforded to a named archaeologist to observe and record all ground disturbance during construction (such works to include any geological trial pits, foundations and service trenches). The named archaeologist shall thereafter be allowed access in accordance with the details so approved.

Reason: To enable the remains of archaeological interest which may exist

within the site to be appropriately recorded.

Reason for pre-commencement: Any works on site have the potential to disturb archaeological interests.

- 10 A geo-technical report from a suitably qualified structural engineer, geotechnical engineer, geophysicist or geologist in regards to the proposed development, methods of providing foundations, cut and fill operations, and the specifics of ground conditions and land stability at the site, including the results of intrusive ground investigations, shall be submitted to and approved in writing by the Local Planning Authority prior to the submission of details for the 'reserved matters' specified by condition (1). The report shall include details of any proposed tree removal (if applicable) and any works which could impact on root systems, and any proposed drainage arrangements such as soakaways and surface attenuation features, which could impact upon land stability. The agreed foundation details shall be implemented in accordance with the approved methodology during the construction phase of the development hereby approved in outline form.

Reason: To ensure that the development hereby approved in outline form does not contribute to land instability, subsidence or slope instability and to safeguard the amenities and wellbeing of the occupiers of nearby properties, in accordance with Policy NH9 of the adopted West Somerset Local Plan up to 2032, and national planning policy guidance on 'Land Stability', issued by the MHCLG (DCLG at the time of the initial issue) on 6 March 2014 and updated 22 July 2019.

- 11 As part of the submission of details pursuant to condition 1 of this permission visualisations illustrating the indicative heights of proposed buildings shown in Viewpoint 1 of the Landscape and Visual Capacity Appraisal (Swan Paul, February 2016: SPP/1996/doc.1) shall be submitted to the Local Planning Authority. These should be supplemented by indicative visualisations illustrating the level of mitigation offered by the proposed landscape buffer and associated planting, and relationship to designated heritage assets, notably to Daws Castle.

Reason:

To safeguard the setting of designated heritage assets and in accordance with paragraphs 190, 192, 193 and 194 of the NPPF, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and policies NH1 and NH2 of the adopted West Somerset Local Plan to 2032

- 12 As part of the details required for 'reserved matters' noted in condition 1 of this permission a survey of the current state of coastal erosion and extant cliff line shall be undertaken no more than two calendar months prior to the submission of details pursuant to condition 1 to the local planning authority. Details of the survey and accompanying plan/s shall be submitted to the local planning authority with details pursuant to condition 1 of this permission and shall demonstrate that no residential development will take place within 50 metres of the extant cliff line, at the date of the survey.



Reason:

In the interests of good planning and in accordance with policy NH9 of the adopted West Somerset Local Plan to 2032. To ensure that if there are significant cliff falls or instances of major coastal erosion between the date that this permission is granted and the date of submission of any subsequent reserved matters application then development would be required to be moved further back into the site and away from at-risk cliff edges.

## **Informative notes to applicant**

### **1 STATEMENT OF POSITIVE WORKING**

In determining this application the Local Planning Authority considers it has complied with the requirements of paragraph 38 of the National Planning Policy Framework. Although the applicant did not seek to enter into pre-application discussions/correspondence with the Local Planning Authority, during the consideration of the application issues/concerns were raised. The Local Planning Authority contacted the applicant and sought amendments to the scheme to address this issue/concern and amended plans were submitted. For the reasons given above and expanded upon in the planning officer's report, the application, in its revised form, was considered acceptable and planning permission was granted.

- 2 The condition relating to wildlife requires the submission of information to protect wildlife. The Local planning Authority will expect to see a detailed method statement clearly stating how wildlife will be protected through the development process and be provided with a mitigation proposal that will maintain favourable status for the wildlife that are affected by the development.

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation

Dormice are known to be present on site. The species concerned are European Protected Species within the meaning of the Conservation of Natural Habitats and species Regulations 2010 (as amended 2011). Where the local population of European Protected Species may be affected in a development, a licence must be obtained from Natural England in accordance with the above regulations.

NE requires that the Local Planning Authority must be satisfied that derogation from the Habitats Directive is justified prior to issuing such a licence.

Badgers are protected under the Protection of Badgers Act 1992. Planning and licensing applications are separate legal functions.

- 3 The development hereby permitted shall not be first occupied until the developer has applied for a Traffic Regulation Order (TRO) to relocate the existing 30mph speed limit. The TRO shall then be advertised and, if successful implemented at the developer's expense to the satisfaction of the Local Planning Authority prior to first occupation.

## **Proposal**

Outline application with all matters reserved, except for appearance, for the residential redevelopment of agricultural Land for 136 dwellings with the creation of a new vehicular access (closure of existing), provision of estate roads, pathway, new public rights of way, cycleways and open recreational space. Also, partial re-alignment of existing public highway (Cleeve Hill).

## **Site Description**

Large open pasture field located near to cliffs and south of B3191 road located on the outskirts of Watchet. Land is sloping away from road. Existing footpaths cross the site and located in close proximity.

## **Relevant Planning History**

none

## **Consultation Responses**

*Watchet Town Council* - deferred comments (26/6/2018) no further comments received

*Environment Agency* - no comments received

*Wessex Water Authority* - to be verbally updated

*Parrett Drainage Board* - no comments received

*Somerset Drainage Board Consortium* - outside of the SDBC area so will not be making comments

*South West Heritage Trust* - no comments received

*Highways Development Control* - I refer to the additional information in support of the above application, received by the Highway Authority on 1 November 2019 and have the following observations for the highway and transportation aspects of this proposal. For clarity, it has been confirmed that the outline application is all matters reserved except for access.

The applicant has provided additional information in response to the original comments made by the Highway Authority. This additional information has been assessed by the Highway Authority, where for clarity and consistency our comments have been divided into each respective element of the application previously reviewed dated 10 October 2018.

## **Transport Assessment**

The Highway Authority accept that resubmitted detail provides a more accurate representation of the likely number of vehicle movements the proposal site would generate in the peak hours. Whilst the calculated figures may still be slightly less than what is anticipated, it would be difficult to sustain an objection based on residual cumulative impact on the local highway network for this application.

### **Road Relocation**

The proposed relocation of the B3191 has been revised and altered and as such the location of the proposed site access has changed. Given the sensitivity of the existing B3191 at this location, the principle of what has now been proposed is acceptable however there are still technical issues that would require overcoming at the detailed design stage moving forward. Full details of the proposed access arrangements and frontage works will also need to be submitted to and agreed in writing in conjunction with the LPA and appropriately secured.

With the above in mind, the applicant will be required to enter into a suitable legal agreement and accept full responsibility should the existing adopted highway fail.

### **Internal Layout**

The current application is out outline stage with all matters reserved except for access (following clarification) and at present there is no detail on how the internal layout may be constructed at this stage. The applicant should be mindful of our previous comments dated 10 October 2018 prior the submission of any reserved matters application subject to outline consent being granted where it would be expected that non-motorised users access into other areas of Watchet would be upgraded appropriately at the developer's expense.

Vehicle, cycle, motorcycle and electric vehicle charging points (EVCs) should be in line with the Somerset Parking Standard.

### **Travel Plan**

A suitable Travel Plan (TP) has yet to be submitted and approved by the Highway Authority. To reiterate a suitable TP will need to be secured through a S106 and delivered appropriately.

### **Drainage**

Given the limited detail provided for the revised scheme, the applicant will need to be mindful of the existing drainage infrastructure. The new proposal must not compromise any of the existing arrangements or rights of discharge.

Full details will be required for the existing drainage and services and how the proposed drainage arrangement will work in harmony with the existing drainage arrangements.

### **Conclusion**

On balance of the above, the principle of the road relocation is acceptable in this instance, subject to agreeing the detail at the detailed design stage. If the LPA were minded to approve the application, it is recommended that the necessary highway works, and a suitable TP are secured through a S106 prior to first occupation. A

number of conditions are requested.

*Avon & Somerset Police* - does not object, offered comments noting layout is open and enables good residential surveillance, dwelling overlooking street, that curtilage boundaries to the front are kept below 1m height, car-parking scheme is acceptable and referenced Building Regulations for SBD, lighting and security of dwellings  
*Rights of Way Protection Officer* - I can confirm that there is a public right of way (PROW) recorded on the Definitive Map that crosses the site at the present time (public footpath WL 30/1) and another PROW which runs adjacent to the site (public footpath WL 30/2). In addition, the England Coast Path National Trail runs adjacent to the north-west edge of the site. I have attached a plan for your information.

We have no objections to the proposal, but the following should be considered:

#### 1. Specific Comments

With regard to the footpaths WL 30/1 and WL 30/2: we require a £10,000 contribution for potential future improvements to them due to the potential for additional use of the paths and greater expectation as to the quality of the paths. Any unused balance to be refundable 10 years after completion of the site, all to be secured by legal agreement. The link path shown connecting to WL 30/2 may require the consent of a third party if the land is not in the control of the applicant. The Council would be supportive of such a link provided the connecting estate roads are formally adopted. If this is the case then the connection to the footpath should form part of

any planning approval wherever possible.

England Coast Path (ECP) National Trail: The England Coast Path National Trail follows the existing B3191 Cleeve Hill on the north side of the road, leaving the road near the top of the hill before the left hand bend to continue along the cliff top.

The England Coast Path (ECP) came about as a result of the Marine and Coastal Access Act 2009 (MCA09) and the route of the ECP in Somerset has been determined by the Secretary of State who says in his report "In addition, the West Somerset Local Plan to 2032 (Revised Draft Preferred Strategy, June 2013) identifies a site to the west of Watchet at Cleeve Hill for longer term strategic development. The site also offers the potential to re-align the B3191 where coastal erosion is threatening to destroy the current alignment of the road.

As and when the development takes place, or if the B3191 is re-aligned, we expect that Somerset County Council will work constructively with West Somerset Council and developers with the aim of ensuring that any development takes account of coastal access in an appropriate way with a view to establishing a suitable off road route for the coastal trail".

It would appear from the drawings that the alignment of the B3191 is to move further south with footways (pavements) on the north and south sides of the carriageway. If this is the case and, subject to the approval of the road layout by Highways colleagues, we would like to re-align the route of the ECP onto the northern footway. There also appears to be a landscaped public parkland area to

the north of the new road alignment which lends itself to the coastal margin (also required by the MCA09 which deems that any land seaward of the Trail is coastal margin-subject to some exceptions).

This is our initial view and further details of the scheme would be welcomed as would the opportunity to work with the planners and developers in the early stages of this proposal to secure the most effective route for the Coast Path and to discuss the practicalities of implementing the new route e.g. any new gates or signage which may be required.

The re-alignment of the Coast Path requires that Natural England submit a variation report to the Secretary of State for the new route to be legally defined and incorporated into the National Trail.

## 2. General Comments

Any proposed works must not encroach on to the width of the PROW & ECP.

The health and safety of the public using the PROW & ECP 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/ECP 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/ECP being made less convenient for continued public use.
- New furniture being needed along a PROW/ECP.
- Changes to the surface of a PROW/ECP being needed.
- Changes to the existing drainage arrangements associated with the PROW/ECP.

If the work involved in carrying out this proposed development would:

- make a PROW/ECP less convenient for continued public use; or
- create a hazard to users of a PROW/ECP,

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/rightsof-way/apply-for-a-tem>

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*Somerset Wildlife Trust* - no comments received

*Housing Enabling Officer* - agreed to review of viability assessment, further comment once viability report has been submitted and assessed, may require independent assessment of viability report through District Valuer or Three Dragons

*Planning Policy* - no objections, acknowledged that site is allocated and do not consider that the proposal is 'premature'

*Fire Safety* - Noted that means of escape should comply with Building Regulations 2000 Approved Document B(ADB) and there should be full compliance with ADB, part 5 of the Building Regulations 2000

*SCC - Estates* - Following evidence from our School organisation plan I have the following observations on the Education implications of this proposal:-

A development of this size (136 dwellings ) would generate the following number of school places:

$5/100 \times 136 = 6.8$  ( 7) pre school

$30/210 \times 136 = 19.4$  ( 20) First school

$30/263 \times 136 = 15.5$  (16) Middle school

$30/346 \times 136 = 11.7$  ( 12) Upper school

The price per pupil for each education type is as follows:

Early years & First School = £14,702.15

Middle school = £18,426.65

Upper school = £22,153.26

Therefore :

$27 \times 14,702.15 =$  £396,958 for early years and first school

$16 \times 18,426.65 =$ £294,826 for the middle school

$12 \times 22,153.26 =$  £265,839.12 for the upper school

These education contributions would be used to improve facilities at the schools to enable them to accept higher numbers of pupils.

*Somerset Wildlife Trust - landscape ecologist* - no comments received

*Biodiversity and Landscaping Officer* - The site lies on a relatively exposed and elevated site to the west of Watchet and is currently intensively grazed.

A LVIA was submitted in support of the application, the finding of which I generally support. However I would consider the landscape value of the site to be above, not just average because of its coastal scenic value with views to Watchet harbour, its proximity to the Scheduled ancient monument of Daws castle and adjacent lime kilns and due to the site's proximity to several sites designated for their nature conservation value.

Indeed because of this proximity, the eastern side part of the site, is likely to be a valuable stepping stone in the landscape for wildlife.

As stated a large part of the site is very prominent within the landscape, particularly from more distant locations. Other constraints include its gradient, proximity to the SAM and the botanical interest in the herb rich grassland in the eastern part of the site.

These constraints make it a difficult site to develop and so any masterplan must pay

careful attention to the placing and density of dwellings. The submitted layout does not appear to have satisfactorily addressed these constraints.

I consider that all the scrub area and hedgerows should be retained to help filter views of the development from the east.

The realignment of the coastal road, although it will have practical benefits will have localised landscape impact changing the sunken character of this section of the coastal road

### **Biodiversity**

Blackdown Environmental carried out a Preliminary ecological assessment of the site in March 2016. Surveys for bat species, dormice and reptile species in addition to an updated grassland survey were undertaken in the period May to October 2016. An Ecological survey report was produced in December 2016.

At the time of survey the layout of the proposal was uncertain so a lot of recommendations in the earlier ecology reports are generic. An Ecological assessment was carried out by SW Ecology in January 2018.

Findings were as follows

### **Protected Sites**

The site is not within a statutory site designated for nature conservation interest but there are two statutory designated sites within 2km of the site (Cleeve Hill SSSI located approximately 500m southwest of the site and Blue Anchor and Lilstock Coast SSSI located to the north of the B3191.)

The Cleeve Hill SSSI is designated for its unimproved calcareous grassland whilst Blue Anchor to Lilstock coastline SSSI is designated for its geological features.

The survey site lies within the Site of Special Scientific Interest (SSSI) Impact Risk Zones (IRZs) of these two designated sites. Where development of a certain type/ threshold is proposed, the Local Planning Authority will be required to consult with Natural England over potential risks to these sites.

Types of development where Natural England will be required to be consulted include any residential development of 100 units or more, or any residential development of 50 or more houses outside of existing settlements/ urban areas.

In addition there are thirteen non-statutory designated sites within 2km of the site, all Local Wildlife Sites (LWSs).

The closest sites include Minster Field Road Verge LWS located immediately to the west of the survey site, Tuck's Brake LWS located immediately south of the site and Daws Castle LWS located approximately 40m west of the site on the opposite side of the B3191.

### **Grassland**

The updated grassland survey identified areas of species-rich grassland at the northern and north-eastern ends of the site. Botanical species identified within these areas include pyramidal orchid, a county notable species which is generally associated with unimproved soils in short grasslands. This was confirmed by a site

visit by myself in June 2018

I agree with the reports recommendation that layout of the proposal should incorporate areas of species-rich grassland within areas of landscaping and public open space. This may be achieved by retaining and enhancing existing areas of species-rich grassland or creation of species-rich grassland within non-developed buffer zones. Species-rich grasslands will provide suitable habitat for a variety of plant, invertebrate, reptile and bird species.

### **Hedgerows and scrub**

Hedgerows on site vary in their condition (i.e. intactness) and species richness. I agree that hedgerows should be retained and enhanced but a section of hedgerow will need to be removed to provide the new access to the site.

The main area of scrub habitat on site forms a significant linear vegetated feature along part of the southern boundary of the site. The scrub forms a natural barrier between the site and steep grasslands to the south (including parts of Tucks Break LWS). I would like to see this habitat retained incorporated into design proposals to form both a buffer between the site and the Tuck's Brake LWS, and retain and enhance a vegetated 'corridor' which will facilitate movement of species along the southern boundary of the site.

### **Bats**

There were no structures (e.g. buildings) or trees within the site which had potential to support roosting bats.

I agree that there are opportunities to incorporate new roosting opportunities within proposed dwellings on site.

Three walked transect surveys were carried out when at least four bat species were recorded (common pipistrelle, noctule, Leisler's and serotine). The automated static bat detector also recorded soprano pipistrelle, greater horseshoe and lesser horseshoe.

The site is therefore considered likely to be used by bat species whilst foraging and commuting, with habitats including hedgerows and dense scrub of greatest potential value to bat species. Residential development has potential to result in a loss of habitats used by bat species for foraging.

Artificial illumination associated with residential development (e.g. street lighting) also has potential to deter bat species from using areas of the site. To mitigate the potentially negative impacts of artificial lighting, a sensitive lighting plan will need to be designed and implemented.

### **Dormice**

An adult dormouse and a further three dormouse nests were identified within nest tubes during surveys undertaken between May and October 2016.

Evidence of dormice was identified towards the eastern end of the site within dense scrub.

The removal of vegetation will impact on dormice so an EPS licence from Natural



England will be required to develop the site.

### **Badger**

Mammal burrows characteristic of badger sett entrances and collapsed tunnels were initially identified along the southern boundary of the site but these did not appear to be in current use by badgers at the time of survey

Badgers may re-use abandoned setts (or create new setts within their territories) and so I agree that surveys to assess whether setts on site are in current use (and to identify any newly created setts) should be carried out pre-commencement (within 6-8 weeks) of any construction works

### **Birds**

Hedgerows and areas of dense scrub have potential to be used by a variety of bird species. The site is considered to have negligible potential to support ground nesting birds such as Skylark due to the intensively managed grass sward and continuous presence of livestock.

I agree that any works which have potential to harm nesting birds, be undertaken outside of the main bird nesting season (1st March to end of September).

There are also significant opportunities for designing new nesting opportunities for bird species in the new development.

### **Reptiles**

The majority of the site comprises an intensively grazed short sward which is unsuitable to support reptile species however there were areas of rank field margins and clearings within areas of dense scrub which had reptile potential.

A reptile survey was undertaken involving seven survey visits. Slow worms were recorded on six of the visits, with a recorded maximum on any visit totalling twenty-two individuals. . The majority of slow worms recorded were identified at the far eastern end of the site. Adult females, adult males and sub adult slow worms were observed, indicating a likely breeding population.

To develop the site the reptiles will need to be translocated to a receptor site

### **Suggested Condition for protected species:**

The development hereby permitted shall not be commenced until details of a strategy to protect wildlife has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be based on the advice of Blackdown environmental's Preliminary Ecological appraisal dated march 2016, Blackdown environmental's Survey report dated December 2016 and SW Ecology's Ecological assessment dated January 2018 and an up to date badger survey and include:

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

for dormice, reptiles, bats and birds

4. Lighting details

5. A Construction and environmental management plan (CEMP )

6. A Landscape and environmental management plan (LEMP)

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

Reason: To protect wildlife and their habitats from damage bearing in mind these species are protected by law.

### **Informative Note**

The condition relating to wildlife requires the submission of information to protect wildlife. The Local planning Authority will expect to see a detailed method statement clearly stating how wildlife will be protected through the development process and be provided with a mitigation proposal that will maintain favourable status for the wildlife that are affected by the development.

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the developer should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation

Dormice are known to be present on site. The species concerned are European Protected Species within the meaning of the Conservation of Natural Habitats and species Regulations 2010 (as amended 2011). Where the local population of European Protected Species may be affected in a development, a licence must be obtained from Natural England in accordance with the above regulations.

NE requires that the Local Planning Authority must be satisfied that derogation from the Habitats Directive is justified prior to issuing such a licence.

Badgers are protected under the Protection of Badgers Act 1992. Planning and licensing applications are separate legal functions.

*West Somerset Railway* - no comments received

*Natural England* - does not object, note that site is close to two SSSI sites, Blue Anchor to Lilstock Coast SSSI and Cleeve Hill SSSI but do not considered it likely that there would be significant impacts on these sites. Advise that habitats around the site are protected and enhanced

*NHS England* - no comments recieved

*South West Heritage Trust* - no comments received

*SWT Play and Open Space*

Play and Open Spaces

West Somerset Local Plan POLICY CF1 requires the appropriate provision of

formal sports facilities and/ or informal public amenity open-space/play-space as an integral part of new development.

The West Somerset Council Play Providers Audit (2008) found that there are distinct gaps in the amount of designated play spaces in West Somerset. The audit also highlighted that the overall quality of designated play spaces is only considered 'fair'. It is recommended that as this development will increase local need for play space this development provide some additional open space on the site.

The Council recommends the following standard of provision:

Children's play space: 20 square metres per family dwelling (a dwelling with 2 or more bedrooms) to comprise casual play space and LEAPS and NEAPS to the required standard, as appropriate. This standard excludes space required for noise buffer zones;

In this proposed development of 133 dwellings, the proposal is for 125 dwellings to be 2bed+. Therefore the amount of space required is calculated to be 2,660 square meters.

Any commuted sum for offsite children's play contribution should be calculated as £3328.00 per each 2 bed + dwelling. The contribution will be index linked and spent on additional play equipment.

Play areas are both non-equipped, casual play spaces, and equipped, LEAPS and NEAPS. On site play areas should be centrally located and overlooked by front facing dwellings to promote natural surveillance.

For equipped areas:

LEAPs for children aged between 4-8 years should be included and be a minimum of 400 square meters in size with at least 5 types of equipment, covering all play disciplines of swinging, sliding, rocking, spinning, balancing and climbing.

Equipment must be on appropriate surfaces, and signage, seating and litter bins should be

provided. The equipment should come with a minimum 15 year guarantee. The play areas need to be within 400 meters walking distance of their home and be accessible and useable 365 days of the year. If fenced there should be 2 x outward opening, self-closing pedestrian gates and a larger gate for access by maintenance vehicles

NEAPs should be provided for children primarily aged 8 to adult. NEAPs must be at least 1,000 square metres in size, and preferably at least 2,000 square metres, excluding any buffer zone needed to prevent noise problems. There should be a minimum of 8 types of play equipment providing challenge and enjoyment. There should also be a 'kickabout' area or provision for wheeled play opportunities (such as for skateboards, roller skating or bicycles). The inclusion of a LEAP within a NEAP is supported.

All areas of child play space (casual areas, LEAPS and NEAPS) must be located and designed so as not to cause noise problems to nearby dwellings, in accordance with relevant environmental health standards. Buffer zones, perhaps including roads, buildings and landscaping, are likely to be needed. The buffer zone provided on this site is a area of bramble and small trees.

As the public open space is to be provided as part of a development, conditions will be imposed requiring the developer to arrange for its future maintenance. The developer may negotiate a commuted sum to discharge this liability to the Local Authority District or Parish Council.

*SWT Affordable Housing*

In order to be Policy Compliant, there is a requirement for a minimum of 35% of the

dwellings delivered to be in the form of affordable homes. For a scheme of 133 dwellings, this would equate to 47 affordable homes to be provided on site.

The type and size of the affordable housing units to be provided should fully reflect the distribution of property types and sizes in the overall development. A broad mix of tenures to meet assessed local housing need should be provided. This should comprise a mix of Shared Ownership, Discounted Open Market sale and rented housing offered at social rent levels.

If there are viability implications, full details will need to be submitted and independently assessed.

Up to date figures from Homefinder Somerset indicate a high local need for affordable housing in both the Somerset West and Taunton Council area and in Watchet. There is currently a total of 165 households registered as in housing need in Watchet. The need is for predominantly 1 and 2 bedroom rented properties with a smaller requirement for 3 and 4 rented bedroom properties. The required housing mix for the affordable homes should reflect this identified need. On this basis the following mix is required

- 45% 1b2p
- 30% 2b4p
- 20% 3b 5/6p
- 5% 4b6p

We would seek any 1b2p dwellings to be in the form of maisonette style properties with their own access and garden area. The shared ownership should be in the form of 2b4p and 3b5/6p houses.

The affordable homes should be integral to the development and should not be visually distinguishable from the market housing on site. In addition, the affordable housing is to be evenly distributed across the site. The practicalities of managing and maintaining units will be taken into account when agreeing the appropriate spatial distribution of affordable housing on site.

The developer should seek to provide the Housing Association tied units from West Somerset and Taunton's preferred affordable housing development partners list.

*Historic England* - Noted the designated heritage assets in the vicinity of the development, Daws Castle (SM33712; NHLE 1020882), a scheduled ancient monument; 3no. grade II listed lime kilns (NHLE1180302) to the NE of the site, and Watchet Conservation Area, and states that SWHT and SWT's heritage buildings officer should be referred to for advice. In terms of impacts of the proposed development HE have said that the development will, in their opinion impact on heritage significance and that the LPA should assess impacts inline with the NPPF 190/194B. Further HE considered that the submitted information was not sufficient to fully evaluate visual impacts, and recommended that further indicative visualisations showing heights and plantings/landscaping works are submitted. They welcomed provisions for interpretation investigation and enhancement at the site. HE expressed concerns although have not recommended refusal of the application

## **Representations Received**

councillor Woods - Watchet ward WSC - will keep an open mind and would like to attend committee

One neutral comment, noted that Watchet requires further infrastructure;

One letter of support, noting that the area is unsightly, the road near the site needs improvements and the proposal would help providing housing

58 households sent in letters of objection, several sent in more than one letter, the issues raised were:

- Traffic impacts
- Infrastructure and services such as GP surgeries and schools
- Land instability
- Loss of farmland
- Drainage and flooding issues
- Lack of local jobs
- Loss of privacy
- Sea wall could be affected by drilling
- Light pollution
- Noise
- Increases in risks of landslides
- Detrimental to health and wellbeing
- Roads are too narrow in Watchet for increase in traffic
- The proposal does not comply with policy
- The ecology report is out of date
- Blue Anchor road is under threat due to coastal erosion so any changes to roads at site are pointless
- Distance to town facilities and steepness of hill means people will not walk or cycle and will drive adding to traffic congestion
- Impacts on existing utilities such as broadband and fresh water pressure
- No affordable housing
- No provision for refuse collection
- Impacts on views
- Geological fault-line and potential for earthquakes
- There are other residential developments in Watchet so it is not needed
- The development will negatively impact on tourism
- It will restrict light to Lorna Doone estate

## **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 the West Somerset planning area comprises the West Somerset Local Plan to 2032, retained saved policies of the West Somerset District Local Plan (2006) Somerset Minerals Local Plan (2015) and Somerset Waste Core Strategy (2013).

Relevant policies of the development plan are listed below.

### **West Somerset Local Plan to 2032**

LT1	Post 2026 key strategic development sites.
SC4	Affordable Housing
SC2	Housing Provision
TR1	Access to and from West Somerset
TR2	Reducing reliance on the private car
CC3	Coastal Change Management Area
CC4	Coastal Zone Protection
NH1	Historic Environment
NH2	Management of Heritage Assets
NH6	Nature conservation & biodiversity protection & enhancement
NH9	Pollution, contaminated land and land instability

### **Retained saved policies of the West Somerset Local Plan (2006)**

LT1	Post 2026 key strategic development sites.
SC4	Affordable Housing
SC2	Housing Provision
TR1	Access to and from West Somerset
TR2	Reducing reliance on the private car
CC3	Coastal Change Management Area
CC4	Coastal Zone Protection
NH1	Historic Environment
NH2	Management of Heritage Assets
NH6	Nature conservation & biodiversity protection & enhancement
NH9	Pollution, contaminated land and land instability

## Local finance considerations

### New Homes Bonus

The development of this site would result in payment to the Council of the New Homes Bonus.

#### *1 Year Payment*

Somerset West and Taunton	£1079 (per dwelling) x 136 = £146,744
Somerset County Council	£270 (per dwelling) x 136 = £36,720

#### *6 Year Payment*

Somerset West and Taunton	£6474 (per dwelling) x 136 = £880,464
Somerset County Council	£1619 (per dwelling) x 136 = £220,184

## Determining issues and considerations

The main issues are:

Principle of development; affordable housing and viability; roads, cycleways and access; PROW; coastal erosion and land stability; ecology; landscape and visual impacts; heritage; drainage, surface and foul water management; legal agreements and off/onsite contributions; and reserved matters

### Principle of development

This application is in outline form and is for the development of up to 136no. dwellings and includes works to the highway to facilitate a re-alignment (or re-location) of the existing B3191 public highway, which borders the site to the north. The site is located very close to the Bristol Channel coast and is on sloping ground, with cliffs to the northern side of the B3191 and several designated heritage assets including a Scheduled Ancient Monument

The proposed development is at a site on the edge of Watchet and has been allocated for longer-term strategic development through policy LT1, which identifies two sites (this one and another in the Minehead area) and requires that:

“Within the two areas identified for longer-term strategic development.....

- to the west of Watchet at Cleeve Hill, where development must contribute to enhancing the unique historic environment of the town including mitigating the erosion of Daw's Castle and encouraging visitors to the monument through funding excavations and improvement of site management, and also to providing a new alignment for the B3191 to address the impact of coastal erosion,
- proposals for the Watchet site must sustain and, where appropriate, enhance the historic assets of Daw's castle and the adjacent lime kilns and their

settings.

development of both of these sites would be guided by the provision of indicative masterplans”

The proposal is for 136no. dwellings (affordable housing and viability issues are discussed below) with relocation or re-alignment of the B3191. The initial proposal has been subject to significant amendments due to the proximity of the cliff-face to the B3191 and coastal erosion which has necessitated providing an alternative route through the proposed development site for road traffic, as the existing B road could not be safely re-aligned. It is on the basis of the revisions to the proposal that this report has been prepared.

In terms of the principle of development the site is allocated for medium-scale residential development in the adopted West Somerset Local Plan to 2032 via policy LT1. Whilst LT1 envisaged that the two sites would come forward in the latter part of the plan period from 2026 to 2032 it is not considered to be a dis-benefit to bring the Watchet site forward early as there are benefits in terms of the revised road proposals from developing the site earlier than was stated in the policy. The proposal is not considered to be a departure from the Local Plan in this regard.

As the proposal is outline in form although includes estate and other roads, cycleways, re-alignment of the B3191, pathways, works to the existing right of way and open space provision within the site, with all other matters reserved except for access and the road issues, and assessment is made on the basis of indicative plans. The initial proposal would have involved works to change the coastal path alongside re-alignment of the highway however after negotiations to change the approach to road issues the B3191 will not be re-aligned so the existing coastal path will not be directly impacted by the development, there are however other issues related to public footpaths which are routed through or near to the site which are discussed below.

Aside from policy LT1 other relevant policies includes SC4 Affordable Housing, TR1 and TR2 (sustainable transport etc), CC3 and CC4 (coastal erosion and management) and NH1 and NH2 (heritage management).

### **Affordable housing and viability**

Local Plan policy SC4 requires that on residential developments of 11 or more dwellings that 35% are provided onsite as affordable. However the development includes the provision of essential infrastructure in terms of the relocation of the clifftop B road through the site which it is acknowledged adds significant costs to the proposal.

The agent has submitted a viability assessment from Vickery Holman Associates which was initially flawed in certain respects as it used former TDBC Core Strategy policies as the baseline figure to calculate percentages of affordable housing provision, not the relevant West Somerset Local Plan policies, there were also other issues with the first draft of the viability report. This has subsequently been amended and the provisionally agreed by the LPA's housing enabling officer subject to a final



assessment by independent valuers Three Dragons. Provided that Three Dragons are in agreement with the costings and calculations contained within it the LPA are satisfied that a reduced level of affordable housing provision is justified and warranted. The final percentage achievable after due consideration of the viability report will be given in a verbal update at committee

### **Roads and access**

The initial proposal would have included realignment of the B3191 which runs out of Watchet and is extremely close to the cliff edge in parts. Due to coastal erosion this road is deemed unsafe and land stability is constantly monitored with the road subject to regular closures. The proposal has been revised to site the road through the development which should ensure far more long-term usability and meets policy requirements for improvements to this route. The highways authority have agreed with the revisions subject to conditions.

### **Public Rights of Way (PROW)**

The site has one PROW traversing through it, a second adjacent to it and the England Coastal Path outside of it close to the cliff edge. The PROW officer has not objected to the proposal but requires a (refundable) £10,000 deposit in respect of the potential for any works to impact onto the existing right of way through the site. This will be secured via the section 106 agreement.

### **Ecology**

The application includes a Preliminary Ecological assessment from Blackdown Environmental dated March 2016 with further surveying work conducted in December 2016. The County ecologist noted that the site is in relatively close proximity to two designated areas, the Cleeve Hill SSSI and the Blue Anchor and Lilstock SSSI. The ecologist has raised no objections but has requested conditions and an informative. The ecologist further noted that dormice, which are a European Protected Species are present and that the LPA must be satisfied that derogation from the Habitats Directive is justified and the developers must obtain a license for translocation of all protected species. Natural England have also not objected to the proposal.

### **Landscape and visual impacts**

The application includes an LVIA (landscape and visual impact assessment) and the SWT landscape officer is generally supportive of the approach taken although has concerns about siting and density of development and noted that scrub and hedgerows should be retained. Given that the LPA will retain control landscaping, layout and density through the reserved matters application process the visual and landscape impacts, at the 'outline' stage, are considered to be acceptable.

## **Heritage**

The site is located close to designated heritage in regards to two listed structures, which are Grade II listed lime kilns, a Scheduled Ancient Monument which is Daws Castle, a Saxon era earth rampart, and the Watchet Conservation Area. Historic England have been consulted and have not objected to the scheme but have recommended appropriate landscaping and keeping development away from areas which could detrimentally impact upon the setting of Daws castle. It is considered that the proposed development would not have a significant impact upon the designated heritage assets and due to concerns about coastal erosion the area closest to the lime kilns and Daws Castle will be largely undeveloped so will not have significant adverse impacts on its heritage significance or setting. The final decisions regarding landscaping, layout, scale, form and design will be with the LPA via the reserved matters and as such it is considered that control over the setting of heritage assets can be maintained by the LPA and no substantive harm to designated heritage assets is evident at this 'outline' stage. Policy LT1 requires enhancements to Daws Castle as a visitor location as part of the site allocation and this has been agreed with the applicants and can be included within the provisions of the Section 106 agreement as Daws Castle is not within land in the applicant's ownership, although as yet no proposals for enhancement have been received by the LPA from relevant heritage organisations.

## **Drainage, and surface and foul water disposal**

Submitted information includes a drainage strategy from Hydrock Consulting. After negotiations with Wessex Water agreement has been reached that the approach outlined in the strategy is acceptable, including addressing issues related to odour, sewerage disposal and management of surface water within the site. Final details of all relevant drainage arrangements, including for estate roads and roads scheduled to become adopted highways, will be required, by condition, as part of the reserved matters submission. The Lead Local Flood Authority noted that the proposal includes an attenuation based drainage system which is noted as being 'appropriate' provided that the strategy utilises surface based attenuation features not underground storage, and adheres to sustainable urban drainage system (SuDS) principles. This requirement will be set by condition.

## **Legal agreements and off/onsite contributions**

The proposed development will require one or more legal agreements, via legislation known as Section 106 (s106), to ensure affordable housing requirements, offsite contributions for educational provision, and for play areas/open spaces, and any works associated with heritage assets, and concerned with highways and PROW issues and/or contributions. The agent has suggested separate, distinct s106s, to distinguish between highways/PROW matters (for SCC) and other issues. The planning authority consider this approach acceptable and warranted given the complexities of co-ordinating three sets of lawyers (representing the applicants, SWT and SCC) to negotiate of all issues were bundled into one document. The s106s will require appropriate trigger and compliance points for actions and payment of monies due. Therefore as a planning committee item the recommendation would

be for committee approval to approval once draft s106s are agreed and signed (and all matters related to viability and the exact affordable housing percentage in respect of viability has been agreed)

### **Land Stability**

The site is near to a cliff although development has been set away from this area and the revised proposal to use the highway within the site instead of realigning the B3191 will lessen risks from coastal erosion. A visual and verbal update will be given at committee with projected mapping of future coastal erosion at the site.

### **Reserved matters**

The conditions attached to any permission granted would include a condition for details of layout, design, landscaping and details of design to be submitted within two years of permission being granted.

### **Other matters**

Watchet Town Council have been consulted and deferred comment, no further comments have since been received. Significant numbers of letters of representation have been received with issues raised discussed above.

### **Conclusion**

The site has been allocated through the adopted Local Plan to 2032 for residential development with improvements to the existing public highway. Due to ground conditions changes were required to the road realignments which have been undertaken and on this basis the application can be recommended for approval subject to agreement with the viability assessment and signing of a legal agreement.

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

### **Cleeve Hill, Watchet 3/37/18/015: planning committee update report**

The SWT Planning committee of 30<sup>th</sup> January 2020 was presented with the application 3/37/18/015, land at Cleeve Hill, Watchet (outline -136no. dwellings plus re-alignment of the B3191) and resolved that the application should be deferred and:

“Further information including viability report (to include percentage of affordable

housing), land stability report and to be presented with option from Somerset County Council.”

## **Introduction**

This update report covers: land stability; viability; educational contributions; re-alignment of the B3191 and the WSP Options report; heritage; and letters of representations and other consultee responses received by the local planning authority (LPA) since the date of the last committee where the application was presented (30 January 2020). The report also details changes and additional conditions amended since the 30<sup>th</sup> January 2020 Planning Committee.

### **1. Land stability**

In regards to land stability the LPA has followed central government guidance and the steps outlined in the relevant flow chart from the MHCLG. This identifies that the LPA has a statutory duty to assess land stability and to first take a view on whether a site has potential to be affected by land or slope instability, then ascertain if it is within a defined Development High Risk Area within a coalfield area, and then require the applicant to carry out a preliminary assessment of the site including desktop study and site visit to identify risks of land and/or slope instability. The assessment should identify if the risks are ‘acceptable or that the risks may be mitigated to an acceptable level’ the LPA can then proceed to decision and can impose appropriate conditions or planning obligations to land issues concerned with land stability.

In terms of the government guidance, revised edition published 22 July 2019, paragraph 1 notes that the planning system should consider issues related to land stability and minimise risks, ensure that development does not occur in unstable locations or without appropriate precautions, and help to bring unstable land back into productive use.

Paragraph 2 notes that the planning systems works alongside other regulatory regimes, notably Building Regulations (others cited are concerned with coalfields, mines and quarries so are not applicable in this instance)

Paragraph 6 also has relevance to this application and notes that LPAs “should seek appropriate technical and environmental expert advice to assess the likely consequences of proposed developments on sites where subsidence, landslides and ground compression is known or suspected” and require developers to undertake a “preliminary assessment of ground instability”, with developers allowed the choice to “adopt phased reporting, eg desk study results followed by ground investigation results.”

The applicant has now submitted a ‘Land Stability Appraisal’ from Stantec Ltd dated 27 February 2020. Stantec are acknowledged as being suitably qualified to undertake such a survey and appraisal as is required by both the planning

committee and relevant government guidance. This appraisal was in the form of a desk-based assessment and preliminary site visit and did not include intrusive ground investigations. As per the relevant and up-to-date government guidance on land stability, cited above, the initial assessment does not have to include intrusive ground investigations unless there are specific circumstances requiring this, examples such as a history of inland landslips or potentially unstable coal spoil heaps would potentially meet this test.

The desk-based assessment identifies details of landslips on the seaward side of the cliffs and coastal zones, and definite evidence of historical and current cliff regression but does not mention inland landslips. The report notes that the cliffs have regressed by approximately 15-20metres between 1888 and 1972. The report however notes that the position of any houses would be at least 78metres from the current cliff line, and that this development area could be moved further back still, with the potential re-alignment of the B3191 to 68metres inland from the cliff edge. The report notes that it “could be 250 years before the upper crest regressed as far back as the development area of the site” and even with impacts of sea-level rises and climate change this time-frame is likely to be “in excess of 150 years”.

The report also noted that “observations in the fields comprising the site did not reveal any evidence of instability in the ground that slopes down to the south within the site boundary. Generally, the landform of the site is gently sloping pasture with a relatively uniform gradient”. The findings of the report largely concur with the recent report commissioned by Somerset County Council from WSP into options for the B3191 road, discussed below.

The report from Stantec, whilst it does not include intrusive ground investigations, is considered to have fully met stipulated requirements in the most recent government guidance, for the stage in the planning and development process this outline application is at. Further requirements for stability assessments, including intrusive ground investigations and a detailed methodology for construction works, will be set by condition to be provided prior to the submission of any reserved matters applications. This condition has been revised from the wording previously drafted for the committee item from the 30<sup>th</sup> January 2020 to reference the fact that details would be required to be submitted and approved prior to the submission of any reserved matters application, and has included reference to surface attenuation features of any proposed drainage systems.

It should also be noted that further along the process any construction activities would be subject to the Building Control regime and would require substantive evidence of the ability to develop the site safely, without creating issues of instability

within and outside of the site, due to any proposed construction works.

It is therefore considered that the applicants have complied with the request from the 30<sup>th</sup> January 2020 planning committee to provide a land stability report, that this report has provided some certainty in terms of any attendant risks, and that issues related to land stability do not represent a reason to refuse the application.

In order to ensure that development could not take place within close proximity to the cliff edge a further condition is considered to be appropriate requiring that no residential development takes place within 50metres of the cliff edge and that an up-to-date survey of the cliffs is submitted no more than two months prior to the submission of any reserved matters application identifying the extant state of the cliffs. This would ensure that risk is minimised and that a reasonable gap is in place between the cliffs and any residential development and would take into any changes to the current cliff line.

It is also noted that in the British Geological Survey's 'Minehead district - a concise account of the geology' (1999, R A Edwards, page 10) comment is made regarding land instability and the fact that "...the possibility of landslipping should be considered prior to engineering activities on such slopes". It is considered important to stress that the Geological Survey does not advise against such developments but advises that there should be an evaluation 'prior to engineering activities'. The submitted report from Stantec is from qualified and indemnified engineers and it has advised that development at the site is not unreasonable provided that a sufficient buffer is in place to the edge of the cliff face. It is therefore considered that the report conforms to government requirements for assessing land instability issues, proportionate to the stage in the planning and development process this application represents.

The WSP report identifies six options, aside from 'doing nothing', for the section of the B3191 nearest to Watchet numbered 1A to 1F, ranging from cliff stabilisation works, re-aligned routes, through to the creation of roadway along a new tidal lagoon, with estimated costs between at the lower end £10 million (solely cliff stabilisation) to over a £1billion. The option earmarked to be taken forward to 'the next stage' is 1D, which travels through the Cleeve Hill site, which includes both re-alignment for the B3191 and cliff stabilisation works and is provisionally costed at £28million with reduced economic losses at £19million, the highest figure for any of the options in terms of sustaining economic development in the area.

From WSP Options report, commentary on central government funding for coastal protection measures:

"10.3.2. Option 1D and Option 2C have the potential to attract Flood and Coastal Erosion Risk Management (FCERM) Grant in Aid (GiA) should the Present Value

Benefits exceed the Present Value Costs.

10.3.3. FCERM GiA is funding provided by the Department for Environment, Food and Rural Affairs (DEFRA) to implement FCERM policy. The funding is administered by the Environment Agency and would be applied for by Somerset West and Taunton as the Coastal Protection Authority for the area.

10.3.4. Funding levels are linked to the number of households protected, the damages prevented, environmental benefits, amenity improvements, agricultural productivity and economic benefits. The payment rates for household protection vary depending on the number of properties affected, and the levels of deprivation in that area; the more properties that benefit from the works, and greater the level of household deprivation, the higher the eligible payments”

The salient points being that the higher number of households requiring coastal defence the higher the amount of GiA funding potentially available.

The WSP report further notes that private sector contributions to the ‘highway element’ of option 1D should form part of section 106 negotiations at Cleeve Hill:

“10.3.6. With regard to the highway element of Option 1D, the possibility of a Section 106 contribution should be explored in relation to the allocated Cleeve Hill site. It will be important to ensure the western end of this road realignment, where the cliff will not be protected, falls outside the projected cliff top erosion limit as shown in Section 3.3...”

Therefore in terms of land stability issues at the site the independent report produced by WSP has clearly identified benefits to re-aligning the B3191 through the Cleeve Hill site as the preferred option in comparison to five other assessed options, in terms of costs, economic benefits to the locality and potential for central government funding to contribute to cliff stabilisation works, which are likely to be at a higher level if a greater number of dwellings would be protected than without them. These factors are a significant material consideration in relation to the current application.

## **2. Viability report**

A viability report from Vickery Holman has now been provided to the LPA and has been independently assessed by the District Valuer (DV). The DV has clearly indicated that full compliance with the stipulated 35% affordable housing provision at the site would not be economically viable given the extraordinary costs associated the road re-alignment and full costings of required educational contributions. The education contributions have been revised (see below) lowering the figure from £957,623 (as presented in 2018) to £768,330 (revised response from Somerset County Council, June 2020). With this reduction in requested offsite contributions for educational contributions the DV has set the viable percentage of affordable dwellings at the site to 27%, which would equate to 34 units on a 136 dwelling development. Initial findings from the District Valuer prior to the revised educational

contribution indicated a 25% figure but this was revised after the reduced requirement for educational contributions to 27%.

It is acknowledged that 27% affordable housing is a reduction from the 35% policy SC4 position from the Local Plan to 2032. However the initial percentage raised at the committee in January 2020 was between 10-12%, before submission of the Viability Report and its' review by the District Valuer. Clearly therefore the final percentage is quite close to a full SC4 requirement and in terms of actual numbers of houses would equate to 34. The breakdown of tenure and scale would be:

- 4 x 1 bed flats for social rent.
- 8 x 2 bed houses for social rent
- 9 x 3 bed houses for social rent
- 1 x 4 bed house for social rent
- 9 x 2 bed shared ownership houses
- 6 x 3 bed shared ownership houses

Total 34 and split 62% social rent and 38% shared ownership

Local Plan policy LT1 allocated the site for both housing development and delivery of works to re-align the B3191. This makes delivery at this site qualitatively different to many other housing developments. Therefore the LPA accept that any extraordinary costs associated with delivering an allocated site, as per the entirety of its' allocation to include roadworks for a public highway, have to be factored into the requirements for affordable housing. As the Viability Report has been independently assessed by the District Valuer the LPA recognise that the proposed development could not deliver both 35% affordable housing and works to re-align the road and accept fully the DV's findings. The revised percentage for affordable housing has significantly increased from that shown in the January 2020 planning committee report and is considered to be commensurate with the viability of the development as proposed.

### **3. Educational Contributions**

Somerset County Council estates team (educational responsibility) have reviewed their initial request for educational contributions from that first made in 2018. The size of the required contribution has reduced from £957,623 required in 2018 to £768,330 as of the consultation response received in June 2020. This is due to a re-evaluation of existing capacity and likely demand and changes to the situation since the first consultation response. The revised figure equates to a costs per



dwelling of for early years £1,632.07 and for 1<sup>st</sup> school £4,017.4118. These contributions would be set via section 106 agreement tied to any permission granted. As cited above the revised contribution has positively impacted on the percentage of affordable housing which is considered to be economically viable at the site.

#### **4. Re-alignment of the B3191 and the WSP Options report**

Since the last committee for this application in January 2020 Somerset County Council have made public a report from consultants WSP looking at various options for re-aligning the B3191. This includes as option 1D, a route which traverses through the application site but slightly deviates from that as proposed, but is a potential and, given cost implications of the other options, reasonably likely option. The WSP report is a material consideration in relation to the current application.

After negotiations between the LPA, the highways authority and the developers it was agreed that drawings would be amended to include reference to the option 1D route and that this would be enabled as an alternative route should this option come forward. The detailed response from the highways authority to the application has also been revised to include reference to the option 1D route and reference to securing compliance through a section 106 agreement.

This therefore further supports the case that the proposed development would not be detrimental to land stability at the wider site, and beyond, as there would a legal agreement attached to any permission granted ensuring continuing stability of the land and an ongoing access to the B3191 until new works for re-alignment were undertaken and completed. The re-alignment of the B3191 through the application site would be at cost to the developer (within the red line) whereas options utilising other routes outside of the red line could be met largely or entirely by taxpayers through public funding. Equally if option 1D is pursued without the proposed development being given consent then costs for this road re-alignment (and additional costs for other matters such as land purchase) would be likely to fall to entirely public funding.

As cited above costs for cliff stabilisation are likely to be funded through a mix including GiA funds from central government, the level of which is partially dependent upon numbers of dwellings to be protected, the higher the number the greater the funding available from central government. It is therefore considered that in the light of the Options survey from WSP the case for the LPA to support the application has been strengthened, particularly as it was envisaged during the drafting of the West Somerset Local Plan that this would be case, and that the allocation would deliver community benefits through the works to re-align a road

which is under real and present threat to rapidly crumble into the sea.

The LPA are mindful of the provisions of the Equality Act 2010 and of section 49 of the Disability Discrimination Act 1995 and of the need for a surfaced footpath/pavement to run alongside a re-routed B3191 to facilitate access for pedestrians, wheelchair users and non-motorised users (eg parents with prams or buggies). However these details would be required as part of a reserved matters submission so do not directly impact upon this outline application. It is considered to be unnecessary to add additional conditions to achieve a surfaced pavement or footpath to run parallel to the re-routed B3191 as this matter would be covered within existing conditions (estate roads) and legislation as cited above. The estate-road pavement could not connect up to traverse the entire route into Watchet along Saxon Close and West Street as much of this is outside of the red line and, as extant, does not have pavements. This is on land outside of the ownership of the applicants and, as such, cannot be the responsibility of the applicants.

The main route for pedestrian access to Watchet from the proposed development site would be via the public footpath that crosses the site to the eastern side and enters onto West Street. Whilst this footpath has steps so is not fully accessible to non-motorised users (NMUs) the route could be subject to improvements to facilitate NMU use and access, which would be the responsibility of the highways authority as the steps are located some distance from the edge of the land indicated for development in the submitted red line plan. The section 106 agreement would include a clause to ensure that any works within the red line to facilitate access to the public footpath were undertaken. Both the agent and the County highways officer have confirmed that such an arrangement to be set through the section 106 legal agreement is acceptable. It is considered unreasonable to expect the developer to pay for works outside of the development area as much of Watchet has inadequate footpaths and pavements and the development cannot be held responsible for a general requirement to improve this wider situation. In regards to disabled access within the site and in terms of connections to the existing public footpath network the development would be fully compliant with the Disability Discrimination Act. Outside of the site the existing situation in Watchet is that there are many streets and roads without pavements, with steps and with very narrow pavements. This is not considered to be the responsibility of the applicants and it would not be reasonable to expect them to have to pay for improvements across the town

## 5. Heritage

Historic England have contacted the LPA noting that their comments were not cited in the report presented at the 30<sup>th</sup> January 2020. They have also provided updated comments. Their initial comments (July & August 2018) are reproduced in full in the

appendix below and further comments from June 2020. The South West Heritage Trust (SWHT) have also contacted the LPA in regards to Daws Castle and provisions within the section 106 and have also raised the question of whether trial archaeological trenches should be dug. In fact this has already taken place and has been shown in submitted, publicly-accessible documentation so the LPA has asked the Trust to provide revised responses. These have been provided and the SWHT have agreed to the wording of the archaeological watching brief condition as originally recommended in the 30<sup>th</sup> January committee report.

Historic England (HE) have raised concerns about the setting of designated heritage assets and in their 2018 consultation responses asked for indicative illustrations from one of the main viewpoints. However as the then indicative masterplan has been effectively superseded due to changes to the proposed repositioning of the B3191 it is not considered to be reasonable to require the developers to provide illustrative views as the masterplan would of necessity be changed by re-positioning the road. Therefore this will be amended to be set as a condition for any reserved matters to include illustrative views into the site as per the HE request.

HE also noted that the LPA should coordinate with their own conservation specialist and seek advice accordingly. After discussions with the SWHT conservation officer it was noted that the site is an allocated site which has been through due oversight during the review of the Local Plan by the Planning Inspectorate. The allocation included the extant B3191 which provides the existing access to the site and would provide to the easterly side the new access for the B3191. To the westerly side the option 1D cited above would move the B3191 further south which would be further away from Daws Castle. As the main access points to the site have been through Local Plan review when the Local Plan was assessed it is considered that the Inspectorate would have considered impacts of the allocation under LT1, with the westerly access next to the entrance to Daws Castle, and considered any impacts on heritage were acceptable. Furthermore both the lime kilns and Daws Castle were the subject of an assessment by the then West Somerset Council known as the Historic Environment Issues Paper, April 2014, which was part of the information that fed into the then Local Plan review.

It is considered that with a proposed move further away from the Daws Castle for the B3191 impacts should be lessened, not increased. It is also considered that public benefits from the proposed development including the provision of housing, re-routing the B3191 and offsite contributions including for education and information boards at Daws Castle and the lime kilns site, outweigh any perceived harm to the setting of heritage assets. Furthermore control of design, landscaping and choice of features such as materials will rest with the local planning authority at the reserved matters stage. With the cited condition for visualisation indicating aspects such as height of roofs and any landscape buffers any harm to setting can be adequately

mitigated. The planning authority does not consider that harm to designated heritage assets has been robustly established as a result of a recommendation to approve this application, at an outline stage, and that it would retain sufficient control to ensure that the reserved matters could effectively mitigate impacts on heritage and the setting of designated assets.

#### **6. Letters of representation and other consultee responses**

Watchet Town Council have responded to the WSP Options report with a letter to SWT dated 31 March 2020 and noted that “SCC has not currently identified funding for implementation of their recommended solutions” and that should option 1D move forward the Town Council “will be supporting it strongly and advocating that funding be found”. They also noted that due to the proposed road alignment in option 1D being further inland “this might suggest that development would not be sensible on the seaward side of the road and would markedly reduce the possible number of dwellings that could theoretically be squeezed into the remaining area”. This point is noted, however this would be part of any reserved matters submission and it is not considered appropriate to condition this as an alternative condition to set the development back at ;least 50 metres from the cliff edge, (at the date of the Reserved Matters submission), is proposed, as cited above.

Additionally five households and the Watchet Conservation Society have sent in letters of representation objecting to the proposed development, since the date of the committee on 30<sup>th</sup> January 2020. The issues raised relate mainly to land stability and perceived inadequacies of the Stantec report. These matters are discussed above. Additional points raised include compliance with legislation regarding pedestrian non-motorised user (wheelchairs/pushchairs/etc) access along a re-routed B3191. This matter is also discussed above.

## **APPENDIX**

Historic England Advice

(July 2018)

### **Historic England Advice**

The proposal is an outline application with all matters reserved, except for access, for the residential redevelopment of agricultural land for 136 dwellings with the creation of a new vehicular access (closure of existing), provision of estate roads, pathway, new public rights of way, cycleways and open recreational space and partial re-alignment of the existing public highway (Cleeve Hill).

Historic England is aware that the site was included in the West Somerset Local Plan to 2032, adopted in November 2016, and included under the long-term strategic mixed-use development allocations post 2026 (Policy LT1). The policy includes a requirement for development on the site to contribute to enhancing the unique historic environment of the town including mitigating the erosion of Daw's castle, and that proposals sustain and, where appropriate, enhance the historic assets of Daws castle and the adjacent lime kilns and their settings.

Whilst we appreciate that the proposal has been submitted as an outline application, your authority must ensure that you are satisfied you have received sufficient information prior to making your determination to be confident that the proposed development can be delivered in line with the requirements of the Local Plan policy relating to the site as well as in accordance with national policy and legislation.

### *Designated Heritage Assets*

The proposed development site is located within the setting of a number of designated heritage assets, including the nationally important scheduled monument of Daw's Castle (SM 33712; NHLE 1020882), the three Grade II listed lime kilns (NHLE 1180302) to its north east, and the Watchet Conservation Area.

Our advice below focuses on the impact of development on the significance of Daw's Castle a fortified site of Saxon date and high status (as demonstrated by its possession of a mint) prominently located on the cliff edge above Warren Bay in the Severn Estuary. The fortification survives as a curvilinear earthen bank which represents the line of the Saxon defences. The north side of the site is now defined by the cliff edge as part of the defensive earthwork has been lost to coastal erosion and landslips. The monument has extensive inland views

towards the Quantock Hills to the east. The landscape surrounding the scheduled monument contributes positively to the significance the scheduled monument derives from its setting. Its current undeveloped character, retaining a separation between the monument and the encroachment of development to the west of Watchet, retains the clear and open views which are recognised by the Heritage Assessment as fundamental to its defensive function.

In relation to other designated heritage assets we refer you to the advice of your own Conservation Officer, and to your archaeological advisor at South West Heritage Trust in relation to the treatment of the archaeological resource across the site, informed by the results of the archaeological evaluation conducted in 2017.

### *Impact of Proposed Development*

The conclusions drawn by the submitted Heritage Assessment in relation to the effect of the proposals on the nationally important scheduled monument of Daw's Castle do not reflect the assessment of significance set out in the same document. The ability to visualise the surrounding landscape and the encroachment of development towards the scheduled monument will, in our opinion, impact on its significance. It is therefore important that your authority is able to make your own assessment of how the impact of the proposed development on this heritage asset of the highest significance [NPPF 194b] might be avoided and conflict minimised [NPPF 190]. You must therefore be satisfied that you have sufficient information prior to making your determination to inform this part of your assessment. On the basis of the submitted information Historic England does not consider that you have as yet been submitted with enough clarification of the nature of the visual impacts of the development. Without this, in our view, you will not be able to identify whether all opportunities to avoid and minimise that impact have been taken account of in designing the development.

We do not disagree with the broad recommendations in the Landscape and Visual Capacity Assessment for restricting development towards the western end of the site, reducing the density of the development from east to west across the site, providing a landscape buffer with screening incorporated to the west and north and restricting taller buildings to those areas where they would be less visible due to the topography of the site. However our concerns relate to whether your authority as yet has sufficient information to assess whether the proposed implementation of the above mitigation proposals in the current indicative masterplan will be effective in minimising the level of harm to the experience and significance of the scheduled monument and satisfying your authority that it can be delivered at an acceptable level.

### *Policy Context*

Historic England's advice is provided in line with the importance attached to significance and setting with respect to heritage assets as recognised by the Government's revised *National Planning Policy Framework* (NPPF) (2018) and in guidance, including the *Planning Practice Guidance* (PPG), and good practice advice notes produced by Historic England on behalf of the Historic Environment Forum (*Historic Environment Good Practice Advice in Planning Notes* (2015 & 2017)) including the revised edition of *The Setting of Heritage Assets* (GPA3) published in 2017.

### *Historic England Position*

Historic England acknowledges that the site has been allocated under the adopted Local Plan. The relevant policy takes a strong stance in relation to the requirements of development on the site with respect to the scheduled monument, and accords with the approach set out in the revised NPPF. Whilst we do not disagree with the selection of the proposed options for mitigation of the impact of development on this nationally important site, we consider that additional information will be required to inform your authority's decision. We advise that regardless of the type of application submitted, sufficient clarity is required regarding the visual impact of the proposals on views in particular from the scheduled area to inform your decision in this case. We would recommend that additional visualisations illustrating the indicative heights of proposed buildings in Viewpoint 1 in particular should be submitted. These should be supplemented by indicative visualisations illustrating the level of mitigation offered by the proposed landscape buffer and associated planting. Your authority needs to be broadly satisfied that the general approach to the extent and nature of this buffer will be sufficient and appropriate to address the nature and level of impact of the proposed scheme.

We are pleased to see provision for interpretation, investigation and enhancement at the nationally important scheduled monument of Daws Castle included in the proposal and would welcome an opportunity to advise the applicant, jointly with your authority, on how that might be delivered in the event development on this site is brought forward. However, we consider that the primary concern at this current time is in ensuring the approach to development on the site is designed in accordance with both national and local policy to conserve the significance of the scheduled monument.

### **Recommendation**

Historic England has concerns regarding the application on heritage grounds.

Our concerns relate to the provision of sufficient information to enable your authority to ensure that development on this site is delivered in accordance with both the relevant policies of the Local Plan and national legislation, policy and guidance.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 190, 192, 193 and 194 in particular of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

(August 2018)

The following advice supplements that we provided to your authority on 30 July 2018.

We note from your authority's website that the additional information submitted comprises a Transport Assessment and associated appendices, and that the description of the application has also been amended to reflect a change from appearance to access as the only matter for detailed consideration.

Historic England has no further detailed comments to make in relation to the scheme on the basis of the additional submitted information. However we would note that we welcome recognition of the importance of retaining and sustaining footpath access from the site and from Watchet through to the scheduled monument of Daw's Castle.

We refer you overall to our advice of 30 July 2018, a copy of which is attached for your convenience.



## Recommendation

Historic England has concerns regarding the application on heritage grounds.

Our advice remains as set out for your authority on 30 July 2018. Historic England's concerns relate to the provision of sufficient information to enable your authority to ensure that development on this site is delivered in accordance with both the relevant policies of the Local Plan and national legislation, policy and guidance.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 190, 192, 193 and 194 in particular of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

(June 2020)

## Previous Advice

Historic England previously advised West Somerset Council on this application on 30 July and 07 August 2018. Given the length of time since our last consultation we offer the following summary of the key issues raised in our advice to date. In addition both our previous letters are attached for your reference and to read in conjunction with our advice below.

In our previous advice we recognised that the site was included in the adopted West Somerset Local Plan and drew attention to the requirements under policy LT1 in relation to the unique historic environment of Watchet including the nationally important scheduled monument of Daw's Castle.

Given the important commitment in the Local Plan, in addition to those requirements under the policies of the National Planning Policy Framework (NPPF), we advised that it was essential to ensure that you were satisfied you had received sufficient information prior to making your determination to be confident that the proposed development could be delivered in accordance with both legislation and national and local policy.

We advised that we did not consider the conclusions of the submitted Heritage

Assessment in relation to the effect of the proposed development on Daw's Castle reflected the assessment of significance in the same document. We did not consider that sufficient visual assessment of the development had been submitted to ensure you were able to identify whether all opportunities to avoid and minimise the impacts of the encroachment of development into views of the surrounding landscape from Daw's Castle had been designed into the scheme.

Whilst we did not disagree with the broad recommendations in the Landscape and Visual Capacity Assessment (6.1.2) we remained concerned that you did not have sufficient information to assess whether the proposed mitigation included in the indicative masterplan would be effective in minimising the level of harm to an acceptable level to deliver the allocated development in accordance with legislation and policy.

### *Significance of Designated Heritage Assets*

The proposed development site is located within the setting of a number of designated heritage assets, including the nationally important scheduled monument of Daw's Castle (SM 33712; NHLE 1020882), the three Grade II listed lime kilns (NHLE 1180302) to its north east, and the Watchet Conservation Area. Our advice continues to focus on the impact of development on the significance of Daw's Castle a fortified site of Saxon date and high status (as demonstrated by its possession of a mint) prominently located on the cliff edge above Warren Bay in the Severn Estuary. The fortification survives as a curvilinear earthen bank which represents the line of the Saxon defences. The north side of the site is now defined by the cliff edge as part of the defensive earthwork has been lost to coastal erosion and landslips. The monument has extensive inland views towards the Quantock Hills to the east. The character of the landscape surrounding the scheduled monument contributes positively to the significance the scheduled monument derives from its setting. This current undeveloped character, providing a sense of separation between the monument and the encroachment of development to the west of Watchet, retains the clear and open views which are recognised by the Heritage Assessment as fundamental to its defensive function.

### *Impact of Proposed Development*

Historic England has previously stated that we were concerned that the ability to visualise the surrounding landscape and the encroachment of development towards the scheduled monument would, in our opinion, impact on its significance.

Consequently we advised in relation to the information that we considered your authority would need to ensure that you were satisfied that those impacts were avoided and minimised through the design of the proposed development. We advised that sufficient clarity is required, even at outline stage, regarding the visual impact of the proposals on views in particular from the scheduled area to inform your decision in this case. We recommended that additional visualisations illustrating the indicative heights of proposed buildings in Viewpoint 1 in particular should be submitted. These should be supplemented by indicative visualisations

illustrating the level of mitigation offered by the proposed landscape buffer and associated planting.

In relation to other designated heritage assets we continue to refer you to the advice of your own Conservation Officer, and to your archaeological advisor at South West

Heritage Trust in relation to the treatment of the archaeological resource across the site, informed by the results of the archaeological evaluation conducted in 2017. We note that you have been in discussion with South West Heritage Trust in relation to how any condition attached to the consent would ensure the delivery of an appropriate programme of archaeological work with subsequent deposition within a public collection of reports and archives in line with an approved written scheme of investigation (WSI). Given the proximity to the scheduled monument and the potential therefore for remains that would contribute to our understanding of the monument itself, Historic England would recommend that you ensure you are satisfied that appropriate and proportionate provision would be made in the event any archaeological remains more significant than those identified to date on the site during evaluation were identified during the construction programme. We refer you to the detailed advice of South West Heritage Trust in this regard.

#### *Current Proposals*

Having reviewed the documents submitted since our last advice in August 2018, we

understand that changes have been made to the application which broadly comprise a reassessment of the highway element of the scheme and adjustment of the realignment of the B3191 at greater distance from the scheduled monument of Daw's Castle, together with submission of additional information including a preliminary land stability appraisal.

We welcome careful consideration by your authority of the issues surrounding land

stability and coastal erosion particularly in view of the landslips in the latter part of

2019 since these will affect Daw's Castle in addition to the local highway. The implications for the proposed layout of the allocated site resulting from the adjustment

in the alignment of the B3191 will need to be considered. We advise that you will need

to be satisfied that the green landscape buffer, included to assist in minimising impact

on views from within the scheduled monument, will nonetheless continue to perform

this function in the western part of the allocation despite these changes.

#### *Planning Policy Context*

Historic England's advice is provided in line with the importance attached to

significance and setting with respect to heritage assets as recognised by the Government's revised National Planning Policy Framework (NPPF) and in guidance, including the Planning Practice Guidance (PPG), and good practice advice notes produced by Historic England on behalf of the Historic Environment Forum (Historic Environment Good Practice Advice in Planning Notes (2015 & 2017)) including in particular The Setting of Heritage Assets (GPA3). Heritage assets are an irreplaceable resource [NPPF 184] and consequently in making your determination your authority will need to ensure you are satisfied you have sufficient information regarding the significance of the heritage assets affected, including any contribution made by their settings to understand the potential impact of the proposal on their significance [NPPF 189], and so to inform your own assessment of whether there is conflict between any aspect of the proposal and those assets' significance and if so how that might be avoided or minimised [NPPF 190]. In accordance with the NPPF your authority should take account of the fact that it would be desirable to sustain and enhance the significance of Daw's Castle [NPPF 192] due to the positive contribution that conservation of this monument would make for the community in Watchet [NPPF 192]. In so doing you must give great weight to the conservation of that significance [NPPF 193] given that Daw's Castle as a scheduled monument is considered to be a designated heritage asset of the highest significance [NPPF 194b]. Any harm to its significance therefore must be clearly and convincingly justified [NPPF 194].

#### *Historic England's Position*

Since the new information submitted since our last consultation does not relate specifically to or directly address the concerns from a heritage perspective that we had raised previously, Historic England's position remains broadly as set out in our letter of 30 July 2018. We continue to acknowledge that the site has been allocated under the adopted Local Plan. The relevant policy takes a strong stance in relation to the requirements of development on the site with respect to the scheduled monument, and accords with the approach set out in the revised NPPF. Whilst we do not disagree with the

selection of the proposed options for mitigation through layout, density and restricting taller buildings to areas where the local topography will reduce their visibility in views from within the scheduled monument, we are disappointed to see that additional information has not been submitted to inform your authority's decision as set out above and in our letter of July 2018.

Your authority also needs to be broadly satisfied that the general approach to the extent and nature of the landscape buffer at the western end of the site will still be sufficient and appropriate to address the nature and level of impact of the proposed scheme in relation to Daw's Castle despite the changes to the road alignment. However, in the event your authority is minded to make your determination of this be satisfied that you can ensure you will be able to deliver a completed scheme that is sensitive to the significance of the scheduled monument of Daw's Castle and that you will be supplied with sufficient information by the applicant to enable you to assess and confirm this in detail at each subsequent reserved matters stage. We would strongly advise that you ensure that the wording of any conditions you might apply to any outline consent granted would enable you to confirm that the final detailed scheme will (following Local Plan policy LT1 and the NPPF):

- Contribute to enhancing the unique historic environment of Watchet including mitigating the erosion of Daw's castle; and
- Sustain and, where appropriate, enhance the historic assets of Daws castle and the adjacent lime kilns and their settings.

You will need to be satisfied that you can sufficiently control the visual impact from within the scheduled monument with appropriate safeguards to restrict development through detailed masterplanning where it would otherwise intrude into views from the scheduled monument. You must ensure that the development does not erode the current undeveloped character of the landscape as seen in those views, thereby retaining a sense of separation between the monument and proposed development and retaining the clear and open views which are recognised by the Heritage Assessment as fundamental to Daw's Castle's defensive function.

We would also encourage both the applicant and your authority to liaise with English Heritage in relation to a contribution from Section 106 funds for positive

enhancements  
for the nationally important scheduled monument. We continue to welcome  
provision  
for interpretation, investigation and enhancement at the monument in the  
proposal and  
would be pleased to advise the applicant, jointly with your authority and English  
Heritage, on how that might be delivered through this allocation.

### **Recommendation**

Historic England has concerns regarding the application on heritage grounds.  
We still have concerns related to the provision of sufficient information to enable  
your  
authority to ensure that development on this site is delivered in accordance with  
both  
the relevant policies of the Local Plan and national legislation, policy and  
guidance.

We consider that the issues and safeguards outlined in our advice need to be  
addressed in order for the application to meet the requirements of paragraphs  
190,  
192, 193 and 194 in particular of the NPPF. However, we recommend that your  
authority discuss and are guided by your own conservation advisors in relation to  
how  
such safeguards can be robustly implemented, to ensure that you are able to  
deliver a  
sensitive and sustainable approach to development on this allocated site within  
close  
proximity to the nationally important scheduled monument of Daw's Castle.  
In determining this application you should also bear in mind the statutory duty of  
section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990  
to have special regard to the desirability of preserving listed buildings or their  
setting or any features of special architectural or historic interest which they  
possess, and under section 38(6) of the Planning and Compulsory Purchase Act  
2004 to determine planning applications in accordance with the development  
plan unless material considerations indicate otherwise.

Your authority should take these representations into account and seek  
amendments, safeguards or further information as set out in our advice.











07/20/0011

MRS VENN

**Change of use of land and buildings from equestrian/agricultural use to a camping site with the buildings providing facilities incidental to the holiday use and also for the use of holding up to 8 No. events per year (weddings/family parties) with erection of extension to building, formation of footbridge over leat and installation of foul drainage at Mill House Equestrian Centre, Hele Road, Bradford On Tone (resubmission of 07/19/0011) (retention of part works already undertaken)**

Location: EQUESTRIAN CENTRE, MILL HOUSE, HELE ROAD, BRADFORD  
ON TONE, TAUNTON, TA4 1EP

Grid Reference: 317627.123386 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 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:

(A3) DrNo 1930-01B Existing Block Plan

(A3) DrNo 1930-02B Location Plan

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

3. Noise emissions from any part of the premises or land to which this permission refers shall not exceed 44dB expressed in terms of an A-Weighted, 15 Min Leq, at any time when measured at the point marked X on the attached plan 'Bradford Mills monitoring point'. After 23:00 hours, noise emissions from any music at the premises or land to which this permission refers shall not be audible at the point marked X on the attached plan 'Bradford Mills monitoring point'.

Reason: To protect the amenities of the nearby residents.

4. No amplified music shall be played outside the barn.

Reason: To protect the amenities of the nearby residents

5. No amplified music shall be played within the barn on the site except on eight days of the year.

Reason: To prevent users of the camping facility from playing music in the interests of the amenities of the surrounding residents

6. Before the development hereby permitted is commenced the existing access shall be modified to incorporate the following:

- The access over the first 20 metres of its length, as measured from the edge of the adjoining carriageway, shall be properly consolidated and surfaced (not loose stone or gravel).
- The access over the first 20 metres shall be widened to no less than 5.5m in width to allow larger delivery vehicles attending the site to do so without over-running the highway verges.

The above shall be provided in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Once constructed the access shall thereafter be maintained in that condition at all times.

Reason: In the interests of highway amenity.

Pre –commencement reason: to ensure that the access is safe prior to the commencement of use.

7. The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul drainage has been submitted to, and approved in writing by, the LPA. The scheme shall be implemented as approved.

Pre-commencement reason: To prevent the increased risk of pollution to the environment.

Reason: In the interests of the environment.

8. The following will be mounted on the buildings:
  - a) A Beaumaris Woodstone maxi bat box or similar will be mounted under the apex of the west elevation of the building and maintained thereafter.
  - b) Two Schwegler 1SP Sparrow terraces or similar at least one metre apart directly under the eaves and away from windows on the north elevation]

Photographs of the installed features will be submitted to the local planning authority prior to the first use of the building.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 170(d) of the National Planning Policy Framework.

9. The bridge shall not be constructed during the period March to August inclusive in any one year. Written notification of when works to the bridge shall commence will be submitted to the Local Planning Authority.

Reason: In the interests of a Schedule 1 bird species and in accordance with policy CP8 of the Taunton Deane Core Strategy

10. No more than 8 events shall be held per year at the premises, on no more than 3 consecutive weekend.

Reason: To protect the amenities of the local area.

#### Notes to Applicant

1.
  - The cesspit should be a pre-formed, watertight structure designed for the purpose.
  - The cesspit should be installed as far away as possible from the nearest watercourse, spring, borehole or well and maintained to the satisfaction of the LPA.
  - There should be a high level warning device to ensure timely emptying, and the prevention of pollution following overflows.
  - There should be no pre-formed overflow.
  - Any discharge from the structure to any watercourse/soakaway will be un-consented and illegal under the Water Resources Act 1991 and therefore subject to legal proceedings.
  - There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.
2. The applicant should note that if the barn is used for a different commercial activity it is likely to have to comply with a number of requirements under the Building Regulations (for example, thermal and fire safety, drainage and access). Any foul drainage system should also meet Building Regulations. The applicants should contact the Somerset Building Control Partnership before carrying out any works or using the building for these activities.  
<https://www.sedgemoor.gov.uk/somersetbcp>
3. 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 application seeks permission for:

- The change of use of the land and barn within the red line from agricultural/equestrian to a camping site.
- The barn would provide facilities incidental to the camping use and also seeks consent for use for the holding of up to 8 events per year, between the months of April and October on no more than 3 consecutive weekends.
- Erection of extension to barn including insertion of mezzanine floor.
- Formation of foot bridge over mill leat; and
- Installation of cesspool/silage tank.

Please note: The word caravan has since been removed from the Planning Statement because it was a 'typo'. It was subsequently removed from the proposed description.

## Site Description

The site comprises of 14.1 hectares of land and is located within open countryside, to the north of the village of Bradford-on-Tone. The site comprises several stone and late 20th Century block built buildings and an agricultural building. To the north of the buildings there is a camping pod site which is separated from the buildings by a paddock and a young orchard. The farmhouse is the south-eastern most building and the land falls down to a lower level to the west. There is a 3 storey Mill building (residential in separate ownership) adjacent to the farmhouse where the mill leat runs underneath. The site and surrounding landscape is largely flat.

Currently, the site is used for providing riding lessons with equestrian facilities and camping. Since 2019, the site has been running events from the agricultural storage building.

## Relevant Planning History

07/07/0015, Change of Use of barns and stables to 3 dwellings and garaging, withdrawn on 06/02/08

07/08/0009, Conversion of 2 barns and adjacent stables to 3 dwellings and garages, refused on 15/07/08. Appeal APP/D3315/A/08/2090528 allowed on 15/04/09.

07/18/0018 Erection of agricultural storage building approved 20/11/2018

07/18/0022 Change of use of land and the construction of four camping pods on land at Mill Farm, Mill House, Bradford-on-Tone, TA4 1EP (partly retrospective) refused on 18/12/2018.

07/19/0002 Change of use of land from equestrian for siting of 4 No. camping pods at Mill House, Equestrian Centre, Hele Road, Bradford On Tone (resubmission of 07/18/0022) approved on 01/05/2019.

07/19/0011 Erection of extension with installation of mezzanine first floor and change of use from agricultural/equestrian storage building to sui generis (mixed use) storage and occasional events venue (community events and up to 15 licenced events annually) with formation of foot bridge over mill leat and installation of cesspool/silage tank at Mill House Equestrian Centre, Hele Road, Bradford on Tone (retention of part works already undertaken). Refused 06/12/2019:

- 1. It is clear from the proposal that one of the intended uses would be a wedding venue. The proposal has failed to provide the supporting evidence to justify this diversification of the agricultural building required by local policy. Therefore, the principle of the change of use is contrary to Policy DM2 (1a) and (7b) and criterion a - b of paragraph 83 of the NPPF.*
- 2. A number of potential uses have been mentioned within the supporting information. The exact proposed diversification therefore cannot be identified and a judgement cannot be made in terms of the wider principle of change of use and the amenity impacts that could arise from such a change of use. The application is therefore not in accordance with Policies DM1 or DM2 of the Core Strategy.*
- 3. The use of the barn as a wedding and party venue would give rise to noise, to the detriment of the individual dwellings, residential areas, and potentially other areas of the local and wider environment. In this regard the application is contrary to Policy DM1(e) of the Core Strategy.*

## **Consultation Responses**

*BRADFORD ON TONE PARISH COUNCIL* - 1. The Applicant. Councillors noted that previous applications relating to this site have been made by Mr A Venn but this application is in the name of Mrs G Venn. Should it be treated as a joint application by Mr A and Mrs G Venn?

2. Parking. The previous application 07/19/0011 stated that there would be no change in parking but plans showed a field adjacent to the ménage as available for parking at events only. The current application states that there is no change but parking is available for 50 vehicles at events only. The application does not address parking issues that might arise if consent for change of use were to be granted for the whole site, as opposed to the barn only.

3. Access. Although the Design and Access statement refers to the Parish Council withdrawing that part of its objection that related to the access, this has not been addressed within the present application as is claimed. The council are told that no alterations have been carried out and there are no adequate plans with the application showing the re-routing of the access away from Bradford Mill and widening of the track leading to the proposed car park. Furthermore if approval is given for the change of use proposed that will bring with it additional access issues.

4. Noise. The Noise Impact Assessment submitted with the application appears to solely address the issue of noise emanating from the barn during events. The assessment is largely based on assumptions and contains many qualifications. It is unfortunate that it was not prepared in consultation with the owners of Bradford Mill

who might have been willing to allow access to their premises to enable more accurate measurements to be taken both within and without their property. The assessment is largely based on the Code of Practice on Environmental Noise Control at Concerts, Is there no more appropriate guidance that might be relevant to wedding and similar events located in rural areas? The Council are not satisfied that the noise generated from the 8 events proposed would meet the criteria laid down by the Noise Policy Statement for England. The Assessment does not take into account change of wind direction and strength, nor does it consider the use of the site on non-event days if, for instance, visitors to the holiday accommodation were allowed to have music within the barn. It also appears to be the applicants' intention to increase the number of events, which is likely to further inconvenience residents in Bradford on Tone.

5. Change of Use. The Council note that the application relates to a different site than the previous application. Instead of being limited to the barn itself it now covers the surrounding areas including that occupied by the Shepherds Hut, Camping Pod and proposed further pods. However the extent of the land to be covered by any consent does not appear to be clearly defined. It is unclear as to what the applicants' true intentions are. If permission were granted for a camping and caravan site that would raise many more issues - would it cover caravans, motorhomes and camper vans as well as tents? If so the access would be wholly inappropriate and threatened traffic noise levels much greater. Is the applicant intending to discontinue the equestrian centre, the justification for the barn in the first place? A well-run equestrian centre would be a greater asset to the village.

6. Previous Planning Consent. The applicant has yet to comply with the conditions attached to the previous consent under application 07/19/0002. How can the Parish Council be satisfied that it is the applicant's intention to comply with any conditions that might be attached to any consent on this occasion. For the reasons set out above the Parish Council are unable to support the above application and therefore wish to formally object to the application.

Environmental Health - If the decision is made to allow the change of use I would recommend that conditions are used to restrict the number of events and to control the level of noise from music. Some of the recommendations are mentioned in the Noise Management Plan. These could include:

- No amplified music to be played outside
- No amplified music shall be played within the barn on the site except on eight days of the year.
- No music shall be played on more than three consecutive weekends.

A noise limiting device shall be installed and used whenever there is an event in the barn involving live or recorded music.

*SCC - TRANSPORT DEVELOPMENT GROUP* - It is noted that the submitted details state that following recent negotiation between the applicant and the Parish Council an amended access arrangement is proposed. However, it is understood that this is an on-site arrangement to aid vehicle circulation and direct noise levels away from neighbouring properties and will not affect the position of the junction between the access track and Hele Road.

In this regard the Highway Authority does not wish to make comment further to those submitted under application 07/19/0011.

*SCC - ECOLOGY* –

- An Ecological Impact Assessment of the application site was carried out by JH Ecology in August 2019. This found no evidence of roosting bats or



nesting birds. Suggestions were made for enhancements by way of bat and bird boxes. The National Planning Policy Framework (170d) requires biodiversity enhancement to be provided within development. As such a condition has been recommended (please see condition 8)

- A bridge is proposed but has not been included in the ecology report. This spans the River Tone and Tributaries Local Wildlife Site. Lacking evidence to the contrary, and assuming that some vegetation would be removed and that there is potential for the presence of kingfishers, a Schedule 1 species on the Wildlife and Countryside Act 1981 (as amended) which affords protection from disturbance during the breeding season including whilst with dependent young. As such condition 9 has been imposed.

*ENVIRONMENT AGENCY* - Provided the Local Planning Authority (LPA) is satisfied the requirements of the Sequential Test under the National Planning Policy Framework (NPPF) are met, the Environment Agency would have no objection, in principle, to the proposed development, subject to the suggested condition No. 7.

Part of the site is within Flood Zone 3 therefore the Sequential Test requirements should be considered. However, it is recognised that the building and access is located in Flood Zone 1 which is the most suitable designation with regards to flood risk.

In addition, the application form indicates that foul drainage is to be discharged to a non-mains drainage system (cesspool). We aim to resist the proliferation of cesspools on the grounds of sustainability, however we do recognise that there will be certain circumstances where there is no viable alternative option. If this is the case the following comments must be noted:

- The cesspit should be a pre-formed, watertight structure designed for the purpose.
- The cesspit should be installed as far away as possible from the nearest watercourse, spring, borehole or well and maintained to the satisfaction of the LPA.
- There should be a high level warning device to ensure timely emptying, and the prevention of pollution following overflows.
- There should be no pre-formed overflow.
- Any discharge from the structure to any watercourse/soakaway will be un-consented and illegal under the Water Resources Act 1991 and therefore subject to legal proceedings.
- There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

## **Representations Received**

18 objections were received which raised concerns regarding:

- Noise
- Increased camping use

- Increased traffic
- Parking
- Traffic
- Local need
- Uses proposed
- Amenity
- Noise
- Impact on wildlife
- Light pollution

19 letters of support were received in relation to:

- Beautiful venue.
- Support for local economy and businesses.
- Level of noise could be controlled.
- Preferable to a marquee.
- Diversification of a local business

### **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,  
 DM1 - General requirements,  
 DM2 - Development in the countryside,  
 DM4 - Design,  
 SB1 - Settlement Boundaries,

### **Determining issues and considerations**

The main issues of this case are the principle of development, impacts on the character and appearance of the area, impact on residential amenity, flooding/drainage and highways/car parking.

### **Principle of the change of use**

The site is located in open countryside where core policy DM2 would apply. This policy 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. Residential Dwellings;
6. Replacement Housing;
7. Conversion of existing buildings; and
8. Development for essential utilities infrastructure.

When considering this, with the information provided in the proposal, the criterion relevant will be 3 and 7.

Also relevant in local policy terms is policy SB1 of the adopted Site Allocations and Development Management Plan 2016, that guides on a sustainable approach to development and assessment against Core policies CP1 (Climate Change), CP8 (Environment).

The National Planning Policy Framework, (NPPF) 2019, is also relevant and in particular paragraphs 8-10 (Sustainable development) and paragraphs 83 and 84 regarding supporting a prosperous rural economy and diversification of agricultural and land based businesses. Also of primary relevance in this case is Chapter 14 of the NPPF, Meeting the challenge of climate change, flooding and coastal change, paras 155-165, which seeks to avoid locating inappropriate development in areas at risk of flooding.

In light of the above, the Council supports the diversification of agricultural buildings, and as the building is being adapted for the change of use by the addition of an extension, including two wet rooms, a kitchen, and the installation of a mezzanine floor this could constitute a conversion and therefore the sequential approach in line with Criterion 7 of Policy DM2, should be applied.

Criterion 7 states the sequential approach must be followed in the following priority:  
i. Community uses; ii. Class B business uses; iii. Other employment generating uses; iv. Holiday and tourism; v. Affordable, farm or forestry dwellings; vi. Community housing; vii. In exceptional circumstances, conversion to other residential use;

The extension and additional facilities within the barn would support the existing camping use of the site. Campers would be able to use the kitchen and bathroom facilities so the proposal is in accordance with Criterion 7(iv) of Policy DM2. In addition as the barn will be used for Holiday and Tourism purposes, the proposal complies with Criterion 3 of Policy DM2.

The extension would also allow the barn to function as a venue to hold weddings and parties, allowing the barn and this Agricultural and Equestrian land/business to further diversify in accordance with paragraphs 83 and 84 of the NPPF (2019) regarding supporting a prosperous rural economy and diversification of agricultural and land based businesses.

In consideration of the above, it can be concluded that the principle of development

is acceptable.

## **Design**

The existing building has a footprint of 22m x 14m and was approved on 20/11/2018 under permission reference 07/18/0018. The extended building would have a footprint of 27 m x 14 m and would have the same design as existing, incorporating vertical cladding and box profile roofing. It is therefore not considered that any visual harm would result from the extension. Furthermore, existing hedgerow boundaries to the north and south of the site would mitigate any potential visual impact of the extended building within its rural setting.

Formation of footbridge over the mill leat would be visually acceptable and would not have an unacceptable impact on the surrounding area, providing the conditions suggested by Ecological Officer are imposed.

The installation of the sess pool tank is considered to be acceptable given that it would have no visual impact on the landscape.

## **Amenity**

The LPA recognise that potential noise arising from the proposed uses of the barn is a great concern for residents of this area and therefore the most pertinent issue that must be considered.

One of the main reasons for refusal of the previous application 07/19/0011 was noise and the lack of information submitted to allay concerns of the LPA and residents. For this application, a noise impact assessment (NIA) has been submitted which is considered to specifically respond to the concerns raised by the Environmental Health Officer (EHO) and local community regarding music noise from the proposed development. The NIA undertook the following:

- a review of relevant legislation/guidance;
- an on-site noise survey to determine existing background noise levels;
- on-site acoustic testing of the barn to determine the sound-reducing qualities of the building envelope and level of noise propagation to the nearest residents;
- a noise modelling exercise which has been 'calibrated' by matching the results of the model to the on-site testing, and then using this to model live music within the barn (after the proposed extension) to predict Music Noise Levels (MNLs) at nearby residents; and
- an assessment of predicted MNLs against relevant guidelines, including those suggested by the EHO.

In relation to the provision of amplified music before 23:00, this assessment demonstrated that MNL's should be well within the recommended guidelines that are commonly applied to other similar venues - and have been identified by the EHO as being relevant to this site.

In relation to the provision of amplified music between 23:00 and midnight, this assessment demonstrates that the use of a noise limiter system inside the barn - set

at 90 dB(A) above the dancefloor – will result in music noise being inaudible inside bedrooms in the local area.

In light of the above assessment, the LPA have concluded that the noise levels would be acceptable providing a number of conditions were attached to the permission. Please see conditions 3 to 5.

As previously mentioned it is proposed to use the barn for up to 8 events per calendar year with amplified music, to be held between April and October each year on not more than 3 consecutive weekends. This is a vast improvement on the previous proposal which would have involved 15 events between ‘the summer months’ and the currently used 28 day rule for outdoor events which are not subject to any planning controls.

The LPA recognises that the patrons will possibly still be on site after 23:00, especially if they would also be using the camping facilities, and they may make some noise that could carry. However, the change of use proposed will clarify the planning history and correctly control the use of the barn as incidental to the holiday accommodation use with consent for up to 8 events annually. The consent will also establish the holiday use of the land on which the building sits and as such removes the potential for continuing to exercise the 28 Permitted Development rights it benefits from, which could cause amenity impacts that go over and above the proposed.

In light of the above assessment it can be concluded that the proposed would be acceptable in terms of amenity with the relevant conditions imposed to control the noise.

## **Highways**

As this site has already been the subject of a previous similar application the applicant benefits from the advice provided during that process. The Highway Authority did not object to the proposal and suggested the imposition of conditions would be sufficient to allow the scheme to be approved.

## **Flooding**

Part of the site is within Flood Zone 3 and for this reason the Environment have suggested that the Sequential Test be considered.

However, the building, access and camping is located in Flood Zone 1 which is the most suitable designation with regards to flood risk.

Please note: The camping pods approved under planning permission 07/19/0002 were subject to a condition which imposed that the camping would be located within Flood Zone 1.

## **Other matters**

The formation of the footbridge and cess pool would be acceptable provided the recommended conditions from Environmental Health and Ecology were applied and

complied with.

## **Summary**

In light of the above assessment, it is recommended that planning permission is approved subject to the appropriate planning conditions.

20/20/0011

MRS E EDWARDS

**Change of use of land from agricultural to domestic 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 carried out in accordance with the following approved plans:

(A4) DrNo Location Plan

(A4) Site Plan

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

2. 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.

### **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.

## **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.

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.

## **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 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.

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 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 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. It has not been possible to determine the Grade of this Agricultural land however it was deemed to be in consequential to the main considerations of this application.

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 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 information that has been requested has been added to ensure that the development does not affect the right of way.

In light of the above assessment it is not possible to identify any harm in terms of 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**