

SWT Planning Committee

Thursday, 2nd September, 2021,
1.00 pm

The logo for Somerset West and Taunton, featuring the text "Somerset West and Taunton" in white on a teal background with a white swoosh.

The John Meikle Room - The Deane
House

[SWT MEETING WEBCAST LINK](#)

Members: Simon Coles (Chair), Marcia Hill (Vice-Chair), Ian Aldridge, Mark Blaker, Ed Firmin, Roger Habgood, John Hassall, Mark Lithgow, Chris Morgan, Craig Palmer, Ray Tully, Sarah Wakefield, Brenda Weston and Loretta Whetlor

Agenda

1. Apologies

To receive any apologies for absence.

2. Minutes of the previous meeting of the Planning Committee (to 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 temporary legislation (within the Coronavirus Act 2020, which allowed for use of virtual meetings) coming to an end on 6 May 2021, the council's committee meetings will now take place in the office buildings within the John Meikle Meeting Room at the Deane House, Belvedere Road, Taunton. Unfortunately due to capacity requirements, the Chamber at West Somerset House is not able to be used at this current moment.

Following the Government guidance on measures to reduce the transmission of coronavirus (COVID-19), the council meeting rooms will have very limited capacity. With this in mind, we will only be allowing those members of the public who have registered to speak to attend the meetings in person in the office buildings, if they wish (we will still be offering to those members of the public that are not comfortable in attending, for their statements to be read out by a Governance and Democracy Case Manager). Please can we urge all members of the public who are only interested in listening to the debate to view our live webcasts from the safety of their own home to help prevent the transmission of coronavirus (COVID-19).

5. 3/39/20/008

(Pages 5 - 34)

Outline planning application with all matters reserved, except for access, for the redevelopment of the site to provide a food store E(a), retail shops E(a), professional and financial services E(c)(i),(ii) and (iii), food and drink uses E(b), health services E(e), residential dwellings (C3) (no change), vehicle and pedestrian accesses, associated car parking and landscaping."

Land off Bank Street with link to Fore Street, Williton

6. 3/07/21/007

(Pages 35 - 48)

Erection of a first floor balcony extension to clubhouse with siting of additional 34 No. static caravan pitches and changes to internal road layout at Quantock Orchard Caravan Park, Station Road, Crowcombe, TA4 4AW

7. 09/21/0007

(Pages 49 - 54)

Erection of a single storey extension to the rear of The Old Waterworks, Chipstable Road, Chipstable

8. Latest appeals and decisions received

(Pages 55 - 82)

A handwritten signature in black ink, appearing to read "James Hasset", written in a cursive style.

JAMES HASSETT
CHIEF EXECUTIVE

Please note that this meeting will be recorded. You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the recording will be retained in accordance with the Council's policy. Therefore unless you are advised otherwise, by taking part in the Council Meeting during Public Participation you are consenting to being recorded and to the possible use of the sound recording for access via the website or for training purposes. If you have any queries regarding this please contact the officer as detailed above.

Following Government guidance on measures to reduce the transmission of coronavirus (COVID-19), we will be live webcasting our committee meetings and you are welcome to view and listen to the discussion. The link to each webcast will be available on the meeting webpage, but you can also access them on the [Somerset West and Taunton webcasting website](#).

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

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 temporary legislation (within the Coronavirus Act 2020, which allowed for use of virtual meetings) coming to an end on 6 May 2021, the council's committee meetings will now take place in the office buildings within the John Meikle Meeting Room at the Deane House, Belvedere Road, Taunton. Unfortunately due to capacity requirements, the Chamber at West Somerset House is not able to be used at this current moment.

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

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Application No:	<u>3/39/20/008</u>
Parish	Williton
Application Type	Outline Planning Permission
Case Officer:	Denise Todd
Grid Ref	Easting: 307683 Northing: 140947
Applicant	Mr D Gliddon
Proposal	Outline planning application with all matters reserved, except for access, for the redevelopment of the site to provide a food store (A1), retail shops (A1), professional and financial services (A2), food and drink uses (A3), health services (D1), residential dwellings (C3), vehicle and pedestrian accesses, associated car parking and landscaping. The agent has agreed to amend the description following changes to the Use Class made in September 2020, to "Outline planning application with all matters reserved, except for access, for the redevelopment of the site to provide a food store E(a), retail shops E(a), professional and financial services E(c)(i),(ii) and (iii), food and drink uses E(b), health services E(e), residential dwellings (C3) (no change), vehicle and pedestrian accesses, associated car parking and landscaping."
Location	Land off Bank Street with link to Fore Street, Williton

Recommendation

Recommended decision: Granted subject to

Recommended Conditions

- 1 Approval of the details of the layout, scale, appearance and 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 following approved plans:

(A3) DrNo 704 01 Site Location Plan

(A3) DrNo 704 02 Illustrative Site Plan

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

- 3 Finished floor levels of the proposed built development shall be set no lower than 300mm above existing ground level.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

- 4 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the LPA), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the LPA:

- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the LPA. The scheme shall be implemented as approved.

Reason: To protect controlled waters.

Pre- commencement reason required to ensure any contamination found on the site is suitably dealt with.

- 5 No development approved by this permission shall be commenced until a scheme for prevention of pollution during the construction phase has been approved by the LPA. The scheme should include details of the following:
1. Site security.
 2. Fuel oil storage, bunding, delivery and use.
 3. How both minor and major spillage will be dealt with.
 4. Containment of silt/soil contaminated run-off.
 5. Disposal of contaminated drainage, including water pumped from excavations.
 6. Site induction for workforce highlighting pollution prevention and awareness. Invitation for tenders for sub-contracted works must include a requirement for details of how the above will be implemented.

Reason: - To prevent pollution of the water environment.

A pre-commencement condition is required to ensure the strict protection of the water environment

- 6 No part of the development hereby permitted shall be commenced until a scheme of works to provide the revised vehicle access from Bank Street to the south of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme of works shall be implemented in their entirety prior to first occupation of the site.

Reason:- In the interests of highway safety.

- 7 Prior to the opening of the supermarket the pedestrian route linking to Fore Street shall be constructed in accordance with a scheme submitted to and approved in writing by the Local Planning Authority and shall be made available in perpetuity for public use.

Reason: In the interests of highway safety.

- 8 Prior to the opening of the supermarket or any of the retail/commercial units hereby permitted, the car parking areas and vehicle turning spaces shall be constructed in accordance with details submitted to and approved in writing by the Local Planning Authority and shall be made available in perpetuity for public use.

Reason: In the interests of highway safety.

- 9 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage has been submitted to and approved in writing by the Local Planning Authority in order to limit the risk of water adversely affecting the highway. The drainage works shall be installed prior to first occupation.

Reason: In the interests of highway safety.

Pre- commencement reason required that the development is served by a satisfactory system of surface water drainage

- 10 No building hereby permitted shall be occupied or otherwise used for any purpose until provision has been made within the site for the loading and unloading of goods vehicles for which details shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety

- 11 No development hereby permitted shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority and thereafter implemented by the approved Contractor in accordance with the approved details. The plan and any contract shall stipulate the size of vehicles to be used for deliveries and the routes to be used. The approved contractor shall ensure that works do not interrupt the movement of traffic on the A39 at certain times: November to March, Monday to Friday 08:00-09:30; April to October, Monday to Saturday 08:00-19:00; nor April to October, Sundays 10:00-1900.

Reason: In the interests of highway safety.

Pre- commencement reason is required to ensure the highway safety of the development.

- 12 The development hereby permitted shall not be brought into use until the accesses, staff parking facilities and areas for the manoeuvring, parking, loading and unloading of vehicles have been laid out, consolidated, surfaced and drained in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

- 13 No development shall commence on site until details of secure covered cycle parking have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details and made available for use prior to the first occupation of the development hereby permitted and shall be retained for use at all times thereafter.

Reason: In the interests of highway
safety

Reason: In the interests of highway

safety.

Pre- commencement reason is required to ensure the highway safety of the development.

- 14 Prior to the commencement of use, details of the hours of operation of the supermarket, including delivery hours, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter operate in accordance with the approved details.

Reason: In the interests of the amenities of the occupiers of neighbouring residential properties.

- 15 Prior to its installation , details of all external lighting, to include hours of operation and strength of illumination, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter operate in accordance with the approved details.

Reason: In the interests of the amenities of the occupiers of neighbouring residential properties.

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

Reason: To protect controlled waters.

- 17 No development hereby approved shall take place until the appellant, or its agents or successor in title, has secured the implementation of a programmed of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of archaeology and the historic environment.

Pre- commencement reason is required to secure the historic value of the site as archaeological investigations need to be undertaken in advance of the construction phase

- 18 Prior to the first occupation of any of the dwellings hereby approved, the applicant shall prepare and submit for written approval a Flood Warning and Evacuation Plan for the site. A copy of the Flood Warning and Evacuation Plan shall be provided each household prior to the commencement of their tenancy/ transfer of ownership. The Flood Warning and Evacuation Plan shall be reviewed every 5 years and households informed of any changes updates.

Reason: The site is located in Flood Zone 3, where there is a high probability of

flooding during the lifetime of the dwellings. The Local Planning Authority wishes to ensure that adequate warning and evacuation measures are in place in the event of a flood in accordance with Policy CC2, Flood Risk Management, of the Somerset West Local Plan to 2032 and paragraph 163 of the NPPF.

- 19 No development shall be commenced until details of the sustainable surface water drainage scheme for the site, has been submitted to and approved in writing by the local planning authority. Such scheme should aim to meet the four pillars of SuDS (water quantity, quality, biodiversity, and amenity) to meet wider sustainability aims as specified by The National Planning Policy Framework (July 2018) and the Flood and Water Management Act (2010). The development shall include measures to prevent the control and attenuate surface water and once approved the scheme shall be implemented in accordance with the approved details and maintained at all times thereafter unless agreed otherwise in writing by the local planning authority.

Reason: To ensure the development is properly drained in accordance with the NPPF.

Pre- commencement reason is required to ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed, and maintained in accordance with the approved details throughout the lifetime of the development.

- 20 No development approved by this permission shall be occupied or brought into use until a plan for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved by the Local Planning Authority. The approved drainage works shall be completed and maintained in accordance with the details agreed.

Reason: To safeguard the long-term maintenance and operation of the proposed system to ensure development is properly drained in accordance with the NPPF.

- 21 Prior to the commencement of development a written commitment to the sourcing of local labour shall be submitted to and approved in writing by the local planning authority. The written commitment, as a minimum, shall set out the following matters: i) The proportion of construction workers to be sourced from the local labour pool, ii) Work experience/ apprenticeship opportunities; iii) The proportion of local procurement and sourcing; iv) On-going skills development and training opportunities; v) The steps that will be taken to ensure that the above is implemented; vi) The operator shall maintain a record of i - v above and shall make that information available to the local planning authority at all reasonable times upon request.

Reason: In accordance with policy EC1 of the West Somerset Local Plan. This matter needs to be agreed prior to commencement in order to ensure that local labour is used in the project from the start.

- 22 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any statutory instrument revoking and/or re-enacting that Order with or without modification), the use of the building(s) hereby permitted shall be limited to uses categorised as E(a), E(b), E(c) (i), (ii), (iii) and E(e) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and/or re-enacting that Order with or without modification).

Reason: To ensure that the proposed development does not harm the character and appearance of the area or impact upon the viability and vitality of Williton village rural centre and for the avoidance of doubt as to the extent of the permission granted.

Informative 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 The West Somerset Local Plan (WSLP to 2032 and Saved Policies in WSDLP 2006) contains a number of provisions to encourage 'water efficiency, Policy CC5, minimise carbon emissions', CC1, Design, Policy NH13 and Energy & Waste conservation, Saved Policy BD/9. In accordance with the emerging Design Guide SPD any applications for reserved matters should be reviewed by the Quality Review Panel at an early stage. The design, submitted at reserved matters stage, needs to be sustainable and fully compliant with these policy provisions.
- 3 The Environment Agency offers the following additional advice:-

Measures should be taken to prevent the runoff of any contaminated drainage during the construction phase.

Flood Risk:

The majority of the built development is proposed within flood zone 1; however there are areas within the red line boundary of the site which fall within flood zone 2 and 3 (including the access/egress for the site).

The Council's Emergency Planners should be consulted in relation to flood emergency response and evacuation arrangements for the site. We strongly recommend that the applicant prepares a Flood Warning and Evacuation Plan for future occupants. The LPA may wish to secure this through an appropriate condition. We can confirm that the site does lie within a Flood Warning area. We do not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this

development during an emergency will be limited to delivering flood warnings to occupants/users. The responsibility is on LPA's to consult their Emergency Planners with regard to specific emergency planning issues relating to new development.

The foul drainage should be kept separate from the clean surface and roof water, and connected to the public sewerage system after conferring with the sewerage undertaker.

There must 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.

Any oil or chemical storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area.

- 4 The Lead Local Flood Authority offers the following additional advice which outlines the information the LLFA will expect to see in order to discharge the above conditions.
- Drawing / plans illustrating the proposed surface water drainage scheme including the sustainable methods employed to delay and control surface water discharged from the site, sewers and manholes, attenuation features, pumping stations (if required) and discharge locations. The current proposals may be treated as a minimum and further SuDS should be considered as part of a 'SuDS management train' approach to provide resilience within the design.
 - Infiltration testing, soakaway detailed design and construction in accordance with Building Research Digest 365. Infiltration features must be located more than 5m from building and road foundations and there must be a minimum of 1m between the base of any infiltration feature and maximum ground water level. If soakaways are shown as unviable after further testing, a suitable sustainable drainage scheme shall be shown.
 - Detailed, network level calculations demonstrating the performance of the proposed system are required and this should include:
 - Details of design criteria etc and where relevant, justification of the approach / events / durations used within the calculations.
 - Where relevant, calculations should consider the use of surcharged outfall conditions.
 - Performance of the network including water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details / discharge rates.
 - Results should be provided as a summary for each return period (as opposed to each individual storm event).
 - Evidence may take the form of software simulation results and should be supported by a suitably labelled plan/schematic to

allow cross checking between any calculations and the proposed network

- Detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific.
- Details for provision of any temporary drainage during construction. This should include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system. Suitable consideration should also be given to the surface water flood risk during construction such as not locating materials stores or other facilities within this flow route.
- Further information regarding external levels and surface water exceedance routes and how these will be directed through the development without exposing properties to flood risk.
- With regards to maintenance, it should be noted the condition is recommended as a 'pre-occupation' condition. The following information will be required
 - Detailed information regarding the adoption of features by a relevant body. This may consider an appropriate public body or statutory undertaker (such a water company through an agreed S104 application) or management company.
 - A management and maintenance plan for the lifetime of the development which shall outline site specific maintenance information to secure the long-term operation of the drainage system throughout the lifetime of the development.

Proposal

The proposed development as submitted is an outline planning application with all matters reserved, except for access, for the redevelopment of the site to provide a food store (A1), retail shops (A1), professional and financial services (A2), food and drink uses (A3), health services (D1), residential dwellings (C3), vehicle and pedestrian accesses, associated car parking and landscaping.

Following changes to the Use Class made in September 2020, the agent agreed by email dated 16 August 2021, to amend the description to "Outline planning application with all matters reserved, except for access, for the redevelopment of the site to provide a food store E(a), retail shops E(a), professional and financial services E(c)(i),(ii) and (iii), food and drink uses E(b), health services E(e), residential dwellings (C3) (no change), vehicle and pedestrian accesses, associated car parking and landscaping."

The car parking provision proposed is located in two areas providing a total of 175 parking spaces, 27 of which are wheelchair accessible spaces.

Outline permission is also sought for three dwellings which will be 2 bedroom

properties, as per the existing consent.

The application is accompanied by an indicative plan that shows how the development might be accommodated within the site. It shows:

- a new store occupying the north eastern corner of the site entrance to the south, service bays to the west between the site and the customer car park
- The vehicular entrance would be off Bank Street next to the police station and the existing Gliddons shop
- 4 new buildings indicated to the south of the store
- new roundabout on the A39 at the junction of Priest Street and Bank Street

The indicative plan shows a new building and service area with a pedestrian link to Fore Street emerging between the post office and a shop. Three shops are shown, and they would be the subject to a separate application where the need to manage the difference in levels between the two areas (approximately 1.5m) would need to be considered.

The application is accompanied with a suite of supporting information including:

- Design and Access Statement, May 2020, prepared by MWA
- Williton Bank Street – Retail Statement, May 2020 Prepared by Reeves Retail Planning Consultancy (RRPC)
- Technical Note: Highways, April 2020, prepared by Vectus
- Flood Risk Assessment (FRA) Update prepared by Clarkebond, Engineering Management Consultants in 2014

Site Description

The site is located off Bank Street and extends to the rear of the properties on Priest Street, Fore Street and Bank Street whilst to the north the site stretches as far as Shutgate Meadow. The site is approximately 1.59 hectares. The site is partially located within Flood Zone 2 on the southern and western extremities of the site. The site is located within an area of high archaeological potential and located near to several listed buildings, most notably the Police Station which is immediately adjacent to the site.

The existing use is a mixture of retail (Use Classes A1 (with effect from September 2020 shops are now Use Class E(a))) ' residential / gardens and dwellings (Use class C3) and storage and warehousing (Use Class B8)

Relevant Planning History

3/39/21/016 - Application for approval of reserved matters following outline application 3/39/14/024 for the appearance, landscaping, layout and scale of the site - Under Consideration

3/39/21/015 - Application for approval of reserved matters following outline application 3/39/14/010 for the appearance, landscaping, layout and scale of the site - Under Consideration

3/39/16/002 - Erection of up to 480 sq.m. gross of flexible A1/A2 (Now use class

E(a) and E(c) (i), (ii) and (iii) floorspace including landscaping and pedestrian link to Fore Street (resubmission of 3/39/14/024 without proposed roundabout) - Granted 3/39/14/024 - Outline application (with all matters but access reserved) for the erection of up to 480 sq.m. gross of flexible Class A1/A2 floorspace linked to proposed redevelopment of land associated with application ref: 3/39/14/010 to include vehicle and pedestrian access and landscaping - Allowed at Appeal.

3/39/14/037 - Lawful development certificate for the existing use of the land as retail, workshop, mixed light industrial use and storage - Granted

3/39/14/019 - Lawful Development Certificate for the existing use of the land and buildings as a shop (Class A1) - Granted

3/39/14/010 - Redevelopment of the site to provide a food store (A1), retail shops (A1), professional and financial services (A2), food and drink uses (A3), health services (D1), residential dwellings (C3), vehicle and pedestrian access, associated car parking and landscaping (resubmission of 3/39/11/002) in association with 3/39/14/024 - Allowed at Appeal.

3/39/11/012 - Extension of time in order to implement planning permission 3/39/08/001 for residential and small-scale retail including infrastructure and alterations to vehicular access - Withdrawn

3/39/11/002 - Redevelopment of site to provide food store (A1) retail shops (A1), professional financial services (A2), food and drink (A3), health services (D1), residential dwellings (C3), vehicle and pedestrian access, associated car parking and landscaping - Refused

3/39/08/001 - Residential and small-scale retail including infrastructure and alterations to vehicular access. – Approved

On 4 July 2017 planning permission was granted on appeal for the (3/39/14/010) redevelopment of the site to provide a food store (A1), retail shops (A1), professional and financial services (A2), food and drink uses (A3), health services (D1), residential dwellings (C3), vehicle and pedestrian access, associated car parking and landscaping (resubmission of 3/39/11/002) in association with 3/39/14/024.

On the same day planning permission was also granted for application 3/39/14/024 for the erection of up to 480 sqm gross flexible Class A1/A2 floorspace linked to 3/39/14/010.

The reserved matters applications 3/39/21/0015 and 3/39/21/016 are currently under consideration by the LPA.

Consultation Responses

WILLITON PARISH COUNCIL - Objection

1 The scheme prevents the building of the Inner Relief Road.

2. The proposed mini roundabout does not appear to improve the potential traffic flow which we still consider to be a problem. Having two mini roundabouts in proximity to each other would in our opinion lead to a backup of traffic and could lead to Bridge Street being used as a rat run which would be detrimental to the residential amenities of those living in Bridge Street.,
3. This proposal does not take the cumulative traffic and pollution impacts of other developments that have gained consent into consideration. The area cannot afford for Williton to become gridlocked or have significant
4. It is considered that the access through Breeze will still mean that, site barriers would have to be fitted along the pavement to stop children running into the road and this could lead to loss of some of the on-street parking. Concern is also raised regarding the width of the pedestrian link
5. It would appear that Bow Cottage and Stable Cottage will both lose their gardens as was also proposed under the application allowed on appeal. It is considered that the loss of the gardens is now no longer acceptable as it will have an adverse effect on the residential amenities of the occupier(s).
6. Suggested conditions if application approved
 - 3 hours free parking to ensure that users of the supermarket have time to visit the other shops and so safeguard the vitality of the shops.
 - Removal of permitted development rights for all the units to help ensure that the units stay in the uses granted.
 - Retention of the stone wall between the proposed pedestrian link and 17, 19 and 19A Fore Street in order to provide privacy for these properties. If necessary, the wall should be raised.
 - The approved details for staff parking, areas for loading ,unloading etc as agreed under Condition 23 (3/39/14/010) needs to be strengthened to ensure that these areas are retained once implemented.
 - A barrier at the Fore Street pedestrian link entrance be provided prior to the link opening and be retained thereafter.

WESSEX WATER AUTHORITY – No comments received

HIGHWAYS DEVELOPMENT CONTROL – After receipt of additional information, the highway authority confirmed that would be unlikely to sustain an objection and requested 8 planning conditions.

ENVIRONMENT AGENCY - No Objection subject to conditions relating to finished floor levels, contamination of the site, contamination not previously identified, a scheme for the prevention of pollution during the construction phase and note to applicant regarding flood risk.

ECONOMIC DEVELOPMENT AND INWARD INVESTMENT - We note that this application could create up to 150 jobs and has potential to create added vibrancy to the service centre of Williton.

LANDSCAPE – No comments received

RIGHTS OF WAY PROTECTION OFFICER - No comments received

SOUTH WEST HERITAGE TRUST - requests a condition relating to Programme

of works in Accordance with a Written Scheme of investigation (POW).

SWT ENVIRONMENTAL SERVICES - Recommends that the Contaminated land condition requested by the Environment Agency is expanded to include human health and the environment.

- Regarding noise conditions, these would need to be more specific conditions e.g. maximum noise levels (eg 3dB over background or similar) as this will inform the applicant as to what is expected regarding plant machinery.

LEAD LOCAL FLOOD AUTHORITY – No Objection subject to conditions relating to:-

- Sustainable surface water drainage scheme
- Future responsibility and maintenance of the surface water drainage system to be approved and
- Informatives are required regarding the level of detail/information to be submitted in order to discharge the requested conditions

Representations Received

Neighbours have been notified of the application and a site notice posted. This has resulted in receipt of 13 letters of representation. 11 raise objections to the proposal and 2 make neutral comments. The issues raised and grounds of objection can be summarised as follows:

11 x letters of objection

- The proposal development would have an adverse impact upon the operation of the Post Office
- The proposal would have an adverse impact on the main shopping centre
- 2 roundabouts in close proximity would cause traffic gridlock
- The proposal would adversely impact upon Williton which is one of nine Rural Villages with the most comprehensive combinations of government, services and facilities in England
- Creation of a supermarkets leads to a net loss of jobs
- Covid-19 and its restrictions will ensure fewer objections will be raised with business closed and many people shielding and not aware of local current events.
- The proposal would lead to the loss of Post Office and other shops and services.
- Free car parking should be compulsory and permanent
- New roundabout will be a hazard for those wishing to cross the road
- Congested traffic may use Bridge Road as an alternative route, which would have an adverse impact on Bridge Road
- Will the local authority assume responsibility for ongoing cleanliness and tidiness? of development; if not, developer should be obliged in perpetuity.
- Noise pollution for neighbouring residents due to external air conditioning units/chillers, delivery lorries etc
- Noise, air and light pollution would adversely impact mental and physical health of neighbours and the environment
- Unclear where supermarket staff smoking shelter would be located
- Landscape strategy is unclear

- Unclear lighting strategy
- Adverse impact on vitality and viability of Williton, with loss of trade for the Co-op and Spar shop
- Loss of Lloyds Bank would have an adverse impact as it's the only bank with disabled access
- The suggestion of 150 new jobs is not accurate as Morrisons in Minehead is twice as big and only employs 130 including part-time workers
- Could lead to loss of community as many of the existing population have chosen Williton as a quiet community
- Could this not be used for Affordable Housing?
- Not needed as already have large supermarkets in Minehead and Taunton
- The proposal would greatly change the character of Williton and would be harmful to existing business
- We should be helping existing business and individuals to recover from situation caused by Covid-19, not making major changes to our village
- Site will become attract anti-social behaviour as located behind existing high street
- The supermarket will eventually charge inflated prices, so clientele will be short live, as people then return Minehead/Taunton for their shopping
- Unappealing new face of village will result in loss of income as tourist and local pass through with no desire to stop and browse.
- What is the height of the proposed building?
- The proposal will impact on the amenity value of those in close proximity
- Little interest has been shown in landscaping and nature conservation
- The proposal is soulless, devoid of interest and lacking in imagination
- Land was inherited, therefore the applicant could do more and still return a profit
- 120 free car parking spaces will deprive the council from income from Killick Way
- Should a new flood relief document be produced as the one submitted is dated 2010 and refers to West Somerset District Council
- Concerns is raised over run-off affecting residential neighbours
- There is a need to deal with toxic water oil and buried industrial waste
- This proposal should be considered in conjunction with 3/39/20/003 and other application for large development of dwellings in Watchet and Williton
- Somerset County Council Highways has recommended that this planning application should be refused as this application needs to be viewed in conjunction with the planning application for 350 new houses on land behind Mamsey house. My view is that these developments when taken together will cause traffic gridlock in Williton, especially as the supermarket application proposes two roundabouts in close proximity near to one another. Is it possible for Taunton and West Somerset Planning to ask The Planning Inspectorate for a review of the planning inspectors decision to approve this application as three and a half years have gone by since the planning inspector gave his approval and a lot has changed since then?

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

ID1 - Infrastructure Delivery
SD 1 - Presumption in Favour of Sustainable Development
SC1 - Hierarchy of Settlements
SC2 - Housing Provision
SC3 - Appropriate Mix of Housing Types and Tenures
SC4 - Affordable Housing
SC5 - Self Containment of Settlements
SC6 - Safeguarding of Village Facilities
WI1 - Williton Development
EC1 - Widening and Strengthening the Local Economy
EC5 - Safeguarding Existing Employment Uses
EC12 - Minehead Primary Retail Area and Central Area for Alcombe, Watchet and Williton
TR1 - Access To and From West Somerset
TR2 - Reducing Reliance on the Private Car
CF2 - Planning For Healthy Communities
CC2 - Flood Risk Management
CC6 - Water Management
NH1 - Historic Environment
NH2 - Management of Heritage Assets
NH3 - Areas of High Archaeological Potential
NH4 - Historic Environment
NH6 - Nature Conservation and the Protection and Enhancement of Biodiversity
NH9 - Pollution, Contaminated Land and Land Instability
NH13 - Securing High Standards of Design

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

SH/3 - Retail Development Outside of Minehead Town Centre
T/7 - Non-residential Development Car Parking

Other Guidance considered

Somerset West and Taunton emerging Districtwide Design Guide SPD

Determining issues and considerations

The Principle of Development

Williton is one of two rural service centres identified in Policy SC1, Hierarchy of Settlements of the Local Plan. This policy seeks to contain development in the main centres of the district and policy SC1 clearly states that *'New development will be concentrated in the districts main centre, Minehead/Alcombe, and in the rural centres of Watchet and Williton, this will be on a scale generally proportionate to their respective roles and functions to their own communities and those in surrounding settlements that rely on their larger neighbours for the essential services and facilities'*.

Significant new growth is planned for the village of Williton during the plan period to 2032. Policy W12: Key Strategic Development at Williton, envisages mixed use, mainly residential, development of approximately 406 dwellings and 3ha. of compatible non-residential uses across three sites: Aller Mead, Land to the West of Williton and Land to the North of Danesfield School.

Planning permission was granted for 90 houses at Aller Mead (3/39/20/005, dated 29th May 2020), the smallest of these sites, and is currently in the process of being built and occupied. An application to develop the largest of the sites, Land to the West Of Williton has been received ref. 3/39/20/003,. It proposes a mixed use, mainly residential, development of 350 dwellings. If approved, residential development for Aller Mead and Land to the West of Williton would total 440 dwellings, nearly 10% more than the allocation figure – without taking into consideration the third Allocation site, Land to the North of Danesfield School. It is not known exactly how many houses that site might accommodate, or whether it will be developed during the plan period, however it is an allocated site. Modern housing tends to be developed to a density of 30-35 dwellings per hectare (the density for flats and town centres is often higher), so another 100-150 dwellings is not an unreasonable assumption, even allowing for greenspace and other uses. An increase of 550-600 new houses is realistic proposition within the plan period. At an average occupancy of 2.2. persons per dwelling, the likely increase in the village population during the plan period is 1,210-1,320 people.

Given this level of planned growth and the fact that significant growth has occurred with further growth planned in nearby Watchet the other rural centre identified in Policy SC1 of the Local Plan, the economic case for approving this supermarket led development is, if anything, stronger than it was in 2017 when the Planning Inspector allowed the appeal.

A number of objectors have pointed to changes in shopping patterns associated

with the expansion of online shopping and home grocery deliveries, and deliveries and questioned whether a new supermarket is required. Online shopping and home delivery has certainly expanded in recent years, boosted by the Covid pandemic and customer shielding. It seems likely that some of this change will be permanent, but the size of the shift is not sufficient to undermine the case for a new supermarket in Williton given the planned and likely levels of housing growth in the area.

The site that is the subject of this planning application is within the settlement boundary of Williton, has gained Certificates of Lawfulness to establish that the land and buildings can be used for A1 retail use, with the northern section of land for B1 and B8 and retail uses and has previously been approved under 3/39/14/010 for redevelopment of the site to provide a food store (A1), retail shops (A1), professional and financial services (A2), food and drink uses (A3), health services (D1), residential dwellings (C3), vehicle and pedestrian access, associated car parking and landscaping (resubmission of 3/11/0002) in association with 3/39/14/0024 an Outline Application (with all matters but access reserved) for the erection of up to 480 sqm gross flexible Class A1/A2 floorspace linked to proposed redevelopment of land associated with application 3/39/14/010 to include vehicle and pedestrian access and landscaping at Appeal as acceptable for development on 4th July 2017. Therefore, the proposed development is considered to comply with policy SC1

Policy SC5: Self Containment of Settlements, allows for "Development which improves the balance of land uses within a settlement in terms of minimising overall transport use will be encouraged". The proposed development is for the provision a food store (former A1 now E(a)), retail shops (former A1 now E(a)), professional and financial services (formerly A2 now E(c) (i), (ii) and (iii)), food and drink uses (formerly A3 now E(b)), health services (formerly D1 now E(e)), residential dwellings (C3 no change), vehicle and pedestrian accesses, associated car parking and landscaping. The proposed development if approved, would therefore provide employment opportunities and services for the local community thus reducing the reliance on the private motor. A local employment agreement would be aimed at giving a high priority to assisting local residents find work and improve their skills and would be secured by the S106 agreement. The local employment agreement that formed part of the appeal made under applications 3/39/14/010 and 3/39/14/024, referred to 150 full-time equivalent jobs. The Planning and Design and Access Statement that accompanies this application, states that this application has been submitted *'largely based upon those considered at the public inquiry of May 2017 and the Inspectors decision dated 4 July 2017*. It is therefore expected that 150 full-time equivalent employment opportunities will be created. The proposed development will allow for Williton to enhance its self-containment and so strengthen this large village as a local service, administrative and employment centre and therefore complies with planning policy SC5.

The development site is located in Williton which has its own policy in the Local Plan. Policy W11 supports development proposed in Williton provided it:

- "Support and strengthen the settlement's role as a local service, administrative

and employment centre for the north eastern part of West Somerset district, particularly in terms of the range and quality of its services and facilities, and;

- *Contribute to the improvement of traffic and transport management within the village, and;*
- *Complement the provision of employment opportunities, services and facilities in neighbouring Watchet*

Where appropriate, development must contribute towards resolving the flood risk issues which affect the settlement."

The proposed development would offer wider community benefit to Williton in terms of services and employment opportunities in addition to the creation of new homes. At present there is no supermarket in the town, with residents having to travel to Minehead, Taunton or Bridgwater for such facilities. The SWT Economic Development team have supported the proposal stating, *"We note that this application could create up to 150 jobs and has the potential to create added vibrancy to the service centre of Williton"*. The proposed development is therefore considered to accord with policy WI1,

Policy EC1: Widening and Strengthening the Local Economy, states proposals which will make the West Somerset economy stronger and more diverse and that are likely to increase the proportion of higher paid jobs locally will be supported.

New development, redevelopment and, conversion proposals for all types of employment generating activities will be encouraged. Where possible, such proposals should make use of existing employment sites, or of sites with similar and compatible uses where the development proposed would not have an adverse impact on the amenity of existing neighbouring uses. The proposal seeks to redevelopment an existing employment site and the appeal decision on the previous outline planning applications considered that the proposed A1 retain use would *"help to support and strengthen the village and local area and help create and maintain a strong and vibrant community"*.

The proposed development is therefore considered to accord with policy EC1

Policy EC5: Safeguarding Existing Employment Uses allows for development provided:

- it must be demonstrated that any new use proposed would not prejudice adjacent existing or proposed and;
- the new use will result in a reduction in undesirable transport movements to the locations over minor roads linking it to the national primary and country highway

principal route network.

The Retail Statement submitted was prepared by Reeves Retail Planning Consultancy Ltd and confirms that there has been little change to the centre since the previous Appeal decisions.

- The Co-op and Spar stores continue to trade, with the former having been refurbished in 2017.

- The Orange Pip florist has closed, and the unit is now occupied by an Antiques dealer;
- The former newsagents unit has been occupied by an Art Gallery;
- The Glenmore bakery has relocated to a new premises just outside of the defined centre on Long Street. Its former unit on Fore Street is now occupied by an acupuncturist;
- The adjoining units previously occupied by the RSPCA and Silhouette Hair Salon have been vacated and are currently being refurbished for occupation by the owner;
- The public toilets at Killick Way are currently closed; and
- The NFU have expanded their offices to the whole of the ground floor of the former Bank on Bank Street.

The village centre would therefore appear to be in a moderate health with little change from 2017 when the appeals were determined on the previous planning applications. At that time the Planning Inspector considered that the overall impact for the centre would be positive with the proposed development adding to the centres vitality and viability. Neither the Co-op nor the Spar have submitted any comments in relation to this application.. There is an objection from the Post Office however this has not specially demonstrated that the proposed development would prejudice this existing business though it has shown general objection to the proposal.

Taking into consideration the existing use of the site for A1 (E(a), B1 (E(g) and B8 (no change) uses and the lack of objection and comments from the established convenience stores and other local businesses the proposed development is considered to accord with policy EC5

There has been a material change in circumstance within the village. Two changes have brought the W12 policy allocation closer towards realization. Firstly, Outline and Reserved Matters approval has been granted for 90 dwellings on the Donniford Road site, the smallest of the three allocated sites. Secondly an application for mixed, mainly residential, use has also been received in relation to the West of Williton site. Both these developments represent material changes that strengthen the case for this scheme by providing a larger population base to support the development.

The principle of development is considered acceptable as the proposed development relates to a site within the settlement boundary for Williton, the site has extant consent for a very similar development and a Reserved Matters application for that development has been submitted and is currently under consideration by this local planning authority.

Design

The proposed development is an outline planning application with all matters reserved, except for access, therefore the design of the A1 (now E(a)), A2 (now E(c) (i), (ii), (iii), A3 (now E(b), D1 (now E(e), C3 (no change), pedestrian accesses, associated car parking and landscaping will be dealt with at the Reserved Matters stage

At the Reserved Matters stage the proposed development would have to address policy NH13: Securing High Standards of Design. This policy clearly states that “New development will be expected to meet the highest standards of design.” The NPPF has recently been updated and now requires *“Plans, should at the most appropriate level set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable”* As this local planning authority is currently considering two applications for Reserved Matters for the appeal decisions, advice on design of the proposed development will be provided under applications 3/21/015 and 3/39/21/16. The emerging Districtwide Design Guide SPD that is currently out for public consultation should however be used when making a submission for Reserved Matters for this application.

Other than to state that the development is conveniently located in a sustainable location in the village centre, strengthening self-containment and facilitating linked trips the accompanying Design and Access Statement says little about sustainability. This issue will need to be fully resolved at the Reserved Matters stage when design is considered. It is however considered necessary to add a note to the applicant highlighting this planning authority's sustainability expectations.

Within the ownership of the applicant are two dwellings: Stable and Bow Cottages which are located adjacent to the link with Fore Street. These dwellings were previously impacted upon by application 3/39/14/010, however the Planning Inspector at the appeal did not consider this to be an issue. At the Reserved Matters stage the proposed development would need to ensure its compliance with policy NH13: Securing High Standards of Design. To ensure sufficient amenity space is available for both dwellings.

Highway Matters

Somerset County Council, as the Highways Authority has worked with the agent on this matter which has attracted much objection from interested third parties and has entered into negotiations in relation to its impact on the operation of Fore Street, High Street A358 and the A39 Bank Street mini roundabout

The proposed development under application 3/39/20/003 (erection of up to 350 dwellings and approximately 1,000sqm of flexible uses within D1 and B1 use classes) is currently under consideration and lies to the west of this site. It is considered necessary for both development sites to address each other's highways impacts.

The Highways Authority has concluded from the submitted information that, *“Whilst RFC values of over 0.85 are normally undesirable, in this location with the constraints already detailed, and the fact that an extant permission exists, this Authority considers that whilst the impact of this development may increase queue lengths in time for short periods during the peak flow hours, this impact cannot be considered severe.* As such the Highway Authority has not objected to the proposed development.”

Recently the Highway Authority has advised the LPA that there is a proposal to

improve permeability and access to the town centre by creating a pedestrian/cycle link across this development site and 3/39/20/003. Should both development sites gain consent the Highway Authority consider that this would be an improvement that would be most beneficial, and they have asked that the pedestrian/cycle link would be secured via a S106 agreement.

SCC clearly stated in their latest consultation response that *“The initial comments provided by this Authority were made to ensure that, whilst planning permission had already been granted for development of this site and therefore the principle of development had been set, any renewal of the said permission took into account current traffic levels in the area.”*

The highway authority goes on to state that following the submission of the requested addition information “this Authority would be unlikely to sustain an objection”. They confirm that a Travel plan would be required prior to commencement and the s278 works to construct the access roundabout within the existing highway. A further 8 planning conditions are requested relating to the following matters: -

- A scheme of works to provide the revised vehicle access from Bank Street to the south of the
- Prior to the opening of the supermarket the pedestrian route linking to Fore Street shall be constructed.
- Prior to the opening of the supermarket or any of the retail/commercial units hereby permitted, the car parking areas and vehicle turning spaces shall be constructed
- No development shall be commenced until a scheme for the provision of surface water drainage has been approved
- No building hereby permitted shall be occupied or otherwise used until provision has been made within the site for the loading and unloading of goods vehicles
- No development hereby permitted shall commence until a Construction Traffic Management Plan has been approved. The plan and any contract shall stipulate
- the size of vehicles to be used for deliveries and the routes to be used. The approved contractor shall ensure that works do not interrupt the movement of traffic on the A39 at certain times: November to March. Monday to Friday 08:00-09:30; April to October, Monday to Saturday 08:00-19:00; nor April to October, Sundays 10:00-19:00.
- No development shall commence on site until details of secure covered cycle parking
- The development shall not be brought into use until the accesses, staff parking facilities and areas for the manoeuvring, parking, loading and unloading of
- vehicles have been laid out, consolidated, surfaced and drained.

In addition to the above policy CF2: Planning for healthy Communities requires *“development to help address the causes of ill health and maximize the benefit which spatial planning can provide in shaping healthy communities, development proposals should be designed in order to maximize the attractiveness of walking and cycling as means of making journeys to local services and facilities, and also*

to encourage recreational walking and cycling. Provision for disability access is also to be encouraged.

A health impact assessment will be required for all strategic development Proposals”.

The submitted plans, whilst only indicative, do include cycle parking and include pedestrian links on to Fore Street. This will allow for good connectivity with the independent stores along Fore Street for both cyclist and pedestrians and the proposed development is therefore considered to accord with policy CF2.

Economic Matters

Policy EC12: Minehead Primary Retail Area and Central Areas for Alcombe, Watchet and Williton, paragraph 2 states:-

"Within the Alcombe, Watchet and Williton retail areas, as defined on the Policies Map, business activities of retail and retail related activities in all the A-class uses will be the preferred use at ground floor level."

The overall development strategy of the Local Plan requires identification and protection of existing economic and shopping services and facilities that can provide the opportunities for existing and future residents to adopt more sustainable lifestyles. The absence of any significant proposed improvements to the transport networks within West Somerset area will provide the opportunities for the existing centres to consolidate and enhance their economic vitality and viability. Williton acts as an important local centre with a range of shopping related facilities meeting the essential day-to-day needs for the residents of the village however there is no supermarket within the village.

Policy SH/3 Retail Development Outside of Minehead Town Centre remains extant following the adoption of the West Somerset Local Plan to 2032. This policy will not permit proposals for retail development (including wholesale, retail, trade, 'cash and carry' and 'club warehouses') outside Minehead Town Centre, as defined on the Proposals Map, unless it can be satisfactorily demonstrated that:

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

The site has previously been given consent from two Appeal decisions from 2017 and this proposal is very similar to one of those applications 3/39/14/0010. As with the previous planning application much of the proposed retail floorspace, other than the convenience space, will be replacement floorspace for that currently

provided in the Gliddons stores on Bank Street. This therefore offers a fallback position in terms of conversion to 790 sqm of supermarket.

The Retail Statement May 2020 offers little to support policy SH/3 except to say *“This is the same policy framework as when the current extant permissions on the site were granted, including the two schemes allowed at appeal. There has also been no significant change to national planning policies for retail and town centres during the intervening period.”*

The proposed development and the creation of approximately 150 jobs has received support from the Somerset West and Taunton Economic Development team

Archaeological Matters

Most of the site is located close to the historic centre of the village in an area, identified in the policies map as being within an area of high archaeological potential. WSLP Policy NH3, Areas of High Archaeological Potential, requires a statement describing the significance of the heritage asset and the likely impacts on the asset to be submitted. In this case the County Archaeologist recommends that the developer be required to archaeologically excavate the heritage asset and provide a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 199) and seeks the imposition of a condition to secure a 'Programme of Works in Accordance with a Written Scheme of Investigation (POW)'. The recommended condition is considered both reasonable and necessary.

Flood Risk, Sustainability and Drainage

The site is located in Flood Zone 1, lowest risk. However the Lead Local Flood Authority (LLFA) has been consulted on the proposal as a small portion of land on the north-west boundary is within Flood Zones 2 and 3.

The LLFA provided updated comments on the proposal on 22 July 2021 stating that conditions should be applied regarding a sustainable surface water drainage scheme and the need for a plan for the future responsibility and maintenance of the surface water drainage system. The LLFA also requested notes to the applicant regarding the level of details that would be required to discharge these conditions.

The LLFA has stated that in regard to maintenance, it should be noted the condition is recommended as a 'pre-occupation' condition which the applicants agent has accepted. The Environment Agency (EA) has not objected to the proposed development subject to conditions requiring the following: -

- (iv) Finished floor levels at least 300mm above existing ground levels
- Scheme to deal with the risks associated with contamination
- If contamination not previously identified is found, then no further development shall be carried out until the submission and approval of an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with
- Submission and approval of a scheme for prevention of pollution during the construction phase has been approved by the LPA

The EA have also requested notes to the applicant regarding the Council's Emergency Planners being consulted in relation to flood emergency response and evacuation arrangements for the site. They strongly recommend that the applicant prepares a Flood Warning and Evacuation Plan for future occupants and foul drainage should be kept separate from the clean surface and roof water and that any oil or chemical storage facilities be sited in a bunded area.

It is noted however that the application is a resubmission of a scheme that was approved on appeal in 2017 and that the planned growth in the village, a rural service centre, strengthens the case for its development.

Other Matters

The Parish Council objects to the proposed development on the

following grounds:-

- 1 The scheme prevents the building of the Inner Relief Road.
2. The proposed mini roundabout does not appear to improve the potential traffic flow which we still consider to be a problem. Having two mini roundabouts in proximity to each other would in our opinion lead to a backup of traffic and could lead to Bridge Street being used as a rat run which would be detrimental to the residential amenities of those living in Bridge Street.,
3. This proposal does not take the cumulative traffic and pollution impacts of other developments that have gained consent into consideration. The area cannot afford for Williton to become gridlocked or have significant
4. It is considered that the access through Breeze will still mean that, site barriers would have to be fitted along the pavement to stop children running into the road and this could lead to loss of some of the on-street parking. Concern is also raised regarding the width of the pedestrian link
5. It would appear that Bow Cottage and Stable Cottage will both lose their gardens as was also proposed under the application allowed on appeal. It is considered that the loss of the gardens is now no longer acceptable as it will have an adverse effect on the residential amenities of the occupier(s).
6. Suggested conditions if application approved
 - 3 hours free parking to ensure that users of the supermarket have time to visit the other shops and so safeguard the vitality of the shops.
 - Removal of permitted development rights for all the units to help ensure that the units stay in the uses granted.
 - Retention of the stone wall between the proposed pedestrian link and 17, 19 and 19A Fore Street in order to provide privacy for these properties If necessary the wall should be raised.
 - The approved details for staff parking, areas for loading ,unloading etc as agreed under Condition 23 (3/39/14/010) needs to be strengthened to ensure that these areas are retained once implemented.
 - A barrier at the Fore Street pedestrian link entrance be provided prior to the link

opening and be retained thereafter.

Whilst the Parish Council has maintained their objection to the proposed development on the grounds that it prevents the building of an 'inner relief road, this issue was considered by the Planning Inspector in 2017. The Planning Inspector noted that the provision of an 'inner relief road did not feature in the WSLP to 2032 therefore gave this matter little weight (para. 71 of the appeal Decision – Appendix 1). The Parish Council justify resurrecting this issue on the grounds that material circumstances have changed since 2017. The WSLP was adopted in 2016 and the Policy W12:Key Strategic Development Allocations at Williton, was in place at the time of the Inspectors decision, albeit their implementation was not as advanced, and the likely provision in terms of overall housing numbers was not so obvious. It is considered that there is not a significant material change in circumstances since 2017, and certainly not sufficient to justify withholding planning permission on these grounds.

The removal of Permitted Development rights from the units is considered necessary to ensure the protection of the vitality and viability of the village centre. Any future changes to the retail units, including to residential use, would then have to be fully assessed and erosion of the villages retail, services and amenities could be protected.

The widening of the pavements and the associated movement to the highway is not part of this application as the land involved is outside of the applicants ownership.

The link between Fore Street and the proposed supermarket is considered sufficiently wide enough to allow for good connectivity, however as wheelchairs and mobility scooters come in a variety of sizes it is not possible to confirm that 2 such vehicles could pass each other, however it is expected that two single pushchair's/pram's would be able to pass.

Regarding the list of conditions proposed by the Parish Council points 1 and 2 are considered reasonable. Point 3 would be addressed at the Reserved Matters stage when matters of design are considered. The Highways Authority has requested a planning condition that includes staff parking and areas for loading ,unloading etc

Point 4 raises the issue of the wording regarding parking and Condition 23 of the Appeal decision (3/39/14/010), however the highways authority have supplied the same wording for staff parking, loading, unloading etc for this application therefore it is not considered that this condition needs to be strengthen. The Highway Authority has also requested a planning condition regarding the pedestrian route linking the site to Fore Street which requires the access to be "constructed in accordance with a scheme submitted to and approved in writing by the Local Planning Authority and shall be made available in perpetuity for public use.". This will address point 5 raised by the Parish Council.

Two letters making neutral comments have been received and 11 letters of objection.

The objections mainly relate to highway issues such as increase in traffic

movements, new roundabouts etc have been dealt with elsewhere within the report.

Issues such as the height and design of the buildings, location of staff smoking shelter and landscaping would be address at the Reserved Matters stage and this is an outline application with all matters reserved except for the access.

How the applicant acquired the land is not a planning issue and it is a matter for the applicant to decide on what type of development is brought forward. The local planning authority can only assess what is proposed. It should however be remembered that the site has an extant consent for a similar development.

There is no loss of the existing Lloyd's Bank under this proposal though there may be some loss of council income from the car park at Killick Way.

The end operator of the supermarket will decide how the car parking is operated, and if free parking is provided conditions will be used to restrict opening and delivery times in order to protect the amenity of the surrounding residential neighbours.

Whilst it is accepted that some people may move out of the area the village is allocated for growth in terms of residential units therefore the impact on 'community will be minimal from this proposal. The Local Plan further seeks to provide self-containment for Williton and therefore a Supermarket will assist with this and help reduce the numbers who travel to shop in Minehead and Taunton.

The issue of Covid-19 restriction and its impact upon retail units is dealt with by SWT who offer support outside of planning legislation such as making arrangements to make the £10,000 and £25,000 Small Business Grant Fund and Retail, Hospitality and Leisure Grant Fund payments.

If the site was to suffer from anti-social behaviour issues this would be a matter for the police, but only if/when such behaviour occurred. The site owner would be responsible for the cleanliness and tidiness of the site.

It is unclear why a Supermarket located to the rear of Fore Street, the main retail area, would stop tourists from stopping and browsing in Williton, particularly if they are in self-catering accommodation and require a supermarket. It is also unclear why the prices for a supermarket in Williton would be higher than a Supermarket in Taunton or Minehead

No known hazardous materials are buried on site however the EA have requested a condition regarding this issue.

The application has been assessed in a wider context taking into consideration the proposed growth for the village including application 3/39/20/003

Section 106 Requirements

There will be a requirement for a Section 106 Agreement to address the following as Policy ID1, Infrastructure Delivery of the adopted West Somerset District Local

Plan to 2032 requires development to provide for the delivery of an appropriate level of justified new or improved transport, education, health, cultural, sport, recreation and green infrastructure in relation to the development proposed.

This application generates a requirement to secure:-

- The Travel Plan
- The access junction works
- The pedestrian link to Fore Street
- Local Employment Agreement

Conclusion

Williton has been identified as a settlement in West Somerset that will experience sustained planned growth and change over the next ten years and beyond. The Planning Inspector, considering similar supermarket led development proposals at appeal in 2017, reached the conclusion that:-

“Drawing all the above points together, paragraph 14 of the NPPF explains that the presumption in favour of sustainable development should be seen as a golden thread running through both plan-making and decision-taking. In the context of these appeals this means approving development proposals that accord with the development plan without delay. A second strand of this section of paragraph 14 indicates that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Although the appellant maintains that it is this second strand – the “tilted balance” – that applies here (as saved Policy SH/3 from the 2006 LPA is out-of-date as it is not fully consistent with the NPPF), I am satisfied that the overall impact of these development proposals would not be to cause harm to the viability and vitality of the Williton retail area. As such, I do not find a conflict with Policy SH/3, notwithstanding the fact that it is somewhat out of kilter with the NPPF. In these circumstances, and having regard to my conclusions on the main issues and the other matters discussed above; I conclude that both appeal proposals accord with the development plan. But even if the tilted-balance were to apply I am satisfied that any harm, which is only like to arise to the private interests of other individual retail operators, would not significantly and demonstrably outweigh the benefits of these proposals.”

Since then further planned growth has occurred in the village, at Aller Mead, much progress has been made on delivering the largest allocation site, at Land West of Williton. In addition considerable growth has occurred, and is planned in the future, at the nearby town of Watchet. This all strengthens the case for the supermarket led redevelopment of this site in accordance with Policies SC1, SC5, WI1 and EC1 of the adopted Local Plan.

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

Contact Officer: Denise Todd

Application No:	<u>3/07/21/007</u>
Parish	Crowcombe
Application Type	Full Planning Permission
Case Officer:	Briony Waterman
Grid Ref	Easting: 314218 Northing: 135003
Applicant	Mr John Buckland
Proposal	Erection of a first floor balcony extension to clubhouse with siting of additional 34 No. static caravan pitches and changes to internal road layout
Location	Quantock Orchard Caravan Park, Station Road, Crowcombe, TA4 4AW

Recommendation

Recommended decision: Grant

Recommended Conditions

- 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 001 Survey Plans
 (A3) DrNo 002 Proposed Plans
 (A3) DrNo 003 Elevations
 (A3) DrNo 004 Proposed Elevations
 (A3) DrNo 005 Site & Location Plan
 (A3) DrNo 003 Elevations
 (A3) DrNo 007 Rev D Proposed Site Plan
 (A3) DrNo 006 Block Plan

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

- 3 Prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it

can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels (Lux levels should be below 0.5 Lux). All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 4 Any vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10°C or above) before clearing to minimise the risk of harming/killing any reptiles or amphibians that may be present and to encourage their movement onto adjoining land. This work may only be undertaken during the period between March and October. Written notification of the date of the operations will be submitted to the Local Planning Authority prior to the works being undertaken. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. A letter confirming these operations and any findings will be submitted to the Local Planning Authority.

Reason: In the interests of UK protected and priority species and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 5 Retained hedgerows and trees shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works, groundworks and construction and to ensure materials are not stored at the base of trees, hedgerows and other sensitive habitats. Photographs of the measures shall be submitted to the Local Planning Authority prior to the commencement of any vegetative clearance or groundworks. The measures shall be maintained throughout the construction period.

Reason: A pre-commencement condition in the interests of European and UK protected species and biodiversity generally and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 6 The following will be integrated into the design of the proposal
 - A) 3x Schwegler 1B and 3x Schwegler 2H bird boxes, or similar, will be installed on retained trees at the boundary and maintained thereafter.
 - B) Where the landscaping scheme allows, new trees will be planted up with

native species comprised local native stock including a minimum of 5 of the following species: field maple, hornbeam, small-leaved lime, pedunculate oak, silver birch, beech, hazel, blackthorn, hawthorn, elder and bird cherry.

- A) Where the landscaping scheme allows new shrubs will be planted across the site, all of which must be high nectar producing to encourage a range of invertebrates to the site, to provide continued foraging for bats. The shrubs must also appeal to night-flying moths which are a key food source for bats. The Royal Horticultural Society guide, "RHS Perfect for Pollinators, www.rhs.org.uk/perfectforpollinators" provides a list of suitable plants both native and non-native.

Plans and photographs of the installed features will be submitted to and agreed in writing by the Local Planning Authority prior to first use.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National Planning Policy Framework

- 7 The caravans shall be occupied for tourism purposes only.

The caravans shall not be occupied as a person's sole or main residence.

The site operator or owner shall maintain an up to date register of the names of all owners/occupiers of individual caravans on the site and of their main home addresses, and the duration of their stay and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To prevent permanent occupation of the residential units within the open countryside.

- 8 No work on the hereby approved development shall commence nor any static caravan/mobile home shall be brought onto the site until a detailed sewage disposal scheme for the development and a programme of implementation for that scheme has been submitted to and approved in writing by the Local Planning Authority. Such approved scheme shall be fully implemented in accordance with the approved details and programme of implementation.

Reason: To ensure the satisfactory drainage of the development and to prevent pollution and/or flooding in accordance with Policy W/1 of the West Somerset District Local Plan.

Informative notes to applicant

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

The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

The applicant proposes use of non-mains drainage facilities. However, if the site is located within an area served by a public sewer, connection should be made to the public sewer in preference to private drainage options, unless the applicant can provide good reason why this is unfeasible. This is in accordance to the National Planning Policy Framework, Planning Practice Guidance. If non-mains foul drainage is the only feasible option an Environmental Permit may be required. This must be obtained from the Environment Agency before any discharge occurs and before any development commences. This process can take up to four months to complete and it cannot be guaranteed that a Permit will be granted. The applicant should contact the Environment Agency on 03708 506506 for further details on Environmental Permits or visit

<https://www.gov.uk/guidance/discharges-to-surface-water-and-groundwater-environmental-permits>.

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.

The applicant is advised that this decision grants permission for a total of 42 static caravans for use as holiday accommodation on the site which replaces the existing permission for 15 static pitches and 61 touring pitches granted under the 2013 permission.

Proposal

Permission is sought for a first floor balcony extension to the existing clubhouse and an additional 34 static caravans pitches on concrete bases and internal road layout.

There are currently 15 static caravan pitches on site, with the capacity for an additional 61 touring caravans as per the permission granted in 2013 this would allow for a total of 76 pitches. If granted this proposed development would allow for a total of 42 static caravans which if implemented, due to the size of the pitches required would remove the capacity for touring caravans within the site.

The internal road layout involves moving the road to the south east of the site further north to allow for statics along the boundary, the removal of the loop in the centre of

the site in favour of an additional two branches one to the north and one to the west to serve the static caravans. The new layout and provision of static caravan pitches removes the capacity for hosting touring caravans.

Site Description

The site is currently used as a touring and static caravan site situated at the top of Flaxpool Hill. The site is surrounded by trees and hedges on the north-west, south-west and south east boundaries beyond which are fields. To the northeast there is a garage and dwellings.

Relevant Planning History

3/07/13/004 - Change of use of 18 touring pitches to 15 static caravan pitches.granted 12/07/13

3/07/08/016 - Variation of conditions 3 and 5 on 3/07/08/001 - granted 13/11/08

3/07/08/001 - Change of use from small touring caravans to large holiday pitches (8-14) Granted 27/02/08.

Consultation Responses

Crowcombe Parish Council - The Parish Council have no objections to the proposed development as they could see that there was a need for improving the site but they did show concern about what has already been done prior to the application and breaches to present planning restrictions.

There had been significant signs of the removal of trees that had been done against the comments on a previous application. This matter has been highlighted with the Council Tree Officer and the Forestry Commission.

There have also been concerns about the present sewerage system on the site. These concerns were brought up in the report on a previous application (Ref: 3/07/13/004) and they are still ongoing to the extent that 2 owners of the adjoining properties paid for the system to be emptied. It is not acceptable to the adjoining residents and businesses to the site to suffer the smells emitted from the sewerage system on a regular basis. The system is now in an area that is not owned by the site, this should be addressed so that it is within the site, away from the neighbours, with the appropriate planning application and works carried out prior to the approval of this current application.

There is also significant signs of caravans on the site being used as permanent residences and/or for longer periods stipulated in the previous planning decisions. This has also previously been brought to the Councils attention in a previous application (Ref: 3/07/13/004).

The current application has been submitted without a full ecological report on the bat and newt population on the site and a full tree survey.

Crowcombe Parish Council would like to see this application suspended until these reports are done and submitted and a full sewerage scheme application submitted, approved and completed prior to the approval of the current application. There is also the need for a change of the length of stay for the residents if it is to comply with what the current owner has inherited

Highways Development Control -

I refer to the above application received on 2 June 2021 and following a site visit by the Highway Authority on 10 June 2021 have the following observations on the highway and transportation aspects of this proposal.

The proposal includes the siting for an additional 34 static caravan pitches within the site, with changes to the internal layout. It is to our understanding that the site already accommodates touring caravans, where this application would see these pitches replaced by static ones and additional areas provided. However, a desktop assessment will appear to indicate that other areas of the site are also being utilised for touring caravans.

Once active (and if consented), although there is likely to be an increase in trip generation to and from the site the proposal will see a reduction in touring caravans/vehicles towing caravans and replaced by 'standard vehicles'.

Whilst there are no proposed alterations to the existing access, there would appear scope to improve existing visibility arrangements to the west, which the Highway Authority would advise the applicant ascertain (with consideration of Manual For Streets guidance).

Wessex Water Authority - No comments received

Environment Agency -

The Environment Agency has no objection to this proposal, in principle, but would wish the following informatives and recommendations are included within the Decision Notice:

The applicant proposes use of non-mains drainage facilities. However, if the site is located within an area served by a public sewer, connection should be made to the public sewer in preference to private drainage options, unless the applicant can provide good reason why this is unfeasible. This is in accordance to the National Planning Policy Framework, Planning Practice Guidance. If non-mains foul drainage is the only feasible option an Environmental Permit may be required. This must be obtained from the Environment Agency before any discharge occurs and before any development commences. This process can take up to four months to complete and it cannot be guaranteed that a Permit will be granted. The applicant should contact the Environment Agency on 03708 506506 for further details on Environmental Permits or visit

<https://www.gov.uk/guidance/discharges-to-surface-water-and-groundwater-environmental-permits>.

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.

SCC - Ecologist - On receipt of further site photos from the applicant and the applicant explaining that the existing trees within the centre of the site were already removed some time ago I am satisfied that the habitats on site that will be impacted are predominantly well managed amenity grassland areas.

Recommendations

To comply with local and national policy, wildlife legislation, and the requirements of the mitigation hierarchy and for biodiversity net gain, please attach the following conditions to the planning permission if granted.

Bats

As no bat activity surveys have been submitted, I have to assume the presence of light averse species. The proposals should avoid external lighting of the boundaries of the site, therefore please attach the following condition:

- Prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels (Lux levels should be below 0.5 Lux). All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

Badgers

Due to the potential for badgers to use the habitat on site the following informative will be attached:

- The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during implementation of this permission it is

recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

Reptiles and amphibians

The grassland in the footprint of the construction areas should be maintained below 10cm in height, if left unmanaged there is potential for encountering amphibians and reptiles foraging and commuting through the wider landscape. In order to avoid harm to reptiles the following will be conditioned:

- Any vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level by hand, brashings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10°C or above) before clearing to minimise the risk of harming/killing any reptiles or amphibians that may be present and to encourage their movement onto adjoining land. This work may only be undertaken during the period between March and October. Written notification of the date of the operations will be submitted to the Local Planning Authority prior to the works being undertaken. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. A letter confirming these operations and any findings will be submitted to the Local Planning Authority.

Reason: In the interests of UK protected and priority species and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

Trees and hedgerows

The proposals will involve ground works adjacent to boundary hedgerows and trees, to ensure their protection the following condition should be applied:

- 1 Retained hedgerows and trees shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works, groundworks and construction and to ensure materials are not stored at the base of trees, hedgerows and other sensitive habitats. Photographs of the measures shall be submitted to the Local Planning Authority prior to the commencement of any vegetative clearance or groundworks. The measures shall be maintained throughout the construction period.

Reason: A pre-commencement condition in the interests of European and UK protected species and biodiversity generally and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

Biodiversity Enhancement (Net Gain)

As compensation and enhancement measures, and in accordance with National

Planning Policy Framework (NPPF) and draft Environment Bill, please apply the following conditions to any planning permission granted.

- The following will be integrated into the design of the proposal
- A) 3x Schwegler 1B and 3x Schwegler 2H bird boxes, or similar, will be installed on retained trees at the boundary and maintained thereafter.
- B) Where the landscaping scheme allows, new trees will be planted up with native species comprised local native stock including a minimum of 5 of the following species: field maple, hornbeam, small-leaved lime, pedunculate oak, silver birch, beech, hazel, blackthorn, hawthorn, elder and bird cherry.
- A) Where the landscaping scheme allows new shrubs will be planted across the site, all of which must be high nectar producing to encourage a range of invertebrates to the site, to provide continued foraging for bats. The shrubs must also appeal to night-flying moths which are a key food source for bats. The Royal Horticultural Society guide, “RHS Perfect for Pollinators, www.rhs.org.uk/perfectforpollinators” provides a list of suitable plants both native and non-native.

Plans and photographs of the installed features will be submitted to and agreed in writing by the Local Planning Authority prior to first use.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National Planning Policy Framework

Provided the above conditions are applied as worded, I have no objection to this application.

Economic Regeneration and Tourism - No comments received

Habitats Regulations Assessment

Due to the location of the proposal it is considered that a HRA is not required.

Representations Received

Four letters of objection making the following comments (summarised):

- Sewerage treatment plant is not adequate to service another 34 units
- fumes of the Klargestar emits means we cannot enjoy our garden.
- Klargestar should be relocated to the south of the site
- the site was landscaped with small garden trees separating the caravan park
- trees have been removed which was part of the original planning to screen the site.
- area has housed bats
- additional 34 pitches - additional to or replacing the current tourer's?

- is the current use a clubhouse or ablutions/ service block? a club house would imply mainly social use which would have a greater impact on residents
- the existing services are not sufficient to meet the current use
- system has been checked but went on to say he would replace pipework and additional pumps suggesting additional work is required.
- whatever servicing has been conducted the system seems unable to meet the existing requirements
- proposal would see an uplift in occupancy numbers during the whole year.
- Works have already started with site clearance and trench work with almost all the internal screening hedges and trees been removed, natural sound deadening has been lost and visual impact increased, the site is now visible from the Quantock Hills and light pollution to my property with no suggested planting scheme to reduce the impact or absorb the noise
- assured the Klargestar is up to specification and will be maintained but still smells with limited numbers in the park.
- The survey requested by the EA in 2015 should be consulted and checked
- no objection to the principle of replacing touring with statics or balcony but foul water needs to be in place.

One letter making neutral comments:

no object to overall plan concerns over sewerage that has never been able to cope

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

OC1	Open Countryside development
EC9	Tourism outside settlements
SD1	Presumption in favour of sustainable development

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

OC1	Open Countryside development
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EC9	Tourism outside settlements
SD1	Presumption in favour of sustainable development

Determining issues and considerations

The main considerations in determining this application are the principle of development, impact on visual and residential amenity and highway safety.

Principle of development

The site is an established holiday site within the open countryside. Policies OC1 and EC9 are therefore relevant in determining whether the principle of development is acceptable or not. It is considered that it would not cause significant harm to the open countryside as the caravan park is an existing business and the additional 34 static caravans would replace the existing 61 touring pitches. The site sits behind a small cluster of properties and a garage, it is considered the additional static caravans will be read in conjunction with the existing site and the proposal is therefore considered acceptable in principle.

Visual impact

It is noted that the addition of static caravans may have an impact on the visual amenity of the area as they are 'year round' compared to the touring caravans which were not permeant. However it is considered that these will be read in the context of the existing static caravans, clubhouse and dwellings to the north when viewed from the Quantock Hills Area of Outstanding Natural Beauty. There are trees and hedging on the boundaries screening the site with three Ash, one Elder and one Hazel within the centre of the site which will help with the screening of the proposal it is therefore considered to be acceptable.

Residential amenity

It is considered that the replacement of touring caravans would not have a significant impact upon the residential amenity of the properties to the north, the site is a caravan park with touring pitches around the site. There is an active permission for 76 pitches on the site this proposal, if granted, reduces the number of pitches available to 42. It is therefore considered to not have a significant impact upon the residential amenity of the neighbouring properties due to the reduction in the number of pitches available and therefore the potential for a reduction in the number of vehicles and visitors to the site. It is noted that the caravans are close to each other but the residential amenity is acceptable for holiday occupiers of the caravans.

The extension to the clubhouse and inclusion of a balcony is not considered to have a significant impact upon the residential amenity of the area due to its location. It will look towards the caravans within the site and not to the neighbouring properties to

the north.

Highway safety

Comments from the Highway Authority state that there is likely to be an increase in trip generation to and from the site, however there will be a reduction in touring caravans/vehicles these will be replaced by 'standard vehicles' which have a different impact upon the highway network. Overall there is a reduction in the number of pitches on the site and therefore potentially a reduction in the number of vehicles accessing the site. It is therefore considered that the proposal would not have a significant impact upon the highway network.

Additional Matters

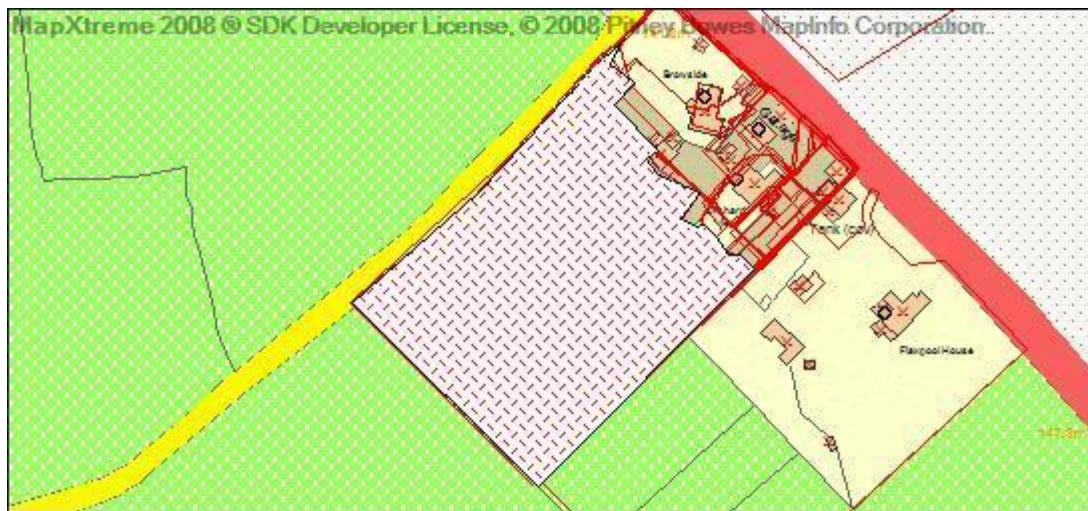
Comments have been received concerning whether the Klagester can cope with the increase in load, these concerns were raised under the earlier application where a condition was included which has subsequently been discharged. Comments from the Environment Agency raise no objections to the proposal. However a condition has been included to ensure a detailed sewerage disposal scheme is implemented prior to occupation of the additional static caravans to alleviate the concerns of neighbours and the parish council

A condition has been included for the use of the caravans as holiday use only to prevent any permanent occupancy which would be contrary to policies OC1 and SD1.

Comments relating to the landscaping and the removal of trees are noted and whilst their removal did not require permission a decision was made to make a Tree Preservation Order on the boundary and internal trees to ensure there is no further disruption to the visual amenity of the area.

It is therefore recommended that planning permission be granted.

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



09/21/0007

MR T & MRS L MORROW

**Erection of a single storey extension to the rear of The Old Waterworks,
Chipstable Road, Chipstable**

Location: THE OLD WATERWORKS, CHIPSTABLE ROAD, CHIPSTABLE,
TAUNTON, TA4 2PZ

Grid Reference: 304413.127271

Full Planning Permission

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 2021048 001 Location & Block Plan
(A3) DrNo 2021048 004 Existing & Proposed Site Plan
(A3) DrNo 2021048 003 Proposed Drawings

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

3. The external finishes of the works hereby permitted shall match in material, colour, style, type, size, pointing, coursing, jointing, profile and texture those of the existing building.

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

Notes to Applicant

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

planning conditions to enable the grant of planning permission.

Proposal

The proposed development is for the erection of a single storey extension to the east (rear) elevation in order to create a fifth bedroom and side corridor/hall. This will project 4.2m to the east and be about 5.76m wide. The bedroom will have a gable roof with a ridge height of about 4.15m and an eaves height of about 2.6m whilst the connecting hall will have a flat roof with a lantern rooflight. The total height of the flat roofed element with rooflight will be about 3.10m. The extension will be rendered with the bedroom having a slate dual-pitched roof to match the existing dwelling. There will be photovoltaic panels on the southern slope of the gable roof.

Site Description

The Old Waterworks was formerly a water treatment works building owned by Wessex Water which has been converted to a dwelling under planning permission 09/16/0006.

It is a rendered single storey dwelling effectively comprising two dual-pitched slate roof gables connected with a flat roof link with a timber entrance door and aluminium patio doors and windows. The roadside elevation is a mixture of stone wall, post and rail fencing and hedging. An access and parking area lies in the south-west corner of the site forward of the front elevation of the dwelling. It has curved stone wall sides and a permeable paved surface with an access drain where it meets the highway. This is an improvement on the existing access at this point which was used by Wessex Water.

The Old Waterworks is situated within Chipstable to the north of the centre of the village.

Relevant Planning History

09/16/0002 - change of use and conversion of water treatment works to a single storey dwelling, with extensions to the north and west elevations and a detached cycle store to the north. Refused 11/4/2016.

09/16/0006 - Change of use and conversion from water treatment works to single storey dwelling with extensions to north and west elevations - conditional approval 4/11/2016. Permitted development rights for future extensions/alterations were not removed with this permission.

09/19/0007/NMA - non-material amendment to application 09/16/0006 for changes to parking and associated matters, bi-fold doors and velux and internal layout - conditional approval 18/7/2019.

09/19/0012 - change of use of land from agricultural to domestic (retention of works already undertaken) - conditional approval 25/3/2020. Condition 2 removing permitted development rights for outbuildings on the land subject to the change of use was appealed to the Planning Inspectorate and the appeal was allowed on 7 September 2020. An outbuilding has been erected on this land close to the eastern

boundary.

09/20/0005/HHN - Prior approval for a larger home extension to the rear - no objection 23 June 2020. This application permitted a flat roofed single storey extension at the rear of the property to project 6m with a maximum height of 3m. The existing plans for the current application show this bedroom and ensuite extension in situ with a width of about 3.15m.

09/20/0006 - Formation of vehicular access, gates and associated parking area plus hard landscaping consisting of patio areas, retaining walls and steps - conditional approval 17 July 2020.

09/20/0008/HHN - Prior approval for a larger home extension to the rear - no objection 17 August 2020. This application permitted a single storey extension at the rear of the property projecting 8m with a gable roof with a maximum ridge height of 4m and a maximum eaves height of 3m. This extension has been built. It serves a sitting room, sits alongside the bedroom built under 09/20/0005/HHN and is 8m long and about 4.56m wide.

Consultation Responses

CHIPSTABLE PARISH COUNCIL - Chipstable Parish Council supports this application.

Habitats Regulations Assessment

Not applicable.

Representations Received

Five representations of support have been received, as follows:

- I am hoping the application will be granted. When it is all finished it will merge into the landscape.
- I fully support this application. It is a very small and sympathetic addition to the rear of the property and will add massive value to the family who need this space for quality of life.
- The proposed plans improve on a structure that wasn't, in its former form going to provide any utility to the community.
- The dwelling is still of modest size and is not out of keeping in size or style to neighbouring properties.

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,
A1 - Parking Requirements,
CP1 - Climate change,
D5 - Extensions to dwellings,

Local finance considerations

Community Infrastructure Levy

The proposal is not liable for CIL.

Determining issues and considerations

The determining factors for consideration are the effect on the amenities of neighbours, the appearance of the development and the impact on the street scene.

There will be no impact on residential amenity as the extension is to the north of the dwelling where there are no neighbours and due to the length of the residential curtilage to the east.

During the determination of 09/16/0006, the application which permitted the conversion of the building to a dwelling, the existing floor area of the property was approximately 28sqm and an extension of just under 24m² in size (about 77% of that of the existing building) was approved. The building therefore almost doubled in size. Since then there have been two prior approvals for larger home extensions increasing the aggregate area of extensions to approximately 218% of the original building. A side extension is currently being erected which will result in a further increase of about 33sqm whilst the current proposal will add on approximately 24sqm. This equates to a total increase of approximately 385% of the original building area. The consequence of the development to date and the proposed development will mean the original building quadrupling in size.

The original water treatment works building has been changed and engulfed by the additional extensions and although the proposed development will add to this, it is considered that as the character of the original building has already been lost the proposal will not cause any further harm in this respect. In addition, as the domestic curtilage has been extended under application 09/19/0012 the enlarged dwelling will not cause an over-development of the site.

The proposed development is in keeping in terms of the design and materials, with continued render, slate gables and fibre glass flat roofs with matching fenestration to

the existing. It will be almost aligned with the bedroom to the rear and so will enable the dwelling to look more balanced and symmetrical from the rear.

As a result of these extensions and internal re-configuration the number of bedrooms has increased from the two approved under 09/16/0006 to four, with a fifth now being proposed. Application 09/20/0006 approved a new access and parking area for two to three cars, which together with the existing parking area to the west of the dwelling, means off-road parking provision for about four cars. Policy A1 of the Site Allocations and Development Management Plan states that 4 bedrooms or more should have a maximum provision of 3.5 spaces plus visitor parking and Highways' Parking Standards states that four bedrooms requires 3.5 off-road parking spaces plus visitor parking. It is therefore considered that the existing and approved parking provision is acceptable.

The proposed extension will be partially visible from the highway when approaching the dwelling from the north, but as it will be in keeping with the existing dwelling it is considered that there will be no impact within the street scene.

The installation of photovoltaic panels on the southern slope of the gable roof is welcomed as it will contribute towards reducing the carbon footprint of the dwelling and as such complies with policy CP1 of the Site Allocations and Development Management Plan.

The proposed development is thus acceptable and in accordance with policy DM1 of the Taunton Deane Core Strategy and policies A1, CP1 and D5 of the Site Allocations and Development Management Plan. It is recommended for conditional approval.

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

Contact Officer: Mrs S Wilsher

APPEALS RECEIVED – 2 SEPTEMBER 2021

Site: Land adjacent to 1a St Decumans Road, Watchet, TA23 0AT

Proposal: Variation of Condition No. 02 (approved plans) of application 3/37/20/021

Application number: 3/37/21/007

Appeal reference: APP/W3330/W/21/3276277

Decision: Delegated Decision - Refusal

Enforcement Appeal:

Site: Land adjacent to the Post Office, Swain Street, Watchet, TA23 0AD

Proposal: Erection of an attached two storey building with 1 No. dwelling on first floor with arched access at ground floor

Application number: 3/37/21/001

Appeal reference: APP/W3330/W/21/3274756

Decision: Delegated Decision - Refusal

Enforcement Appeal

Site: Land between South Drive and Greenway, Bishops Lydeard, Taunton, TA4 3DA

Proposal: Alleged unauthorised works - installation of fences and other means of enclosure (contrary to Condition 21 on planning permission ref 06/08/0010) and change of use of woodland to residential curtilage on Land between South Drive and Greenway, Bishops Lydeard, Taunton, TA4 3DA

Application number:

Appeal reference: APP/W3330/C/21/3278331

Decision:

Enforcement Appeal: E/0062/0620

APPEAL DECISIONS – 2 SEPTEMBER 2021

Site:

A - FIELD B, NEW ENGLAND, CURLAND COMMON ROAD, CURLAND, TAUNTON, TA3 5SB

B & C – LAND ADJACENT TO NEW ENGLAND, CURLAND.

D & E – LAND ADJACENT TO NEW ENGLAND, CURLAND.

F & G - LAND ADJACENT TO NEW ENGLAND, CURLAND.

Proposal:

A – Erection of 2 No. agricultural buildings (1 double storey barn, 1 single storey chicken shed) at Field B and formation of a private access drive, hard standing, alteration to access at Field B, New England, Curland (retention of part works already undertaken) (resubmission of 15/19/0004)

B & C – Alleged unauthorised use of land adjacent to New England, Curland.

D & E – Alleged unauthorised laying on the land of a track on land adjacent to New England, Curland.

F & G - Alleged unauthorised construction of a building on the land adjacent to New England, Curland.

Appeal number:

A – APP/W3330/W/20/3260067 (15/20/0001)

B & C – APP/W3330/C/20/3260068 (E/0105/15/19)

D & E – APP/W3330/C/20/3260071 (E/0184/15/20)

F & G – APP/W3330/C/20/3260073 (E/0185/15/20)

Decision:

A – Appeal Dismissed, Costs Refused

B & C – Appeal Dismissed, Enforcement Notice Upheld Corrected and Varied

D & E – Appeal Allowed, Enforcement Notice Quashed

F & G – Appeal Dismissed, Enforcement Notice Upheld

Original Decision:

A – Delegated Decision - Refused



Appeal Decisions

Site visit made on 15 March 2021 by J Moss BSc (Hons)

DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11TH AUGUST 2021

Appeal A Ref: APP/W3330/W/20/3260067 Land at Field B, New England, Curland TA3 5SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr William Allen against the decision of Somerset West and Taunton Council.
 - The application Ref 15/20/0001, dated 25 March 2020, was refused by notice dated 14 July 2020.
 - The development proposed is the installation of an access track and yard, and the erection of two agricultural buildings. Building A – a double storey barn and Building B – a single storey chicken/sheep/cattle shed.
-

Appeal B and Appeal C Ref: APP/W3330/C/20/3260068 and 3260069 Land at New England, Curland, Taunton, Somerset TA3 5SB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr William Allen (Appeal B) and Mrs Patricia Allen (Appeal C) against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice, numbered E/0105/15/19, was issued on 21 August 2020 (Notice 1).
- The breach of planning control as alleged in the notice is: The mixed use of the land for agriculture and for the open storage of vehicles, vehicle parts, a caravan, building materials, UPVC windows, metal sheeting and other miscellaneous items not connected with the agricultural use of the land.
- The requirements of the notice are:
 1. Cease the use of the land for the open storage of vehicles, vehicle parts, a caravan, buildings, materials, UPVC windows, metal sheeting and other miscellaneous items not connected with the agricultural use of the land; and
 2. Remove from the land all vehicles, vehicle parts, a caravan, buildings, materials, UPVC windows, metal sheeting and other miscellaneous items not connected with the agricultural use of the land.
- The period for compliance with the requirements is two months from the date on which it takes effect.
- Appeal B is proceeding on the grounds set out in section 174(2)(a), (b), (c) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal C was proceeding on the grounds set out in section 174(2)(a), (b), (c) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed. Accordingly, Appeal B is proceeding only on the ground set out in section 174(2)(b), (c) and (g) of the Act.

Appeal D and Appeal E Ref: APP/W3330/C/20/3260071 and 3260072 Land at New England, Curland, Taunton, Somerset TA3 5SB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr William Allen (Appeal D) and Mrs Patricia Allen (Appeal E) against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice, numbered E/0105/15/19, was issued on 21 August 2020 (Notice 2).
- The breach of planning control as alleged in the notice is: the laying on the land of a track in the approximate position shown edged black and an area of hardstanding in the approximate position shown edged blue on the plan annexed to the notice.
- The requirements of the notice are:
 1. Break up the track and hard surfacing; and
 2. Remove from the land all materials and debris resulting from such breaking up.
- The period for compliance with the requirements is two months from the date on which the takes effect.
- Appeal D is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 as amended.
- Appeal E was proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed. Accordingly, Appeal E is proceeding only on the ground set out in section 174(2)(c) and (g) of the Act.

Appeal F and Appeal G Ref: APP/W3330/C/20/3260073 and 3260074 Land at New England, Curland, Taunton, Somerset TA3 5SB

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr William Allen (Appeal F) and Mrs Patricia Allen (Appeal G) against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice, numbered E/0105/15/19, was issued on 21 August 2020 (Notice 3).
- The breach of planning control as alleged in the notice is: The construction of a building on the land in the approximate position shown edged green on the plan annexed to the notice.
- The requirements of the notice are:
 1. Demolish the building referred to in paragraph 3 of the notice; and
 2. Remove from the land all building materials and debris resulting from such demolition.
- The period for compliance with the requirements is two months from the date on which the takes effect.
- The appeals are proceeding on the grounds set out in section 174(2)(b), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary Decisions: Appeal A is dismissed. Appeal B and Appeal C are dismissed and the enforcement notice is upheld as corrected and varied.

Appeal D and Appeal E are allowed and the enforcement notice is quashed. Appeal F and Appeal G are dismissed and the enforcement notice is upheld.

Application for costs

1. An application for costs was made by Mr William Allen against Somerset West and Taunton Council in respect of Appeal A. This application is the subject of a separate Decision.

Procedural Matters

2. Whilst the appeals were not all linked, they all relate to the same site and there are matters common to all seven appeals. In view of this, the appeals have been determined within this single decision letter. However, in view of the number of appeals, I have set out my decision in what I consider to be a logical order. I have firstly considered the legal grounds made on each of the appeals against the enforcement notices (grounds (b) and (c)), dealing with each notice and its related appeals in turn. I have then considered Appeal A followed by the ground (a) appeals and deemed planning applications made against Notice 1 and Notice 2. This is followed by my findings with regard to the remaining grounds of appeal (grounds (f) and (g)) against the enforcement notices.
3. Whilst I acknowledge the objections to developments that are the subject of the enforcement notices, I am not able to consider the planning merits of the alleged development in determining the legal grounds of appeal. Accordingly, many of the points raised are not relevant to the decisive matters in those legal grounds. Representations that relate to the planning merits have, however, been considered under the section 78 appeal, as well as the ground (a) appeals and the deemed planning applications.
4. Notice 1 includes an allegation of the laying of a track. The track is referred to by the Council in its evidence as a private way, which is a description used in The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the Order). The appellants' initial case was that the works to lay a track do not require the benefit of planning permission. However, in their final comments the appellants have suggested that the works at the entrance to the site do not constitute a private way. I have, therefore, considered this matter as a ground (b) appeal under section 174(2)(b), which is that the matters alleged in the enforcement notice, which appears to the Council to constitute the breach of planning control, have not occurred.
5. Finally, during the determination of the appeal a revision to the National Planning Policy Framework was published. The comments of the parties were, therefore, sought with regard to the National Planning Policy Framework (20 July 2021)(the Framework). I have had regard to all comments received in determining this appeal.

Appeal B and Appeal C - The notice

6. Notice 1 alleges a mixed use of the land for agriculture and for the open storage of vehicles, vehicle parts, a caravan, buildings, materials, UPVC windows, metal

sheeting and other miscellaneous items not connected with the agricultural use of the land.

7. Part 1 of the enforcement notice states that there has been a breach of planning control falling within section 171A(1)(a) of The Town and Country Planning Act 1990 as amended (the 1990 Act), which is the carrying out of development without the required planning permission. Development is defined in section 55(1) of the 1990 Act as including 'the making of any **material** change in the use of any building or other land'.
8. Whilst the notice refers to 'a mixed use of the land' it does not allege that a **material change** in the use of the land has occurred. It therefore follows that the allegation in the notice would not constitute development for the purposes of section 55(1) of the 1990 Act.
9. Section 57 of the 1990 Act provides that planning permission is required for the carrying out of any development of land. Because the breach of planning control as alleged in the notice does not constitute the development of land, it follows that planning permission would not be required for it. The notice is defective in that respect.
10. However, having regard to the appellants' case and their appeals under grounds (c) and (b), they have clearly understood that the allegation was intended to refer to a **material change of use**. As such, I am satisfied that a correction of the notice to include reference to a material change of use would not cause injustice in this case.
11. In addition to this, it is common ground that the normal use of the land is for agriculture. Indeed, this is an element of the alleged mixed use. As such, a correction to include reference in the notice to an agricultural use from which the material change of use has been made would again not cause injustice to any party.

Appeal B and Appeal C - Grounds (b) and (c)

12. The appeals on ground (b) are that the matters alleged in the enforcement notice, which appears to the Council to constitute the breach of planning control, have not occurred. The ground (c) appeals are that the matters alleged in the notice do not constitute a breach of planning control. In both cases the test of the evidence is on the balance of probability and the burden of proof is on the appellants.

Ground (b)

13. Notice 1, as I intend to correct it, alleges a material change of use of the land from a use for agriculture to a mixed use for agriculture and open storage. A mixed use is one where two or more primary uses occur within a single planning unit, but where it is not possible to say that one is incidental to the other or where, as a matter of fact and degree, the uses are not physically and/or functionally separated.
14. I am satisfied that the entirety of the land outlined in red on the plan attached to the notice may properly be regarded as a single unit of occupation. The southern part of the site was, however, where the items listed in the enforcement notice had been placed. In addition to this, I noted that some means of enclosure have also been erected on the land. Notwithstanding this, I noted the size of the appeal site, which is not extensive, and the extent of

the area now occupied by the items listed in the notice, which appears to be greater than that shown in the photographs attached to the Council's evidence. All of this considered, I am satisfied that, as a matter of fact and degree, the land outlined in red is the planning unit in this case.

15. With regard to the uses alleged within this planning unit, one is for 'open storage of vehicles, vehicle parts, a caravan, buildings, materials, UPVC windows, metal sheeting and other miscellaneous items not connected with the agricultural use of the land'. In their appeal statements the appellants confirm and list items that are on the land, these include most of those referred to in the enforcement notice. As such, and having observed these items on site, I am satisfied that an open storage use has taken place on the land.
16. As for the other use alleged, I observed that the stored items were amongst new features that included two enclosed poultry runs, one of which was occupied at the time of my visit. Furthermore, the northern portion of the site had also been divided with stock proof fencing ready for the keeping of animals. Indeed, there is no dispute that the lawful use of the site is for agriculture and that this use continues.
17. Having regard to the above, I am satisfied that both an agricultural and a storage use have taken place alongside each other within the planning unit (i.e. the appeal site). Whilst the appellant suggests the storage use is part of the lawful agricultural use of the site, these uses are distinctly different in character and cannot be regarded as the same use. They are two primary uses of the land. Furthermore, having observed the interaction of the storage use with the agricultural use on site, I am satisfied that these uses are not physically and/or functionally separated.
18. What is in dispute between the parties is whether or not these uses form a mixed use of the site, as alleged in the notice. The appellants state that the items are on the site for the purposes of agriculture. In this regard it is the appellants' case that the storage use is incidental to the agricultural use, and not part of a mixed use.
19. The appellants indicate that items stored on the land are to allow the expansion and running of their small holding. They suggest that building materials are being stored on site (including recycled materials such as a dismantled agricultural building) in anticipation of the grant of planning permission for the erection of buildings on the site. Indeed, I observed the dismantled building, lengths of timber, timber pallets, concrete blocks and corrugated metal sheets. I understand that this material might have a use in the construction of a building on the site in the future and that the building itself might have an agricultural use. However, I am not persuaded that the storage of building materials on the site serves the everyday agricultural activities that take place within the site.
20. Notwithstanding my findings above, as well as the open storage of building materials and metal sheeting, the allegation specifically includes UPVC windows in the list of items stored. The appellants maintain that such an item has not ever been stored on the site. Whilst I did not see any UPVC framed window units on my visit, I acknowledge that this does not mean that such an

item has never been stored on the land. Nevertheless, neither the Council nor interested parties have provided any further evidence to contradict the appellants' claim in this regard. For example, photographs from the officer's site visits showing the UPVC windows in question might have assisted. Whilst the storage of such items is not likely to have been ancillary to the agricultural use of the site (for

the reasons given above), I am not satisfied that the storage of UPVC windows has on the balance of probability occurred.

21. With regard to other items stored, I acknowledge that some items might well be used for certain agricultural activities on the site. In this regard the appellants point to machinery, vehicles and equipment that is currently used for moving other items of equipment, feed and animals. Provided these items are used in connection with or to facilitate the agricultural activities on the site, I am satisfied that the use of the land for the storage of these items would be incidental to the agricultural activities. Indeed, the tail end of the allegation in the notice (i.e. '.....not connected with the agricultural use of the land') is a qualification for the items listed in the notice and would, therefore, allow for the storage of items, such as machinery, vehicles and equipment, that are connected with the agricultural use of the land.
22. Notwithstanding this, the appellants refer to their vehicle repair business and suggest that certain items that they say are at the end of their life, have been brought onto the site with the view to repairing them in the future. I acknowledge that a typical farm might well have items stored that were once used on the farm, but are no longer useful or are in need of repair. However, the appellants' evidence suggests that such items (i.e. items that would have otherwise been discarded as waste) have been brought onto the site and are, therefore, stored on the land whilst they are awaiting repair. These items cannot, in my judgement, be regarded as facilitating the agricultural activities on the site. In these circumstances the site simply provides a place for these items to be stored before they are repaired and brought back into beneficial use. Indeed, I observed a large tractor being stored within what is described as a building in Notice 3. There are no doors or obvious openings in the building and, as such, there would be some difficulty in moving the tractor from the building. Accordingly, I consider it unlikely that it is in active use on the site.
23. With regard to the caravan, the Council acknowledge that a material change of use would not have occurred if it had been used as a rest facility in connection with the agricultural use. However, the Council suggest that at the time of its visits to the site access to the caravan was difficult and that it did not appear to be in regular use. Nevertheless, the appellants describe the caravan as a welfare unit and maintain that it provides toilet facilities and a place to take refreshments whilst they are working on the land. I observed the caravan on site and noted that, whilst its condition was poor, it was still capable of providing some form of shelter. All of the above considered, I am satisfied that the storage of a caravan has not on the balance of probability occurred.
24. In summary, I have found that the use of the land to store a caravan and UPVC windows has not on the balance of probability occurred. Furthermore, I am satisfied that the storage of some items on the land can be regarded as

being incidental to the agricultural use of the site. I am not, however, satisfied that the same could be said for the storage of all items on the land, when considered as a matter of fact and degree. For this reason I conclude that, subject to the variation of the allegation and requirements of the notice to remove reference to the caravan and UPVC windows, the material change of use of the land from agriculture to a mixed use for agriculture and open storage has on the balance of probability occurred. Accordingly, the ground (b) appeals fail insofar as they relate to a mixed use for agriculture and open storage of vehicles, vehicle parts, building materials, metal sheeting and other miscellaneous items not connected with the agricultural use of the land.

Ground (c)

25. As I note earlier in this decision, section 55(1) of the 1990 Act defines development as including the making of any material change in the use of any land. Furthermore, section 57 of the 1990 Act provides that planning permission is required for the carrying out of any development of land.
26. The use alleged in the notice is a mixed use for agriculture and open storage. Having the benefit of aerial images of the site prior to the use commencing, and noting the character of the surrounding agricultural land, I can see that the mixed use has resulted in a definable change in the character of the appeal site. In particular, the storage element of the mixed use is at odds with the character of the site in its former agricultural use. For this reason, it is more likely than not that the change in the use of the land from agriculture to the mixed use alleged is material. The appellants have given me no reason to conclude otherwise. Accordingly, I find that the material change in the use of the appeal site is development for the purposes of section 55(1) of the 1990 Act.
27. I have not been made aware of any reason why the material change of use of the land in question would not require the benefit of express planning permission, in accordance with section 57 of the 1990 Act, and it has not been suggested that the necessary planning permission has otherwise been granted. Accordingly, and on the balance of probability, the material change of use alleged in the enforcement notice, as I intend to correct it, constitutes a breach of planning control. For this reason the ground (c) appeals must fail.

Appeal D and Appeal E – Grounds (b) and (c)

28. I set out in the section above an explanation of the ground (b) and (c) appeals, as well as the relevant test of the evidence and the burden of proof. Notice 2 alleges the laying of a track and an area of hardstanding. The enforcement notice plan indicates that the track runs from an existing entrance to the site off the adjoining highway, towards the southern part of the site. The hard surfaced area is indicated on the enforcement notice plan as being at the southern end of the site.

Ground (b) - The laying of a track

29. I have noted in the procedural matters above that the appellants' position in their later appeal submissions is that the works undertaken at the entrance to the site do not constitute the formation of a private way. The appellants describe the works at the entrance to the site as a simple operation and
- suggest that the ground level has not been raised by a sufficient degree to render it an engineering operation. This part of the appellants' case was made following the Council's appeal statement, which refers to the laying of a track **and** the raising of ground levels at the site entrance.
30. At the site visit I observed that an area close to the site entrance had been hard surfaced with loose gravel or aggregate, as shown in the photographs provided. I also observed a raised bund either side of the hard surfaced area. Both parties have referred to engineering operations in their evidence, which might well be the raised bunds I observed. However, there is no reference in the enforcement notice to engineering operations or to the changing of ground levels. The notice only alleges the laying of a track. Accordingly, whatever the parties' position is with regard to whether or not works at the site entrance can be regarded as an engineering operation, this is not a matter that is before me to consider. My

consideration is confined only to the laying of a track and not to any other works undertaken at the site entrance.

31. With regard to the appellants' point, that the works do not constitute the formation of a private way, as noted above I observed a hard surfaced area that runs in a strip from the site entrance towards the southern part of the site. It is mostly the width of a large vehicle and has clearly been used for vehicular access to the southern part of the site from the site entrance. Whilst at the site entrance the hard surfaced area is wide enough for two domestic size vehicles to pass (or for one vehicle to park and another to pass it), the hard surfaced area has the character of a track. For these reasons, I am satisfied that the development described in the notice as the laying of a track in the approximate position shown edged black on the plan attached to the notice has, on the balance of probability, occurred. The ground (b) appeals fail in so far as they relate to the allegation of the laying of a track.

Ground (c) – the laying of a track and hardstanding

32. It was the appellants initial position that the track and hardstanding were permitted by the Order, although the relevant section of the Order was not specified. Nevertheless, it is common ground that both classes A¹ and B² of Part 6 (agricultural and forestry), Article 3 of Schedule 2 of the Order permit the formation or provision of a private way and the provision of a hard surface on agricultural land comprised in an agricultural unit where the development is reasonably necessary for the purposes of agriculture within the unit. Where development is permitted by the order, that permission is granted following the completion of the development.
33. Whilst there is no dispute that the appeal site is agricultural land comprised in an agricultural unit, it is the Council's case that the laying of track and hardstanding were not permitted by the Order as they are not development that is reasonably necessary for the purposes of agriculture within the unit. In this regard the Council suggests that, at the time the works were undertaken, the appellants did not have an agricultural trade or business and that the agricultural activity was a hobby.
34. Although not defined in the Order, the meaning of agriculture should be taken from section 336(1) of the 1990 Act. This includes such activities as the breeding and keeping of livestock and the use of land as grazing land or meadow land. The appellants maintain that they farm the appeal site and third parties have confirmed that the land is used for the keeping of chickens and sheep. Indeed, I observed an occupied poultry run on the site at my site visit. Furthermore, in their evidence the appellants have referred to a letter from the Council dated 13 August 2019, which follows a visit to the site by the Council's enforcement officer and refers to a lawful agricultural use of the land, as well as a hard standing and track.
35. Having regard to the above, it is in my judgement more likely than not that at the time the works to lay the track and hardstanding were undertaken, the appeal site was being used for agriculture and that this use continues. Whilst my conclusions with regard to the ground (b) appeals on Appeal B and Appeal C are that there has on the balance of probability been a mixed use of the land, the mixed use includes a use for agriculture. That one of the appellants is a mechanic and tyre fitter

¹ Class A - Agricultural development on units of 5 hectares or more.

² Class B - Agricultural development on units of less than 5 hectares.

operating a tyre service facility elsewhere does not alter my conclusion with regard to agriculture taking place within the agricultural unit.

36. When land is used for agricultural activities, such as those described above, it would not be unusual for vehicles, trailers or other such machinery to be brought on to the site and used in association with those activities, as described in the appellants' evidence. In addition to this, the appellants also describe the conditions on site to be difficult prior to the laying of the track and hardstanding. Indeed, I noted the gradient of the site and the ground conditions during my site visit. Accordingly, I have no reason to dispute that access to the site and parking on the site with any type of vehicle would be difficult without the hard surfaced track and hard standing area.
37. I acknowledge that there might have been a low level of agricultural activity on the site (described by the Council as a hobby) at the time of the works being undertaken. Nevertheless, I can see that there would have been, and continues to be, a reasonable need for a hard surfaced track and hard surfaced area to safely bring vehicles and machinery onto the site in association with agricultural activity taking place on the land. In my judgement, therefore, the development consisting of the laying of a track and hardstanding would have been reasonably necessary for the purposes of agriculture within the unit at the time of their construction.
38. The parties dispute whether the works to lay the track and hardstanding fall within Class A or Class B of Part 6, Article 3 of Schedule 2 of the Order. It is the appellants' case that the track benefits from the planning permission granted under Class A. They suggest that, whilst the appeal site is clearly not more than 5 hectares, it is part of a wider agricultural unit of more than 5 hectares. In this regard the appellants state that their agricultural unit comprises 2 hectares of land that they own (the appeal site and a parcel of land to the south), together with a further 3.5 hectares on which they have a 15 year lease, and an intention to buy a further 3 to 5 hectares. In support of their case the appellants point to the August 2019 letter from the Council, which states that 'the hard standing and track and small bunds adjacent to the track are considered permitted development and do not required planning permission'.
39. On the other hand, the Council state that at the time the hard standing and track were constructed, the appellants had not obtained the 15 year lease on the 3.5 hectares of land referred to above and, as such, the agricultural unit was less than 5 hectares. In their view, the relevant Class of Part 6 of the Order is B and not A.
40. The Council's case in this regard is corroborated by the appellants' initial evidence in which they refer to the August 2019 letter from the Council's enforcement officer and state that at this time they 'only had the 2 hectares of land'³. The letter refers to both a hard standing and a track. There is no suggestion that the track and hardstanding that are subject of the notice are not those referred to in the letter. It is, therefore, probable that at the time the track and hardstanding were constructed, the agricultural unit was less than 5 hectares. This is important for a number of reasons.
41. Firstly, the conditions of the permission granted under Class B for the provision of a private way on the appeal site do not require the developer to follow the prior approval process before beginning the development, contrary to the Council's

³ Page 2 of the appellants initial appeal statement.

suggestion. Unlike the prior approval condition⁴ of the permission granted under Class A, the prior approval condition⁵ of the permission granted by Class B for the provision of a private way would not apply in this case as the appeal site is not within an area identified in Article 2(4) of Part 2 Schedule 1 of the Order. Furthermore, there is no prior approval condition for the permission granted under Class B for the provision of a hard surface.

42. There is no dispute that the works to lay the track and hardstanding would not fall within any of the criteria set out in Class B.1. of Part 6, Article 3 of Schedule 2 of the Order. In particular, even if the appeal site were considered to be a separate parcel of land forming part of the appellants' agricultural unit, the development consisting of the track and hardstanding would not fall foul of Class B.1. (a)⁶ as there is no dispute that the appeal site is more than 0.4 hectares in area.
43. Whether or not Class B of Part 6, Schedule 2 of the Order permits development consisting of engineering operations is not relevant to the appeals as this is not a matter alleged in the enforcement notice.
44. Having regard to all of the above, I am satisfied that on the balance of probability the development consisting of laying of a track and hardstanding is permitted by Class B, of Part 3, Article 3, Schedule 2 of the Order. As such, the development does not constitute a breach of planning control. For this reason the ground (c) appeals succeed and Notice 2 will be quashed. Ground (a) and (g) for Appeal D and Ground (g) for Appeal E do not, therefore, fall to be considered.

Appeal F and Appeal G - Ground (b)

45. In order to succeed, the appellants must demonstrate that on the balance of probability the matters stated in the enforcement notice have not occurred. Notice 3 alleges the construction of a building. To use a neutral term I have referred to the alleged building as a unit.
46. It is the appellants' case that the unit that is the subject of this appeal is a temporary sheeted or covered area and not a building. In its evidence the Council point to the definition of a building provided in section 336 of the 1990 Act, which includes 'any structure or erection'. The Council also refer to the case of *Save Wooley Valley Action Group Ltd v Bath and North East Somerset Council* (2012). The appellants have referred to the case of *Skerritts of Nottingham Ltd v SSETR & Harrow LBC (No. 2) [2000] EWCA Civ 5569*.
47. Both of the above cases refer to the three primary factors that have been identified in settled caselaw (*Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd [1949] 1QB 385*) as decisive of what is a building. These are: (1) that it is of a size that it would normally be constructed, as opposed to being brought ready-made onto the site; (2) there would be physical attachment to the ground; and (3) it would cause a physical change of some permanence. None of the factors are necessarily decisive.

⁴ Class A.2.(2) of Part 6, Article 3 of Schedule 2 of the Order.

⁵ Class B.5.(2) of Part 6, Article 3 of Schedule 2 of the Order.

⁶ Class B.1.(a) of Part 6, Article 3 of Schedule 2 of the Order - Development is not permitted by Class B if - (a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 0.4 hectares in area.

48. With regard to the first of the above-mentioned factors, whilst the unit has a varied height that steps down in its rear section, it has a fairly low profile. Its size is modest within the wider context of the site, but it is comparable to that of a workshop or shed often found on such sites or field parcels of this size. In terms of construction, the unit does not have any of the usual window or door openings one would usually find on a building. I also note the appellants' suggestion that the unit only provides a covering for valuable items within. However, I saw that the unit has a structure provided by an internal timber frame. I could see that this structure provides its own support for the external materials of the unit, which consist mainly of solid side elevations and a solid roof covering in part, overlain with a flexible tarpaulin type sheeting.
49. The unit provides a fairly solid internal space for storage. Although the means of its construction appears organic, and is a response to the need to provide cover for items on site, there is no suggestion that it was prefabricated off site and brought to the site in whole or in sections.
50. Whilst I could see no means of physical attachment to the ground, the unit is fixed in position partly by external additions of timber pallets and other side coverings that add weight to the unit and secure the flexible roof covering. This does not in my view give the unit a temporary appearance, rather a solid yet unplanned appearance that has caused a physical change of some permanence to the site.
51. Whilst the size of the unit may not compare to that considered in the *Skerritts* case, the character of the unit before me is different to that of a marquee, which in most cases has a lightweight appearance and is designed to be dismantled and moved to be re-erected elsewhere.
52. Having regard to the unit's means of construction, degree of permanence, character and size, I find that it is, as a matter of fact and degree, a building that falls within the meaning of development in section 55(1) of the 1990 Act. For this reason I conclude that on the balance of probability the construction of a building on the land has occurred. Accordingly, the ground (b) appeals fail.

Appeal A - The appeal against the refusal of planning permission

Main Issues

53. Although not referred to in the reasons for refusal, in its appeal statement the Council have brought to my attention an additional matter relating to the effect of the development on protected species. The Council state that the appeal site is located within the drainage catchment of the Somerset Levels and Moors Special Protection Area (SPA) and RAMSAR site. It says that, in light of recent caselaw, referred to as the 'Dutch N' case, it is necessary for a greater degree of scrutiny of the effect of development on the protected site. The appellant has provided a comprehensive response to this in his final comments on the appeal. Accordingly, I have included this matter as a main issue in this case.
54. Having regard to the above, the main issues in this case are:
- Whether or not the location of the development is acceptable, having regard to local planning policy on the location of such development;

- The effect of the proposed development on the character and appearance of the site and surrounding area, with particular regard to the site's location adjacent to the Blackdown Hills Area of Outstanding Natural Beauty (AONB);
- The effect of the proposed development on surface water drainage; and
- The effect of the development on protected species and habitats.

Reasons

55. The proposal is for an access track and yard, and the erection of two agricultural buildings, one of which is described as a double storey barn (labelled building A on the submitted plans) for a tractor and lorry store with a mezzanine floor described as a hay loft. A second building is described as a single storey chicken/sheep/cattle shed (labelled building B).

Location

56. Part 4 a. of Policy DM2 (Development in the Countryside) of the Adopted Taunton Deane Core Strategy 2011 – 2028 dated September 2012 (TDCS) supports agricultural development that is outside of the defined settlement limits, provided that any buildings are commensurate with the role and function of the agricultural unit. Although the appellant refers to nearby development, he does not suggest that the site is within any defined settlement limits for the purposes of this Policy.
57. The appellant has provided information with regard to the land comprised in his agricultural unit, which includes 2 hectares of land he owns together with a further 3.5 hectares of land on a 15 year lease. Whilst he states he has an intention to obtain a further 3 to 5 hectares, I have not been advised that this land is within the agricultural unit at present. The unit therefore comprises some 5.5 hectares at present.
58. In order for the development to comply with policy DM2, it is important to understand the role and function of the agricultural unit on which the development is to be located. Whilst there is evidence of the use of the appeal site for the keeping of chickens and sheep, there is little information on current stock numbers and how the unit as a whole functions at present. Nevertheless, the document entitled 'Cost Information and Projections' provides a forecast of how the appellant proposes to expand his enterprise to include the keeping of 120 sheep, 8 milking cows and 750 chickens.
59. Having regard to the above, whilst I cannot be satisfied that the existing agricultural activities necessitate the development proposed, the same cannot be said for the proposed expansion of the enterprise within the existing unit. The evidence suggests that the quantum of development would be necessary for the appellant to expand his enterprise as proposed. Internal areas would be required to keep sick or vulnerable cattle or sheep. Secure dry storage would also be required for hay and feed storage, as well as the storage of machinery used on the unit. An area for workers to rest and take shelter would also be reasonable, along with a safe and durable yard area and access through the site.
60. I acknowledge the comprehensive representations from interested parties, in particular those that cast doubt on the appellant's ability to expand the enterprise as suggested. There is, nevertheless, an intention to grow the agricultural enterprise in some form and I note that the appellant has already invested in this. Any further development necessary to expand the enterprise as suggested would, in all likelihood, be subject to further scrutiny.

61. Having regard to the above, I am satisfied that the quantum of development proposed would, on balance, be commensurate with the role and function of the agricultural unit in this case, having regard to the intentions for the unit. For these reasons I find that the location of the development would be acceptable and that it accords with Part 4 a. of Policy DM2 of the TDCS.

Character and Appearance

62. The appeal site is a linear agricultural field parcel running north to south. The site slopes west to east; its western boundary is shared with the adjoining highway and its eastern boundary is shared with a watercourse. The appeal site contains areas of hard surfacing, a building and stored items, all of which have been referred to earlier in this decision. Due to the gradient of the site and the elevated level of the adjoining highway, there are almost uninterrupted views from the highway over the appeal site.
63. Whilst the site is south of a settlement, it is within a rural location characterised by field parcels, predominantly bound by hedgerow with occasional dwellings and agricultural type buildings. There is a detached building in the field parcel immediately to the south of the site. The highway adjoining the appeal site provides access to a public right of way (PROW) that starts just south of the site. The start of the PROW also marks the boundary of the AONB which continues to the south and west of the site.
64. The scheme proposes the construction of two buildings positioned in an 'L' shape at the southern end of the site, together with an associated yard area and access track to the buildings. Due to the gradient of the site, the plans indicate the need for substantial engineering works to almost level the site in the location of the proposed buildings. Building B would sit at the lowest level of this area and its ridge height is shown to fall level with, or just below the adjoining highway. Building B would have a two storey height and, whilst it would appear single storey when viewed from the adjoining highway, the floor level at first floor would be almost level with the highway.
65. Due to the elevated level of the highway, the building, the finished height of which would itself be elevated above the highway, would appear as a particularly prominent structure within the immediate vicinity of the site. Its close proximity to the western boundary of the site would exacerbate its prominence further. In addition, it is likely that the building's full (two storey) height and the extent of excavations necessary will be appreciated from the public vantage points along the highway. This elevated position would be at odds with other development I observed to the north and south of the site. The slab levels of nearby buildings were set low within the site and in a position set back from the highway.
66. When building A is considered together with building B, the proposed engineering works, the area of new hard surfacing and the proposed access track, the scheme would result in a substantial amount of development in a particularly narrow and confined parcel of land. The extent of development proposed is not comparable to the smaller pockets of development I observed in the close vicinity. In my judgement the development would, therefore, be at odds with the grain of development in the area, and would result in harm to the character and appearance of the site and its setting. I am not persuaded that this harm would be overcome with the landscaping proposed on site, particularly having regard to the extent of new development proposed.

67. Having viewed the site from within the AONB (from the PROW), whilst views of building B and the proposed yard would be screened by landscape features and the existing building to the south of the site, in my judgement building A would be prominent. Although the proposed development would form a cluster with the building on the adjoining site, it would add substantially to the built form within the setting of the AONB. Furthermore, the lighting that is likely to be necessary for such an agricultural yard area would add to the visual intrusion of the development into the landscape, particularly as it would introduce new sources of light where these are currently limited. The development would, therefore, cause harm to the character and setting of the AONB in this location and would, therefore, conflict with the purpose of the designation, to conserve and enhance the natural beauty of the area.
68. Having regard to the above, the proposed development would, in my judgement, have an adverse effect on the character and appearance of the site and surrounding area, in particular the AONB. The development would have a harmful effect on the landscape, and would neither conserve nor enhance the natural environment. The development would not, therefore, accord with Policies DM1 (General Requirements) and CP8 (Environment) of the TDCS. Furthermore, the development would also fail to comply with part 8 of Policy DM2 of the TDCS as it would be of a scale, design and layout that is not compatible with the rural character of the area.
69. In accordance with paragraph 176 of the Framework, I must give great weight to the conservation (and enhancement) of the landscape and scenic beauty of the AONB. Accordingly, in view of the harm I have identified with regard to the character and setting of the AONB, the proposed development would also conflict with paragraph 176 of the Framework, as well as the policies contained within the Blackdown Hills Area of Outstanding Natural Beauty Management Plan 2019 – 2024, which requires development to conserve and enhance the natural beauty and special qualities of the AONB.
70. I have had regard to the examples of other similar development that have been brought to my attention and I was able to view one of these on my site visit⁷. Whilst these examples are noted, I have not been provided with the full circumstances that resulted in their construction, including the details of any relevant planning applications. As such, I am unable to make an informed comparison between the development in those cases and that subject of this appeal. Nevertheless, in the case that is before me I have identified harm in respect of the main issues, having considered the particular circumstances of the case.

Flood Risk

71. Policy CP8 of the TDCS states that 'development sites will need to ensure that flood risk is not exacerbated from increased surface water flows by ensuring that existing greenfield rates and volumes are not increased off-site'. It suggests that this should be achieved through the adoption of multi-functional sustainable drainage systems (SUDS). These requirements are supported by Policy CP1 (Climate Change) that requires the design and construction of development to reduce the effects of flooding in the interests of addressing climate change.
72. The Council say that surface water from the site currently flows into the adjoining watercourse, which runs through the village of Curland and then feeds into a river

⁷ The southernmost existing farm unit circled in yellow on the aerial photograph at the appellant's appendix E.

network. It acknowledges that the appeal site is not in an area where there is a high risk of flooding (the Council say that it is in flood zone 1), but suggest that surface water discharge from the development would add to the 'loading on the stream and on the downstream watercourses'.

73. The development proposes new areas of hard surfacing and new buildings that would be less porous than the existing surfacing on site. As such, it is likely that the development would result in a greater volume of surface water running off the site and into the watercourse. In this regard, paragraph 167 of the Framework identifies a need to ensure that development does not increase flood risk elsewhere. Whilst I note the Council's objections to the development in this regard, it has not suggested that the areas downstream, including the village of Curland, are at risk of flooding such that the development would increase any existing risk. Neither has it been suggested that the development would fall within one of the categories identified in footnote 55 of the Framework where a site-specific flood risk assessment should accompany applications.
74. In view of the above, I have considered the use of appropriate drainage conditions requiring all non-permeable areas to drain to SUDS, as suggested by the appellant. However, I note the Council's evidence with regard to the ground conditions and the possible use or effectiveness of SUDS on the site. As the appellant has not provided an assessment that would alleviate these concerns, I cannot be certain that the use of SUDS would effectively mitigate the effect of the development with regard to surface water run-off and that the development would not increase flood risk elsewhere. Without the necessary site specific assessment, I am unable to conclude that the development would have an acceptable effect with regard to surface water drainage and that it would comply with TDCS policies CP1 and CP8, or with the Framework.

Protected Species and Habitats

75. There is no dispute that the appeal site is within the catchment area of the SPA and RAMSAR site. For the purposes of the Framework, these fall within the definition of habitat sites. The SPA is designated for its international waterbird communities, whilst the RAMSAR Site is designated for its internationally important wetland features including the floristic and invertebrate diversity and species of its ditches, which is shared as a designated feature of the underpinning Sites of Special Scientific Interest⁸.
76. The Council have provided a letter from Natural England, which sets out the implications for recent caselaw. This prompted its representations with regard to the implications of this for the site and the development proposed. In short, Natural England consider the interest features of the SPA and RAMSAR site as 'unfavourable, or at risk from the effects of eutrophication caused by excessive phosphates'⁹. They indicate that, in such circumstances, the possibility of authorising activities which may subsequently compromise the ability to restore the site to favourable condition and achieve the conservation objectives is 'necessarily limited'. It is suggested that the 'Dutch N' ruling has resulted in a

⁸ Taken from the Natural England letter dated 17 August 2020 and attached to the Council's appeal statement.

⁹ Natural England letter dated 17 August 2020.

need for greater scrutiny of plans or projects that will result in increased nutrient loads that may have an effect on protected European Sites¹⁰.

77. The Council says that the development would result in an intensification of agricultural activity, in particular an increase in the number of animals kept on the site. They suggest, therefore, that there is a potential for an increase in pollutants (phosphates and ammonia) entering the watercourse that flows through the protected sites. It is as a result of the recent advice from Natural England that the Council suggest I undertake an appropriate assessment in accordance with Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations), but that further information is required in order for the assessment to be undertaken.
78. In response to this, I note the appellant's reference to the habitats regulations assessment undertaken by the Council in relation to the TDCS¹¹. That the Council has fulfilled its duty under Regulation 63 with regard to the TDCS does not remove the same duty in relation to individual proposed developments, even if they would comply with policies within the TDSC.
79. I acknowledge the appellant's position, that the duty under Regulation 63 falls to the Council alone. However, the advice contained in the Natural England letter represents a material change to the background evidence considered by the Council when it would have undertaken its initial assessment as to the likelihood of any significant effect of the development on the National Sites Network (NSN)¹². This is acknowledged by the appellant¹³. For this reason it is necessary for me to exercise the duty under Regulation 63, having regard to the most up to date information provided. Furthermore, for the purposes of determining this appeal, I am the competent authority.
80. Considering first the likelihood of the development having a significant effect on the NSN, the appellant suggests the effect would be neutral as it would not intensify the use of the site; he says it would merely support the current level of use. However, this contradicts the appellant's case with regard to his intentions for the enterprise to grow¹⁴. The development proposes an internal area for the keeping of animals and the appellant forecasts a growth in the enterprise to accommodate up to 750 chickens, 120 sheep and 8 milking cows¹⁵. Whilst I acknowledge that not all animals will be kept on the appeal site, the appellant indicates that the new buildings are required for an intended use for the keeping of livestock¹⁶.
81. Having regard to the above, it is likely that the development would result in an increased number of animals being kept at the appeal site. For this reason, and having particular regard to the up to date advice of Natural England, it is also likely that the development would have a significant effect on the NSN. In these circumstances an appropriate assessment (AA) is required in accordance with Regulation 63(1) of the Habitats Regulations.

¹⁰ Now referred to as the National Sites Network following the Conservation of Habitats and Species (Amendment)(EU Exit) Regulations 2019.

¹¹ Extract of the document entitled the Taunton Deane Core Strategy Somerset Levels and Moors Habitat Regulations Assessment May 2011.

¹² The initial 'screening' in accordance with Regulation 63(1)(a) of the Habitat Regulations.

¹³ Section 4 of the appellant's document entitled 'Additional Appeal Notes'.

¹⁴ As set out in the appellant's 'Cost Information and Projections' document.

¹⁵ As set out in the 'Cost Information and Projections' document.

¹⁶ Conclusion in the design and access statement.

82. I note the requirements of Regulation 63(2), that a person applying for permission must provide such information as the competent authority may reasonably require for the purposes of the assessment. I am not satisfied that the limited information before me is sufficient for me to properly undertake an AA. Whilst the appellant's case is that the scheme includes appropriate mitigation measures that can be controlled by way of condition, before I can determine whether or not the effects of the development would be adequately mitigated, I must first understand the nature and extent of any adverse effects upon the integrity of the NSN.
83. Having regard to the above, I cannot conclude that the effect of the development on protected species and habitats would be acceptable, and that the development would accord with the requirements of the Framework with regard to habitat sites, paragraph 180 in particular.
84. Whilst the appellant has referred to another case where phosphate discharge was considered, I have not been provided with any details of this in order to compare it with the case before me. This does not, therefore, change my conclusions above.
85. Notwithstanding the above, I have not been provided with the relevant extracts of the development plan that relate to protected species and habitats. I cannot, therefore, conclude whether or not the development would be at odds with the development plan in relation to this matter. Nevertheless, given that I am dismissing the appeal on other grounds, I have not considered this matter further.

Other Matters

86. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. For the reasons set out above, the development proposed is contrary to the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
87. I have already noted the appellant's plans to expand the agricultural enterprise and the role the development will play in this. In this regard the development will result in some benefit to the rural economy, although I note that this has not been quantified by the appellant. Added to this is the employment of a farm worker later in the expansion plans. Similarly, the supply of produce locally from the enterprise would contribute to the objective of moving to a low carbon economy.
88. I acknowledge the appellant's efforts to gather, repair and reuse machinery and tools that would otherwise be regarded as waste. However, I have difficulty in linking these efforts to the development proposed, which the appellant states is required for the functioning of his agricultural enterprise within the unit. Accordingly, as a benefit of the scheme this would carry minimal weight.
89. Whilst I have no reason to doubt the appellant's ability to care for the animals he keeps or properly manage the land, such matters would be expected in this case and would, therefore, have a neutral effect in the planning balance.

Planning Balance

90. Having regard to the purpose of the development proposed in this case, I have concluded that it is acceptable in terms of its location. However, I have found that

the proposed development would cause harm to the character and appearance of the site and surrounding area, in particular the AONB. I have also been unable to conclude that the development would be acceptable with regard to surface water drainage and its effect on protected species and habitats. For these reasons the development would conflict with the development plan. I have had regard to all material considerations, including the suggested benefit of the scheme, but find these of insufficient weight to indicate that determination should be made otherwise than in accordance with the development plan. Neither can I be satisfied from the evidence before me that the imposition of conditions could overcome the harm I have identified. Accordingly, I conclude that planning permission ought not to be granted.

Conclusion

91. Having regard to my findings above and all matters raised, I conclude that the appeal should be dismissed.

Appeal B: Ground (a) and the deemed application for planning permission

Main Issues

92. The appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The matters stated in Notice 1, as I intend to correct it, relate to a material change of use of the land to a mixed use for agriculture and for the open storage of vehicles, vehicle parts, building materials, metal sheeting and other miscellaneous items not connected with the agricultural use of the land.
93. I note the substantive reasons for issuing the enforcement notice and from these I have identified the following main issues:
- Whether or not the location of the development is in accordance with local planning policy; and
 - The effect of the development on the character and appearance of the site and the area, with particular regard to the site's location adjacent to the AONB.

Reasons

Location

94. As noted earlier in this decision, Policy DM 2 of the TDCS sets out the uses that will be supported outside of the defined settlement limits. In support of his ground (a) appeal, the appellant refers to the provisions of part 4 of the Policy, which relates to agriculture, forestry and related uses. However, I have concluded earlier in this decision that the open storage element of the mixed use is not the same use as the lawful use of the site for agriculture. The mixed use alleged should not, therefore, be considered under part 4 of the Policy.
95. I note that part 2 of Policy DM 2 sets out the circumstances where 'Class B business uses' will be supported. Regardless of whether or not the mixed use in this case includes a Class B business use, as referred to in the policy, the development in question is not taking place within a building and is not the erection or extension of a building. It would not, therefore, benefit from the provisions of part 2 of Policy DM 2.

96. There are no other parts of Policy DM 2 that would provide support for the mixed use alleged in the notice and no other policies of the TDCS have been brought to my attention in support of the appeal. For these reasons I conclude that the location of the mixed use alleged in the notice is not in accordance with local planning policy.

Character and Appearance

97. I have already described the character and appearance of the site and surrounding area earlier in this decision. I have also noted that the area of the site on which the open storage element of the mixed use is taking place is within the southern part of the site, although this appears to occupy a greater area than shown in the Council's photographs.
98. The items stored on the site are highly visible from the adjoining highway. The number of vehicles stored on the land, together with the other items listed, give the site a particularly cluttered appearance. The sprawl of stored items has changed the character of the site from one of an undeveloped paddock to that of a storage yard. The stark change in the character of this site has caused harm in this case, particularly the storage is not in and amongst existing farm buildings, as might be the case on other farm yards described by the appellant. The mixed use including open storage is at odds with the character of the surrounding area and the appearance of the site causes harm in this regard.
99. I acknowledge that the area of the site where the majority of the open storage currently takes place is screened from view from the AONB by the adjoining building and boundary trees. Nevertheless, I was able to view some stored items from the PROW within the AONB and I could also see the wider area of the planning unit within which the alleged mixed use is taking place. Having regard to the harm already identified, as set out above, the storage element of the mixed use causes harm to the AONB and the purpose of its designation, for which I must give great weight¹⁷.
100. Whilst I have not been provided with details of the screening landscaping suggested by the appellant, having noted the elevated vantage point of the adjoining highway, I am not persuaded that landscaping would adequately mitigate the visual harm caused by the use of the site.
101. Having considered all of the above, I conclude that the material change of use of the land to a mixed use for agriculture and open storage has an unacceptable effect on the character and appearance of the site and surrounding area, in particular the AONB. For these reasons the development would conflict with policies DM1, DM2 and CP8 of the TDCS as the use harms the landscape, neither conserves nor enhances the natural environment, and is of a scale and layout that is not compatible with the rural character of the area.
102. Furthermore, as the development causes harm to the character and setting of the AONB, the proposed development would also conflict with paragraph 176 of the Framework.

Other Matters

103. As noted in my reasoning on Appeal A, section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the

¹⁷ Paragraph 176 of the Framework.

development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. As my conclusions above are that the breach of planning control alleged in Notice 1 is contrary to the development plan, I now consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.

104. I acknowledge the appellant's suggestion that the storage of some of the items on the site is temporary whilst planning permission is obtained to erect the buildings for which the materials are required. However, I intend to refuse permission for the scheme of development that is the subject of Appeal A and I have no certainty of permission being granted for an alternative scheme.
105. Similarly, I also acknowledge that some of the items may be stored on site in anticipation of them being repaired and brought into beneficial use for farming purposes. Whilst I note the appellant's efforts to reuse and recycle otherwise unusable items, any benefits of the use of the site in this regard do not outweigh the harm I have identified.
106. I have had regard to the appellant's representations; that planning policies ought not to stifle any necessary change in the landscape, and that the provisions of the Order permit certain development in rural locations, such as the appeal site. I have, however, concluded that this is not an acceptable location for the mixed use. There is also no suggestion that the development in this case benefits from any provisions of the Order. The use of the site for open storage (as part of a mixed use) is not, in my judgement, similar to the type or character of development that might be permitted by the Order within an agricultural unit.
107. Whilst the appellant refers to Objectives 1 and 2 of the TDCS, I have not been provided with a copy of these. Nevertheless, having regard to the findings above, I have no reason to conclude that the need for the development in this location outweighs the harmful effects on the site and surrounding area.

Planning Balance and Conclusion

108. The determination of this ground (a) appeal and the deemed planning application must be in accordance with the development plan unless material considerations indicate otherwise. All things considered, I have no reason to conclude that my determination of the appeal should be made otherwise than in accordance with the development plan. Accordingly, I conclude that planning permission ought not to be granted and that the ground (a) appeal fails.

Appeal B and Appeal C - Ground (g)

109. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. Notice 1 specifies a period of 2 months from the date the notice takes effect.
110. The appellants have suggested a period of 6 months to comply with the requirements of the notice as they say that the weather conditions at the time the notice was issued (August 2020) are such that the ground conditions would render the removal of items dangerous. I have no reason to dispute the difficulty posed by the ground conditions on site in winter. Indeed, at my visit to the site in March the ground was particularly muddy between the hardstanding and the access track. However, having regard to the date of my decision, the period for compliance with

Notice 1 would fall within the summer months, were on site conditions are likely to be the more favourable.

111. Furthermore, whilst the appellants suggest that an extended period would allow for alternative storage arrangements to be made, I have no evidence to conclude that there would be any difficulty in finding an alternative. Accordingly, I cannot find the period specified in the notice falls short of what should reasonably be allowed. For this reason, the ground (g) appeals fail.

Appeal F and Appeal G - Grounds (f) and (g)

112. These appeals relate to Notice 2, which alleges the construction of a building.

Ground (f)

113. For the appeals to succeed on ground (f), I must be satisfied that the steps required to comply with the notice are excessive and lesser steps could overcome the breach of planning control or, as the case may be, the injury to amenity. It is clear from the requirements of the notice that its purpose is to remedy the breach of planning control.
114. I note the appellants' suggestion that the agricultural enterprise will expand as intended and that the removal of the building, along with other items, is unreasonable. In this regard, the appellants' case appears to be that the building ought to be retained until such time as permission might be obtained for its replacement. However, the retention of the building as an alternative to its removal, even if for a temporary period, would not achieve the purpose of remedying the breach of planning control as the building would still remain on site.
115. No alternative or lesser steps have been suggested to achieve the purpose of remedying the breach of planning control in this case and, having regard to both the nature of the breach and requirements of the notice, no other steps that would achieve this purpose are obvious to me. On this basis I can only conclude that the steps required in the notice are reasonable and proportionate. For these reasons, the appeals under ground (f) fail.

Ground (g)

116. Notice 2 requires the demolition of the building and the removal of all resulting materials and debris within two months. Whilst the appellants have not suggested a longer period for compliance, their case under the ground (g) appeals is that the building should be allowed to remain until permission has been granted for a replacement. However, as I have already noted, permission will be refused for the scheme of development that is the subject of Appeal A and I have no certainty that permission will be granted for a replacement building.
117. The appellants have not provided any substantiated evidence to show that the requirements of the notice cannot be complied with within 2 months. As such, I have no reason to conclude that the period specified in the notice falls short of what should reasonably be allowed. For this reason, the ground (g) appeals fail.

Conclusions

118. For the reasons given above, I conclude that Appeal D and Appeal E should succeed and Notice 2 will be quashed.

119. However, I conclude that Appeal A should be dismissed; that Appeal B and Appeal C should not succeed and Notice 1 will be upheld with corrections; and that Appeal F and Appeal G should not succeed and Notice 3 will be upheld.

Formal Decision

Appeal A Ref: APP/W3330/W/20/3260067

120. The appeal is dismissed.

Appeal B and Appeal C Ref: APP/W3330/C/20/3260068 and APP/W3330/C/20/3260069

121. It is directed that the enforcement notice is corrected and varied by:

- Deleting the paragraph after the heading in part 3 of the notice and replacing it with the words 'The material change of use of the Land from a use for agriculture to a mixed use for agriculture and for the open storage of vehicles, vehicle parts, building materials, metal sheeting and other miscellaneous items not connected with the agricultural use of the Land'.
- Deleting the words 'a caravan,' and 'UPVC windows,' from requirement 5. 1. of the notice.
- Deleting the words 'caravans,' and 'UPVC windows,' from requirement 5. 2. of the notice.

122. Subject to the corrections and variations, the appeals are dismissed and the enforcement notice is upheld.

Appeal D and Appeal E Ref: APP/W3330/C/20/3260071 and APP/W3330/C/20/3260072

123. The appeals are allowed and the enforcement notice is quashed.

Appeal F and Appeal G Ref: APP/W3330/C/20/3260073 and APP/W3330/C/20/3260074

124. The appeals are dismissed and the enforcement notice is upheld.

J Moss

INSPECTOR



Costs Decision

Site visit made on 15 March 2021 by **J Moss BSc (Hons)**

DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th AUGUST 2021

Costs application in relation to Appeal Ref: APP/W3330/W/20/3260067 Land at Field B, New England, Curland TA3 5SB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr William Allen for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal of planning permission for the installation of an access track and yard, and the erection of two agricultural buildings. Building A – a double storey barn and Building B – a single storey chicken/sheep/cattle shed.
-

Decision

1. The application for an award of costs is refused.

Preliminary Matter

2. The applicant has referred to paragraph 38 of the National Planning Policy Framework (February 2019) in his costs application. Since making the application, the National Planning Policy Framework has been revised (on 20 July 2021). However the paragraph referred to by the applicant has not changed. I did not, therefore, consider it necessary to seek the parties' views with regard to the publication of the revised National Planning Policy Framework (20 July 2021)(the Framework).

Reasons

3. Paragraph 030 of the Planning Practice Guidance on Appeals (the PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
4. The grounds for the costs application are summarised as follows:

- (i) The Council did not give suitable or fair consideration of the planning application; and
 - (ii) The Council failed to comply with their duty under paragraph 38 of the Framework as they did not act in a positive or proactive way to look for solutions to enable the grant of planning permission.
5. Much of the applicant's case refers to the Council's conduct during discussions that took place regarding the proposed scheme for the site. It is suggested that the Council failed to honour an agreed position.
 6. I have considered the correspondence referred to by the applicant¹ and can see from this that the Council responded to the applicant's correspondence and provided advice with regard to the scheme on several occasions. In particular, whilst the Council were positive with regard to a chicken shed, it remained concerned about the visual impact of a second larger building and recommended a single poultry building with 'minimal attached storage'. Despite this, the scheme before me proposes what is described as a double storey barn, in addition to a single storey chicken/sheep/cattle shed.
 7. Paragraph 38 of the Framework informs that local planning authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. The Council gave advice on how the scheme should be amended to reduce its visual effect and, as such, sought to secure development that would improve the environmental conditions of the area. Having regard to the evidence before me, I cannot conclude that the Council failed to comply paragraph 38 of the Framework.
 8. Furthermore, the Council has provided sufficient evidence to support its reasons for refusal of the scheme. This evidence is consistent with the officer's report prepared in respect of the planning application. In this regard, I am satisfied that the Council properly considered the planning application subject of the appeal. As I have dismissed the appeal, in refusing the application the Council did not delay development that should be permitted.
 9. To conclude, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. Accordingly, an award for costs is not justified.

J Moss

INSPECTOR

¹ Appendix B (pt2) of the applicant's evidence.

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