

SWT Planning Committee

Thursday, 17th March, 2022,
1.00 pm



Somerset West
and Taunton

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, Keith Wheatley and Loretta Whetlor

Agenda

1. Apologies

To receive any apologies for absence.

2. Minutes of the previous meeting of the Planning Committee

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

3. Declarations of Interest or Lobbying

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

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

4. Public Participation

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

For those members of the public who have submitted any questions or statements, please note, a three minute time

(Pages 5 - 8)

limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

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| <p>5. 38/21/0440 - Demolition of Auction House and site clearance with temporary diversion of cycle and pedestrian route through the site, raising of ground to create platform formation levels, ground remediation, flood mitigation, primary foul and surface water drainage networks and connections for future sites/developments surrounding the site at Firepool, Taunton.</p> | <p>(Pages 9 - 46)</p> |
| <p>6. 38/21/0436 - Erection of an office building with ancillary ground floor commercial use (Class E), conversion and erection of extension to the GWR building to form restaurant (Class E), public realm, landscaping and associated infrastructure works on land to the south of Trenchard Way, (Block 3), Firepool, Taunton</p> | <p>(Pages 47 - 104)</p> |
| <p>7. 22/21/0012 - Change of use from Class B8 to Class E(g) of existing Old Cheese Factory and erection of an additional Class E(g) unit at The Old Cheese Factory, Deans Cross to Broad Oak, Lydeard St Lawrence</p> | <p>(Pages 105 - 118)</p> |
| <p>8. 30/21/0022 - Erection of 1 No. detached bungalow with detached double garage and alteration to access arrangement, on land adjacent to Matthews Farm, Blagdon Hill Road, Blagdon Hill</p> | <p>(Pages 119 - 138)</p> |
| <p>9. Latest appeal decisions received</p> | <p>(Pages 139 - 164)</p> |
| <p>10. Quarterly appeal figures (for information only)</p> | <p>(Pages 165 - 166)</p> |



ANDREW PRITCHARD
CHIEF EXECUTIVE

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Members of the public are welcome to attend the meeting and listen to the discussions. There is time set aside at the beginning of most meetings to allow the public to ask questions. Speaking under "Public Question Time" is limited to 3 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. These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

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 1 clear working day 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 Friday prior to the meeting.

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SWT Planning Committee - 24 February 2022

- Present: Councillor Marcia Hill (Chair)
- Councillors Simon Coles, Ian Aldridge, Roger Habgood, John Hassall, Chris Morgan, Craig Palmer, Ray Tully, Sarah Wakefield, Brenda Weston, Keith Wheatley and Loretta Whetlor
- Officers: Alison Blom-Cooper, Martin Evans (Shape Legal Partnership), Gareth Clifford, Ben Perry and Tracey Meadows

(The meeting commenced at 10.00 am)

106. **Apologies**

Apologies were received from Councillors Blaker and Lithgow

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

(Minutes of the meeting of the Planning Committee held on 3 February circulated with the agenda)

Resolved that the minutes of the Planning Committee held on 3 February be confirmed as a correct record.

Proposed by Councillor Coles, seconded by Councillor Habgood

The **Motion** was carried.

108. **Declarations of Interest or Lobbying**

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

Name	Description of Interest	Reason	Action Taken
Cllr S Coles	SCC & Taunton Charter Trustee. Applicants for items 5,6 & 7 on the agenda were known to Cllr Coles, he stepped down from the Chair	Personal	Spoke and Voted

	for these items 'discretion not fettered'		
Cllr Mrs Hill	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr C Morgan	Stogursey	Personal	Spoke and Voted
Cllr C Palmer	Minehead	Personal	Spoke and Voted
Cllr R Tully	West Monkton	Personal	Spoke and Voted
Cllr S Wakefield	Application No. 30/21/0050. Applicant, Mr Wakefield.	Personal	Left the meeting whilst the item was discussed and voted on.
Cllr B Weston	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr L Whetlor	Watchet	Personal	Spoke and Voted

All Planning committee members declared that they knew the applicants for items 5,6,7 on the agenda and had not 'fettered their discretion'

109. **Public Participation**

There was no public participation for this meeting.

Councillor Hill took the Chair for this meeting.

110. **30/21/0050 - Replacement of detached double garage at Pitminster Lodge, Church Lane, Pitminster, Trull**

Comments from Members included;
(summarised)

- No visual impact concerns;
- Good replacement of the current building;
- The rear of the existing garage looked unattractive to the backdrop of the Church;
- Confirmation was sought on the building materials that were to be used;

Councillor Morgan proposed and Councillor Whetlor seconded a motion for Conditional Approval to be **APPROVED** with an additional Condition 4 to read;

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

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

The motion was carried

111. **38/21/0503 - Alterations to garden wall and formation of access driveway within the grounds of Weir Lodge, 83 Staplegrove Road, Taunton (retention of part works already undertaken)**

Applications 38/21/053 and 38/21/0504/LB were presented together and voted on separately

Comments from Members on both applications included;
(summarised)

- Concerns with the alterations to the garden wall;
- Concerns with the access due to safety issues on the bend;
- Concerns that the drive would be widen and trees removed;
- Concerns that this would set a precedent. The original application was granted to be vehicle free and now it has come back to committee for formation of an access driveway to be granted;
- Concerns that this was a creeping application;
- The new access driveway will make it much easier to get to the new properties;

Councillor Wakefield proposed and Councillor Tully seconded a motion for Conditional Approval to be **APPROVED** as per Officer recommendation.

The motion was carried.

112. **38/21/0504/LB - Alterations to garden wall and formation of access driveway within the grounds of Weir Lodge, 83 Staplegrove Road, Taunton (retention of part works already undertaken)**

Councillor Wakefield proposed and Councillor Tully seconded a motion for Conditional Approval to be **APPROVED** as per Officer recommendation.

The motion was carried.

113. **Latest appeals Lodged and decisions decided**

Latest appeals lodged and decisions decided noted.

(The Meeting ended at 11.00 am)

Application Details	
Application Reference Number:	38/21/0440
Application Type:	Full Application
Description	Demolition of Auction House and site clearance with temporary diversion of cycle and pedestrian route through the site, raising of ground to create platform formation levels, ground remediation, flood mitigation, primary foul and surface water drainage networks and connections for future sites/developments surrounding the site at Firepool, Taunton. Includes Environmental Statement.
Site Address:	FIREPOOL Regeneration Site, Canal Road/Priory Bridge Road, Taunton
Parish:	Taunton unparished area
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment area:	Yes
AONB:	No
Case Officer:	Simon Fox, Major Projects Officer (Planning) 07392 316159 s.fox@somersetwestandtaunton.gov.uk Should you wish to discuss the contents of this report item please use the contact details above by 5pm on the day before the meeting, or if no direct contact can be made please email: planning@somersetwestandtaunton.gov.uk
Agent:	J Price Consulting
Applicant:	Somerset West and Taunton Council
Reason for reporting application to Members:	In the interests of probity - The proposal is submitted by Somerset West and Taunton Council with assistance from Somerset County Council on a strategic regeneration site owned and due to be developed by Somerset West and Taunton Council.

1. Recommendation

That planning permission be **GRANTED** subject to conditions

2. Executive Summary of key reasons for recommendation

- 2.1 The application seeks permission for enabling infrastructure works to enable the long-term development of the Firepool site. After consideration of all representations, planning policy and material considerations including the planning history, the scope of the application and the knock-on benefits of the scheme, the application is considered appropriate to be recommended for approval subject to a s106 agreement/unilateral undertaking concerning

the provision of temporary flood barriers if necessary and the conditions listed at Appendix 1 to this report.

3. Planning Obligations, conditions and informatives

3.1 Obligations

A section 106 agreement/unilateral undertaking concerning the provision of temporary flood barriers in the Frieze Hill to Town Bridge area of Taunton if project TTC5 of the Taunton Strategic Flood Alleviation Improvements Project is not completed by December 2024.

3.2 Conditions (see Appendix 1 for full wording)

- 1) Time Limit
- 2) Drawing numbers
- 3) Condition survey of highway
- 4) Protection of trees
- 5) Archaeology
- 6) Details of any temporary drainage connections
- 7) Origin of fill materials
- 8) Flood Risk Assessment
- 9) Construction Traffic and Construction Environmental Management Plans
- 10) Remediation Strategy
- 11) Lighting for Bats
- 12) No tree and hedge removal during bird nesting season
- 13) SUDs scheme
- 14) Responsibility and maintenance of the surface water drainage system

3.3 Informatives (see Appendix 1 for full wording)

- 1) Statement of positive working.
- 2) Rights of Way
- 3) Protection of Network Rail Assets
- 4) Advice from Canal and Rivers Trust
- 5) Protection of bats
- 6) Protection of badgers
- 7) Advice from the Environment Agency
- 8) Advice from the LLFA

4. Proposed development, Site and Surroundings

Details of proposal

- 4.1 This is a full application for enabling infrastructure works:
- a) Clearance of existing obstructions including demolition of the Auction House building and parking
 - b) Remediation works of existing ground
 - c) Construction of raised development plateaus
 - d) Culverts to cater for overland exceedance flows within Canal Road
 - e) Diversion of existing drainage assets to clear the site for development

- f) Provision of new primary drainage infrastructure to service future uses
- g) Temporary diversion of pedestrian and cycles access routes though the site
- h) Security fencing and finishes
- i) Removal of some trees

The application is accompanied by an Environment Statement.

- 4.2 The infrastructure works will remove the existing above ground obstructions to future development of the site; this includes the Auction House building, historic structures and walls from the previous cattle market use and miscellaneous street furniture on the site.
- 4.3 Below ground obstructions consisting of existing sewers will be removed or relocated to free up the development footprint and new sewer networks will be constructed to collect and convey wastewater from the future development to the existing infrastructure. New surface water infrastructure will similarly be provided in anticipation of future development including a central conveyance swale which will form part of the future sustainable drainage techniques. This regularisation is important as currently such services criss-cross the site which prohibits building in certain areas.
- 4.4 Ground remediation will be carried out alongside bulk earthworks to raise the site and create development platforms for future parcels. The development plateaus will be provided at a level to protect whatever form the future development might take from fluvial flooding from the River Tone whilst maintaining connections to the surrounding infrastructure. In this regard the scheme has been developed with reference to the Taunton Strategic Flood Alleviation Improvement Scheme (TSFAIS).
- 4.5 The existing pedestrian and cycle link, with lighting, through the site will be re-provided on the development plateau and will incorporate access to the existing Wessex Water siphon. Existing site fencing will be reinstated to retain security of the site until the future development can commence.
- 4.6 The Firepool public car park will be retained as an active car park for public and contractor use as long as is required by Somerset West and Taunton Council until further development takes place.
- 4.7 As the mix of the future development is not yet known the enabling works have been developed by the applicants to provide flexibility whilst accommodating some guiding principles established by the previous planning permission such as maintaining the existing sightlines through the site.
- 4.8 All access for these works will be via Canal Road.
- 4.9 It should be noted that Somerset West and Taunton District Council is in this case both applicant and Local Planning Authority. The application is being brought forward by the Council in its role as developer after the site has lain dormant for many years and to provide some stimulus to unblock and unlock

the site for development. Reference hereon to 'the Council' is as applicant/developer, the planning team referred to as the 'Local Planning Authority' or 'LPA' whose defined role is to apply national and local planning policy and assess material considerations without fear or favour.

Site and surroundings

- 4.10 The application site is located within Taunton town centre. It comprises an area of approximately 4.2hectares (ha) and is arranged in a broad rectangular shape as shown on the submitted Site Location Plan.
- 4.11 The application site is bounded by Canal Road to the north, the River Tone to the south and Priory Bridge Road to the south-west. The site currently comprises previously developed land. The site is bordered to the north beyond Canal Road by further vacant previously developed land which has recently been granted planning permission for a three storey Innovation Centre being developed by Somerset County Council.
- 4.12 The site, along with the adjoining land described above to the north and a triangular site to the south of the river which is partly developed, forms part of a wider previously developed area of land known as Firepool which has been vacant for over ten years.
- 4.13 Formerly, the wider Firepool site comprised a livestock market, but this use ceased in 2008 and the site was largely cleared to facilitate its redevelopment. The part of the site subject to this specific application is currently partly laid to grass, and partly used as a public car park. The Auction House lies at the junction of Canal Road and Priory Bridge Road and is currently used as a warehouse, due to be vacated in March 2022.
- 4.14 There is a public right of way (PROW) recorded on the Definitive Map that abuts the site (public bridleway T 33/21) at the present time. A long-distance trail, the East Deane Way, abuts the site on a temporary route beside the river.
- 4.15 The application site is not within a Conservation Area, nor does it contain any Listed Buildings. However, there are a number of listed buildings in the wider vicinity, including Taunton Railway Station to the north, the Firepool Pumping Station to the east, Gurds on Station Rd, plus the former Shirt and Collar Factory (Barnicotts) and Priory Lodge (all Grade II listed). Further south is the Grade II* St James Church and the Grade I listed St Marys Church.

5. Planning (and enforcement) history

Reference	Description	Decision	Date
Firepool South - 38/10/0214	Up to 11,200 sq m of office floorspace, up to 4,475 sqm of hotel floorspace, up to 49 residential units together with associated car parking, landscaping, infrastructure and	Approval	30/11/2010

	access on the southern part of the Firepool site adjacent to Priory Bridge Road, including the now constructed Viridor building which was later granted reserved matters approval pursuant to this outline.		
Wider Firepool Site - 38/15/0475	Outline planning application with some matters reserved for the redevelopment of the former cattle market site to provide up to 3500sqm of convenience retail development, up to 6000sqm of non-food development (class A1), up to 4000sqm of office (B1) or hotel (C1) use, up to 2400sqm for a cinema (D2), up to 2600sqm of food and drink establishments (A3/A4/A5) and up to 200 residential units with redevelopment of the former priory bridge road car park to provide up to 4014sqm of office (B1) and 4475sqm of office (B1) or hotel (C1) uses and a further 1300sqm of A3/A4/B1 (office) D2 uses with car parking, landscaping, public realm, access, highways, infrastructure works and relevant demolition.	Refusal	01/09/2016
Wider Firepool Site - 38/17/0150 <i>'the approved St Modwen scheme'</i>	Outline planning application with some matters reserved, except for access for the NIDR only, for the redevelopment of the former cattle market site to provide up to 3500sqm of convenience retail development (Class A1), up to 6000sqm of non-food development (A1), up to 4000sqm of office (B1) or hotel (C1), up to 3900sqm of assembly/leisure (D2) and non-residential institutions (D1) (of which no more than 1500sqm shall be D1), up to 2600sqm of food and drink establishments (A3/A4/A5), and up to 200 residential units (C3) with redevelopment of the former Priory Bridge Road car park and former 84-94 Priory Bridge Road to provide up to 2964sqm of office (B1) and 5525sqm of office (B1) or hotel (C1) uses and a further 1300sqm of A3/A4/B1 (office) D2 uses with car parking, landscaping, public realm,	Approval	13/03/2019

	access, (in detail for the NIDR connection) highways, infrastructure works and relevant demolition, (resubmission of 38/15/0475)		
38/21/0109/SCO	EIA Screening for 1,800 sqm, four storey office building and 300 space, four storey car park.	No EIA required	31/03/2021
Somerset County Council Decision SCC/3775/2020	The erection of a three storey Innovation Centre building of 2,613 sqm floor space (Use Class E) and external car parking area.	Approval	09/02/2021
38/21/0436	Erection of an office building with ancillary ground floor commercial use (Class E), conversion and erection of extension to the GWR building to form restaurant (Class E), public realm, landscaping and associated infrastructure works on land to the south of Trenchard Way (aka The Block 3 application)	Pending	
38/21/0464	Formation of vehicular access with associated works and alterations to highway	Approved	09/02/2022

6. Environmental Impact Assessment

- 6.1 Environmental Impact Assessment or EIA is a formal procedure underpinned by The Town and Country Planning (EIA) Regulations, 2017 (the 'EIA Regulations') as amended. The procedure must be followed for certain types and scales of development.
- 6.2 In this case the development proposed is a type described in Schedule 2, 10(b) of the EIA Regulations. That is: *"10. Infrastructure projects...(b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas..."* and furthermore meets the first of the three applicable thresholds for Schedule 2, 10(b) projects: *"...(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or (ii) the development includes more than 150 dwellings; or (iii) the overall area of the development exceeds 5 hectares."*
- 6.3 The EIA process systematically identifies and assesses the likely significant environmental effects of a development. The process also offers an opportunity to promote an iterative design process whereby the likely significant adverse and beneficial effects of a project can be avoided or minimised, and encouraged and maximised, respectively. Where EIA is required, the results are reported in an Environmental Statement (ES). The ES allows the relevant determining authority, in this case Somerset West

and Taunton Council, to consider all likely significant environmental effects arising from a development.

6.4 In accordance with the EIA Regulations, the ES reports the findings of the EIA process. As such, the ES sets out:

- The likely significant environmental effects of the Development.
- The likely significant cumulative effects of the Development.
- Mitigation measures required to prevent, reduce, ameliorate and / or offset any likely significant adverse environmental effects.
- The likely significant residual effects of the Development which would occur following implementation of the above mitigation measures.

6.5 The submitted ES is a material consideration to this planning determination process and the topics assessed form the sections to the main body of the report which follows.

7. Habitats Regulations Assessment

The site lies within the catchment area for the Somerset Moors and Levels Ramsar site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that the proposed access will not increase nutrient loadings at the catchment’s waste water treatment works. The Council is satisfied that the development is not likely to have a significant effect on the Ramsar site should permission be granted (either alone or in combination with other plans or projects) pursuant to Regulation 63(1) of the Habitats Regulations 2017.

8. Consultation and Representations

8.1 Statutory consultees (the submitted comments are available in full on the Council's website.

Date of Consultation: 03 November 2021

Date of revised consultation (if applicable): Additional consultation was undertaken with specific statutory consultees (HA, LLFA, EA).

It should be noted not all statutory consultees are consulted on all planning applications. The circumstances for statutory consultation are set out in the Development Management Procedure Order. The following statutory consultees were consulted on this application:

Statutory consultee	Comments	Officer comments
Highway Authority - SCC	Initial comments received 30/11/2021, comments made regarding drainage, the ped/cycle route, ES, and construction phase impacts. Further comments dated 21/01/2022 upon consultation with additional information – concluding paragraph - <i>“Having reviewed the further information, there is now no highway</i>	Noted, conditions imposed regarding the CEMP and the need for a highway

	<i>objection to the scheme as presented. The only other comment relates to the Construction Traffic Management Plan, and it is requested that a highway condition survey is undertaken along Canal Road and at the junction with Prior Bridge Road. Subject to this being included there would be no objection, and no need for any planning conditions if the Construction Traffic Management Plan is implemented as required”.</i>	condition survey.
National Highways	<i>No objection – “We have reviewed the submitted documents including the Construction Traffic Management Plan dated October 2021. Based on the scope of the application and associated traffic generation we are satisfied it is unlikely to result in an adverse impact on the safe operation of the strategic road network, in this case M5 Junction 25”.</i>	No action required.
Environment Agency	<p>Initial objection received 24/11/2021 regarding Flood Risk Assessment; other comments made regarding access to the river, modelling data and permits.</p> <p>Further comments dated 17/02/2022 and 18/02/2022 were received upon consultation with additional information –</p> <p><i>“Provided the Local Planning Authority (LPA) is satisfied the requirements of the Sequential Test under the National Planning Policy Framework (NPPF) are met, and providing a section 106 is agreed for temporary defences in the event the Taunton Flood Defence Scheme being delayed, the Environment Agency can now WITHDRAW its earlier objection, in principle, to the proposed development, subject to the following conditions being included within the Decision Notice....”</i></p> <p><i>“I can confirm that the Environment Agency have taken a risk based approach and will not require the flood model to be reviewed for the demolition and land raising of this site. As a result of this application the ground levels will be lower than future proposals, and the impact on third parties is expected to be reduced. This enabled the Environment Agency to remove its objection without a detailed review of the model. We may however require to review a model for future proposals at this site. If we did not take this approach we would be unable to remove our objection until completion of the model review, which may have taken up to 6 weeks to complete”.</i></p>	<p>The conditions referred to in the final EA response have been imposed.</p> <p>The matter of the sequential test is discussed at para 12.29.</p>

<p>Lead Local Flood Authority (LLFA) - SCC</p>	<p>Initial objection received 24/01/2021 regarding the suitability of the surface water drainage system as designed when accounting for the overland flows in the critical storm duration for the Mill Lease Stream and correspondence from the Environment Agency that the modelling undertaken to demonstrate this is acceptable.</p> <p>Further comments dated 28/02/2022 were received upon consultation with additional information –</p> <p><i>“The responses from the Environment Agency confirms that the EA have taken a risk-based approach and as such does not require a review of the flood model for the demolition and land raising of the site.</i></p> <p><i>The applicant should note, that the EA have commented that they may require a review the model for future proposals at the site.</i></p> <p><i>We suggest to the applicant that other organisations such as the Environment Agency continue to be consulted regarding the future proposals at this site.</i></p> <p><i>Overall, the LLFA is content with the information provided and recommends the development be conditioned with the following two conditions”.</i></p>	<p>The conditions and informatives referred to in the final LLFA response have been imposed.</p>
<p>Canal and River Trust</p>	<p>General advice given – The accessibility to and maintenance of Firepool Lock may be comprised by works on this site, plus the character of the lock and canal beyond.</p> <p><i>“...alterations to the lock gates and ground levels in the area to provide flood defences could have an impact on the non-designated Heritage asset; Firepool Lock. The Lock should be considered as an important part of the public realm of this part of Taunton and the trust would wish to see a holistic approach to improvements alongside the river, canal and lock area. The applicants should continue to discuss these proposals directly with the Canal and River Trust to allow us to input at the earliest possible stage to ensure that the issues mentioned above are addressed. It is suggested a meeting is set up to allow these issues to be explored in more detail as the development scheme progresses”.</i></p> <p>Please note that part of the site, previously owned by the Canal and Rivers Trust is subject to covenants.</p>	<p>Noted, some of these comments relate to the longer term development plans, the impact of this application on the lock will be considered in the heritage part of the report.</p>
<p>Historic England</p>	<p><i>“On the basis of the information available to date, we do not wish to offer any comments. We</i></p>	<p>No action required other</p>

	<i>suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant</i> ".	than assess archaeological and conservation officer's comments.
Natural England	<p>Unlikely to be an impact on the Hestercombe House SAC, designated for its lesser horseshoe bat feature.</p> <p>Comments on the Somerset Levels and Moors Ramsar Site - If a development is identified as likely to add additional phosphorus to the catchment, planning permission should not be granted until a Habitats Regulation Assessment has been undertaken.</p>	Noted, see para 12.53.
Wessex Water	<p><i>"There is significant public sewer infrastructure crossing the development site including a storm overflow known as Taunton Market overflow 17338. We have been working with the developers over the past 18 months to discuss protection and diversion options to achieve an acceptable site layout. The developer has instructed Wessex Water to undertake some of the diversion works the design of which we are currently progressing. Works on site must ensure that self cleansing velocities are maintained and there is no increase in flooding or pollution as a result of the proposals. The drawing included in the FRA Drainage Strategy Enabling Infrastructure Drainage Layout Drawing 501 P3 has not been submitted as part of the diversion application to Wessex Water. The applicant's consultants has advised the drawing reflects interim arrangements if the southern boulevard comes forward prior to the site wide diversions being implemented. Temporary arrangements have not been agreed with Wessex Water and will require further assessment. Please can you consider a suitable worded condition to ensure temporary arrangements are only progressed with further discussion and agreement with Wessex Water. The current drawing Wessex Water is working to is reference S185 Drainage Diversion Strategy 505 Revision P1.</i></p> <p><i>There has been interest in the operation of the current overflow associated with this site and I can advise: Upon redevelopment of brownfield sites we look for opportunities to separate out surface water from the combined or foul systems to land drainage to reduce flooding and overflow</i></p>	Noted, a condition regarding temporary arrangements has been added.

	<p><i>operation. With regards to the Firepool site systems are already predominantly separate with surface water entering the combined system from further upstream. Storm overflows are a legacy arrangement and exist on our networks to protect properties from flooding, flows are very dilute when they do operate. Further information can be found here - https://www.wessexwater.co.uk/services/sewerage/storm-overflows . We have installed Event Duration Monitoring on site 17338 recording 5 spills in 2019 and 2 spills in 2020. Since 2000 Wessex Water has invested £181 million on upgrading nearly 600 storm overflows across its region, with a further £150 million set aside for improvements between 2020 and 2025 It would not be possible for the Firepool developer to achieve any measures on site to enable the overflow to be abandoned without increasing the risk of flooding to upstream properties; during storm conditions it is likely the excess water would find another point to discharge and in a less controlled manner. Improvement will need to be implemented in the upstream catchment through surface water separation schemes. Wessex Water is working in partnership with other flood risk management authorities on the wider Taunton Flood Alleviation Scheme. As part of this project we are seeking to redirect surface water flows from impermeable areas (typically rainwater draining from roofs and driveways) connected to the foul sewer and into land drainage upstream from Firepool. We are currently assessing the feasibility of disconnecting surface water from a development upstream which has separate systems of foul and surface water flows but connection of both flows has been made to the combined sewer. There are limited opportunities to separate significant flows without tackling the issue on a house by house basis. We accept that there is need for a step change in the way storm overflows operate in the UK, but to do so is not simple and will require several years of sustained investment – to eliminate all overflows in England and Wales will cost in excess of £300 billion”.</i></p>	
Network Rail	<p><i>No objections in principle “but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety,</i></p>	<p><i>Noted, no further action. Applicant to note and</i></p>

	<p><i>operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission”.</i></p> <p><i>“Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3 months notice before works start”.</i></p>	provide notice of the start of works. Note imposed.
DLUHC	The Department for Levelling Up, Housing and Communities acknowledge receipt of the ES but have no comments to make.	No further action.

8.2 Non-Statutory Consultees

Consultee	Comments	Officer comments
SWT Conservation Officer	<i>“The auction house is a more modern building likely 1950s and is not a heritage asset. I have no objection to its demolition. I have no comment to make on the drainage proposals of plateaus or security fences”.</i>	No action required.
SW Heritage Trust (archaeology)	<i>“The submitted Heritage Statement and archaeological WSI are sufficient to enable the significance of the archaeology on the site to be understood. The WSI represents an appropriate archaeological response and as this has been submitted as part of the planning application we advise that the following (amended) condition be attached to permission if granted. For this reason I recommend that the applicant be required to provide archaeological monitoring of the development and a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 205)”</i>	Condition added.
SWT Tree Officer	<i>“With regards to the existing trees there’s little of particular note on this site. Normally efforts would be made to retain any category A or B trees. There aren’t any A’s, but there are a few B’s, notably the limes along the eastern boundary. They are of moderate quality, well-established but structurally not the best, with some poor unions and past pruning. Whether they are retained will</i>	No further action. Tree protection measures imposed by condition.

	<i>depend on the proposed layout and the quality of the proposed landscape design and planting scheme for the site, which of course I think should be the highest quality for this important site for the town, in accordance with our Design Guide”.</i>	
SWT Green Infrastructure Officer	<p>No objection to Auction House demolition or the diversion to the cycle and pedestrian route.</p> <p>Concerns raised about the temporary flood mitigation proposal and the lack of green infrastructure elements in the proposal.</p> <p><i>“The site is adjacent to the River Tone, an important GI corridor within the city. Given that this is the first stage of developing the site and part of a larger plan, it would be beneficial to plant new trees at this stage and according to the site's future development plan. The application should also consider building the permanent SuDS feature, which is part of the boulevard's future plan, instead (or in addition) of the proposed temporary swale. That can support the ecology system and improve the runoff water quality”.</i></p>	Noted, this will be assessed in the main body of the report.
SWT Environmental Health	<p><i>“The proposal is to carry out demolition and ground works at the former cattle market site at Firepool, Taunton. This will include site remediation and raising ground levels. Regarding the potential contamination issues at the site, Environmental Health can confirm that, based on the information provided, the proposed remediation strategy would be acceptable to deal with any risks to future users of the site.</i></p> <p><i>It is recommended that the Environment Agency also review the information regarding any concerns about contamination of ground or surface waters (although the report did not find any significant groundwater contamination).</i></p> <p><i>The information provided includes an Environmental Impact Assessment and an Environmental Statement (Avison Young, October 2021). Information on ground conditions and potential contamination was addressed in this, also in a specific report on ground conditions:</i></p> <ul style="list-style-type: none"> - <i>Firepool, Taunton Infrastructure Works, Remediation Strategy, 20 August 2021.</i> 	Noted, a condition is imposed to require the remediation scheme to be implemented and any unexpected contamination to be reported.

	<p><i>Jubb Consulting Engineers Ltd</i></p> <p><i>The Jubb Report includes a review of previous investigations and reports carried out for this site, going back to 2005.</i></p> <p><i>The report states that as the works for this application includes bulk earthworks for the future development of the site, the existing contamination must be addressed to meet the anticipated requirement of the future scheme and range of uses.</i></p> <p>Ground contamination</p> <p><i>An additional ground investigation was carried out in 2021, including window sampling and boreholes. This found evidence of made ground on the site. Testing of soil samples found some areas with levels of contaminants above the chosen assessment criteria. A conceptual model and risk assessment were prepared which found low risk to future site users. However, the report made some recommendations for remedial works including</i></p> <ul style="list-style-type: none"> <i>- Segregation, quarantining and testing of made ground and natural deposits</i> <i>- Removal of hot spots of contamination</i> <i>- Garden areas in future development to have a 650mm capping layer</i> <i>- Soft landscaped areas to have 450mm capping layer</i> <i>- Import criteria for soils to be based on relevant Criteria</i> <i>- Watching brief to deal with any unexpected contamination.</i> <p>Asbestos</p> <p><i>Based on the site investigation the report noted that asbestos is unlikely to be present or pose a significant risk, however, a watching brief should be kept at the site.</i></p> <p>Controlled water</p> <p><i>Monitoring and sampling was carried out and the report concluded that no significant groundwater contamination had been encountered.</i></p> <p>Ground gas</p> <p><i>Sampling was carried out. The report states that</i></p> <p><i>“The development is likely to fall into a Type B category (Private or commercial/public, possible multiple occupancy), for which Characteristic Situation 2 requires 3.5 points</i></p>	
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	<p><i>of protection. This will comprise a combination of: the structural barrier of the floor slab; ventilation measures; and gas resistant membrane. Specific details will need to be considered by the structural engineer.”</i></p> <p><i>Note that gas protection measures are part of the Building Regulations and should be agreed and signed off as part of the Building Control process.</i></p> <p><i>The proposals outlined in the Jubb Remediation Strategy should be used as a basis for the works needed for the future, detailed development proposals for the site”.</i></p>	
<p>SCC Ecologist</p>	<p><i>“The application is located within the catchment of the Somerset Levels and Moors Ramsar site. However, the proposed application, with associated low levels of Phosphate production, is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore, a Likely Significant Effect under The Conservation of Habitats and Species Regulations 2017 (and as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) can be ruled out.</i></p> <p><i>Please note that this only applies to the specifics of this application as a standalone. It is recognised that any future schemes as a separate planning application will need to be assessed on their own merits and may require a Habitats Regulations Assessment (HRA). Notwithstanding nutrient considerations above please see ecology comments below:</i></p> <p><i>An Ecological Survey Addendum report of the application site was carried out in 2021 by Cotswold wildlife surveys. The report provides updates to historic survey efforts across the site.</i></p> <p>Habitats:</p> <p><i>The site is mostly hardstanding ground. Features of ecological value are limited to an area of amenity grassland, buildings and a few scattered trees that fall within the redline boundary in the northern section the site and vegetation on the southern boundary between the site and the adjacent river tone.</i></p>	<p>Noted, Conditions and Informatives imposed.</p>

	<p>Designated sites: <i>The application site lies within Band C of the Bat Consultation Zone for the Hestercombe House SAC which is designated for its lesser horseshoe bat feature. However, the proposed development is highly unlikely to have an effect on lesser horseshoe bats and therefore I do not propose to carry out a Habitats Regulations Assessment for the application.</i></p> <p>Bats: <i>The buildings on site were considered to be negligible for roosting bats, low levels of activity of commuting and foraging bats are associated with the site and particularly along the river tone.</i></p> <p>Birds: <i>Nesting opportunities associated with building structures and vegetation on site.</i></p> <p>Otter and water vole: <i>Known records associated with the river tone adjacent to the site.</i></p> <p>Invasive species: <i>A fresh scat from American Mink was noted along the banks of the river tone during the survey but not specifically attributed to the development site itself.</i></p> <p><u>Recommendations</u> <i>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”.</i></p> <p>“Biodiversity Enhancement (Net Gain) <i>In accordance with National Planning Policy Framework (NPPF) and the Environment Act, the requirement of biodiversity enhancement needs to be considered with planning applications. However, it is accepted that this application is for site clearance as part of enabling infrastructure works for future plans which will be implemented under a separate application. Therefore, any enhancement measures at this stage would likely be inappropriately incorporated and potentially disturbed during the later development. It is therefore anticipated that permanent biodiversity enhancement measures shall be</i></p>	
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	<p><i>implemented in detail within the design stages of the future applications”.</i></p> <p>Conditions and Informative proposed relating to bats, small mammals, badgers and birds.</p>	
SCC Rights of Way	<p><i>“...there is a public right of way (PROW) recorded on the Definitive Map that abuts the site (public bridleway T 33/21) at the present time. A long-distance trail, the East Deane Way, abuts the site on a temporary route beside the river”.</i></p> <p><i>“The proposed pipeline across the bridleway T 33/21 will need to be authorised through a s50 licence”. “On the parallel planning application 38/21/0436, there is a temporary bridleway diversion shown on the application’s plans but this does not appear to be shown on the plans for this application 38/21/0440 and therefore there needs to be co-ordination between all the applications”.</i></p> <p>Any proposed works must not encroach onto the width of the PROW (public bridleway), ref T33/21.</p> <p>Health and safety should be considered.</p> <p>Informative suggested.</p>	Informative added.
Taunton Disability Action Group	<p>Referring to all three applications currently pending – <i>“We are surprised that an Equality Impact Assessment isn’t done at this stage, effectively, planning permission could be given for something that does not comply with the Equality Act 2010. It would seem sensible to consider these matters at the beginning, consulting with interested parties, working together, finding solutions, avoiding problems at a later stage where things have been overlooked, as has happened with other schemes. Our input at this stage is this; the schemes must be inclusive and comply with the provisions of the Equality Act 2010”.</i></p>	The applicant is undertaking an EIA, however this application involves no greater public access than exists currently.

8.3 Local representation

8.3.1 This application was publicised by 81 letters of notification to neighbouring properties and 6 site notices were displayed around the periphery of the wider Firepool site on the 11th November 2021.

8.3.2 One representation, indicating neither support nor objection, was received from a private individual, who recounts the ‘Auction House’ being used as an Indoor Market from the 1950’s to the mid-1990’s. Attempts to include a

specific location for a market in the Town Centre Action Plan failed but a policy [*Case Officer comment – this is Policy Fp1*] includes reference to the relocation of the produce market within the town centre. The representation calls for a portion of the proceeds from the development of this corner of the site to be saved for the new Taunton Town Council to help develop market space elsewhere. These matters will be picked up in the main body of the report at para 12.62.

- 8.3.3 Those that are material to the determination of the applications are addressed in substance in the material planning considerations sections of this report.

Comment	Officer comment
Parking	
A small area should be retained for resident parkers and as short-term connection point for the businesses in Station Road.	Addressed in para 12.42 of this report.

- 8.3.4 There were no specific letters of support received.

9. Relevant planning policies and Guidance

- 9.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former Taunton Deane area. The Development Plan comprises the Taunton Deane Core Strategy (2012), the Taunton Site Allocations and Development Management Plan (SADMP) (2016), the Taunton Town Centre Area Action Plan (2008), Somerset Minerals Local Plan (2015), and Somerset Waste Core Strategy (2013).
- 9.2 Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 are currently being reviewed and the Council undertook public consultation in January 2020 on the Council's issues and options report. Since then the Government has announced proposals for the local government reorganisation and regulations are currently going through Parliament with a new unitary authority for Somerset to be created from 1 April 2023. The work undertaken towards a new local plan will feed into the requirement to produce a Local Plan covering the new authority.
- 9.3 Relevant policies of the development plan in the assessment of this application are listed below.

Core Strategy 2012

SD1 - Presumption in Favour of Sustainable Development

SP1 - Sustainable Development Locations

SP2 - Realising the Vision for Taunton
CP1 - Climate Change
CP2 - Economy
CP3 - Town and other Centres
CP4 – Housing
CP5 – Inclusive Communities
CP6 - Transport and Accessibility
CP7 - Infrastructure
CP8 - Environment
DM1 - General Requirements
DM4 - Design
DM5 - Use of Resources and Sustainable Design

Site Allocations and Development Management Plan 2016

A1 - Parking
A2 - Travel Planning
A3 - Cycle network
TC4 - Primary Shopping Areas
I4 - Water Infrastructure
ENV1 – Protection of trees, woodland, orchards and hedgerows
ENV2 - Tree Planting within New Developments
ENV4 – Archaeology
ENV5 - Development in the Vicinity of rivers and canals
D1 - Taunton's skyline
D7 - Design Quality
D8 - Safety
D9 - A co-ordinated approach to development and highway planning
D13 - Public Art

Taunton Town Centre Area Action Plan 2008

Fp1 - Riverside - Development content
Fp2 - Riverside - Transport measures
Tr2 – Parking in New Development
Tr3 – Smarter Choices
Tr4 – Travel Plans
Tr5 – Car Sharing
Tr6 – Developer Contributions to Transport
Tr10 – Cycle Schemes
F1 – Development in the Floodplain
ED1 – Design
ED2 – Public Art
ED3 – Mixed Use
ED4 – Density
ED5 – Combating Climate Change through New Development
ED6 – Off-site Public Realm Enhancements
TS1 – Training & Skills
IM1 – Priorities for Developer Funding

Supplementary Planning Documents

Public Realm Design Guide for the Garden Town, December 2021

Other relevant policy documents

Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (February 2021)

Neighbourhood Plans

There is no made Neighbourhood Plan for the area

The National Planning Policy Framework

The revised National Planning Policy Framework (NPPF), last update July 2021 sets the Governments planning policies for England and how these are expected to be applied.

Relevant Chapters of the NPPF include:

2. Achieving sustainable development
3. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
7. Ensuring the vitality of town centres
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

10. Conclusion on Development Plan

- 10.1. To properly perform the S38(6) duty the LPA has to establish whether or not the proposed development accords with the development plan as a whole. This needs to be done even if development plan policies "pull in different directions", i.e. some may support a proposal, others may not. The LPA is required to assess the proposal against the potentially competing policies and then decide whether in the light of the whole plan the proposal does or does not accord with it. In these circumstances, the Officer Report should determine the relative importance of the policy, the extent of any breach and how firmly the policy favours or set its face against such a proposal.
- 10.2. There are specific polices in the Core Strategy (CP3) Taunton Area Action Plan (Fp1) that support the development of the Firepool site, making it a strategic priority for the Council, given its transformative impacts on the Town Centre and delivery of the Garden Town objectives.
- 10.3. This report assesses the material considerations and representations before reaching a conclusion on adherence with the development plan as a whole.

11. Local Finance Considerations

Community Infrastructure Levy

The application is for an access which is a development type where the Community Infrastructure Levy (CIL) is not charged. As such there would not be a CIL receipt for this development.

12. Material Planning Considerations

12.1. The main planning issues relevant in the assessment of this application are as follows:

- The principle of development
- Prematurity – development in advance of a Masterplan
- Technical Assessments – Flood Risk
- Access and highway safety
- The impact on neighbouring residential amenity

Principle of Development

12.2. Delivering the redevelopment of the Firepool site is one of the Council's key corporate priorities. This application is one of three recent applications and is another important first steps towards achieving that objective.

12.3. Planning Committee approved in February 2022 the application for an access off Trenchard Way and this in time will become the principal means of access for vehicular traffic relieving Canal Road.

12.4. The third application to develop Block 3, with a new office building (with retail on the ground floor) and conversion of the existing GWR building to a restaurant, plus the northern extent of the planned public realm boulevard is subject to a separate report also on the agenda for the 17 March 2022 Planning Committee.

12.5. The Firepool site has been vacant for over a decade and there is very strong support within the local community for it to be redeveloped. In tandem with the proposed main vehicular access, this substantive package of enabling infrastructure works is necessary site preparation of this brownfield site to cater for future development. Whilst largely a technical assessment of matters concerning flooding and drainage, and works which will be largely unseen underground, its implementation represents the opportunity for a significant future development within a highly accessible and sustainable location.

12.6. The redevelopment of the application site which forms part of a key brownfield site (Firepool) within Taunton's Town Centre, is supported by the Development Plan and is an important part of its strategy for Taunton. The clear focus of long-established national and local planning policy is to secure sustainable patterns of redevelopment and regeneration through the efficient

use of previously developed urban land and through concentrating development in accessible locations. Paragraph 119 of the NPPF states that local planning authorities should adopt a clear strategy for accommodating objectively assessed needs in a way that makes as much use as possible of previously developed or 'brownfield' land. Paragraph 120 c) states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for development needs.

- 12.7. The Development Plan echoes the rhetoric of the above. The Core Strategy (Policy SP1) makes it clear that the Taunton urban area will remain the strategic focus for growth and will be the focal point for new development. It states that priority has been given to the regeneration and expansion of the town centre, with a number of strategic sites allocated in the adopted Taunton Town Centre Area Action Plan (2008). Meanwhile, Policy DM1 seeks to ensure new development makes the most effective and efficient use of land, giving preference to the recycling of previously developed (brownfield) land. It also sets out the scale of additional office and retail space that the vision for Taunton will require.
- 12.8. The Town Centre Area Action Plan (AAP) is essentially a delivery plan. It includes Firepool as one of its main proposals where around 60,000 square metres of new offices, 8,000 square metres of retailing and leisure uses, a boulevard linking the railway station with the River Tone and the town centre and two multi-storey car parks (including one for rail users) will be provided.

Prematurity – Development in advance of Masterplan

- 12.9. The proposed enabling work is an integral first step to the opening up of the Firepool site.
- 12.10. The revised NPPF (July 2021) provides policy support for the application proposals. In addition to the presumption in favour of sustainable development, the following paragraphs are pertinent:
- Paragraph 38 states that decision-makers at every level should seek to approve applications for sustainable development where possible.
 - Paragraph 80 states that significant weight should be placed on the need to support economic growth and productivity.
 - Paragraph 118 states that planning decisions should give substantial weight to the value of reusing brownfield land within settlements and promote and support the development of under-utilised land and buildings.
- 12.11. A new Masterplan and revised mix of uses for the wider Firepool site is being prepared and will be subject to public consultation before its adoption as a material planning consideration. It is understood the Council's objective is to commence development, starting with these enabling works, as soon as possible. Whilst ideally this application would have waited to be informed by

a site-wide Masterplan the LPA is required to determine the application before it.

- 12.12. The LPA must therefore proceed on the basis that this planning application should be treated on its merits and on the balance of considerations applying the relevant policies in the Development Plan, the weight that can be given to them, and all material considerations including national policy.
- 12.13. If, due to the way the levels and drainage are being designed, it later causes a constraint to development potential, then any financial risk in this 'cart before the horse' approach lies with the applicant. This will ultimately only be known post-Masterplan when planning applications are submitted for assessment. The previous approval for the St Modwen scheme was a comprehensive development inclusive of this type of infrastructure work led by a proposed final design where one knew where buildings were going to be located, trees planted, and roads constructed. In this case the predominant route for realigned services is the boulevard which become more of a 'fix' but the principle of a boulevard of some description is supported by policy.
- 12.14. Significant weight should also be given to the potential knock-on economic benefits, the value of re-using brownfield land by facilitating the actual delivery of development on a site that has lain vacant for over a decade which is supported by national and local policy.
- 12.15. The Local Planning Authority also must assess whether the information it has within the Environment Statement is sufficient to determine the application now before it. The Local Planning Authority is of the view that based on the information submitted with and subsequently acquired in connection with the application is adequate to form the view that the application would not have any further environmental effects. As such no formal request under Reg 25 of the EIA Regulations has been necessary.
- 12.16. It is considered that the development complies with the Development Plan when taken as a whole. The relevant policies are CS policies SD1, SP1, SP2, CP1, CP2, CP3, CP5, CP6, CP7, CP8, DM1, DM4; AAP policies Fp1, Fp2, TR6 and ED1, and SADMP policies A3, D7 D8 and D9, as well as policies within the National Planning Policy Framework (NPPF).

Flooding and Drainage

- 12.17. The area of the Firepool site covered by this application falls within Flood Zones 2 and 3 (the zones of medium and highest risk respectively). Due to the location of the site, the flood risk source is fluvial and specifically from the overtopping of the adjacent River Tone.

- 12.18. The submission details scenarios whereby the extent of flooding is modelled with and without the existing river defences to understand the likelihood and severity of any flood events.
- 12.19. Onsite flood mitigation in the form of land raising is proposed, which will mitigate the risk of fluvial flooding within the proposed site further. The development levels that are proposed as part of this planning application are to be set at a level which will allow for future building floor levels and the majority of finished external areas within the site to be raised sufficiently taking into account wider flood defence works and allowing for climate change.
- 12.20. However, whilst this addresses on-site concerns, the raising of levels at Firepool may increase flood risk elsewhere, as was the case with the previous St Modwen scheme. At that time the potential for additional permanent flood defences in Taunton was being established with what became the Taunton Strategic Flood Alleviation Improvements Project (TSFAIP), and with it a commitment from the Council to spend £6m. The impacts of the St Modwen scheme were mitigated short-term by a commitment via section 106 to deploy temporary flood barriers in the Frieze Hill to Town Bridge area until the permanent scheme (wall raising) in that area was completed (known as project TTC5).
- 12.21. Roll forward several years and work on the respective projects of the TSFAIP continues. Project TTC5 is not yet completed to mitigate the works proposed by this application, but the Council is contracted with the EA to start delivery in late 2023. As such, discussions with the EA have taken place to determine the appropriate course of action given the works subject to this application will likely be completed 12-18 months in advance of the TTC5 project.
- 12.22. The LPA and EA remained concerned about a 'what if?' scenario of the TTC5 project not ever going ahead. Recognising that concern the applicant has proposed a solution that addresses the key risk that TTC5 is not completed at all by providing a section 106 agreement with the following provisions:
1. That the Council completes the TTC5 flood defence works within 18 months of the Practical Completion of the Firepool Drainage and Levels project (by December 2024) keeping the EA regularly informed as matters progress
 2. Should it become clear the target Practical Completion of the TTC5 works is terminated or will be subject to a significant delay, then the Council will, before practical completion of the Drainage and Levels project, submit to the Local Planning Authority a scheme for the installation of the Temporary Flood barriers, such scheme to include:
 - i. Details of the ownership of the land upon which the Temporary Flood Barriers would be provided
 - ii. Details of the consultation that will be carried out with the community affected by the Temporary Flood barriers; and

- iii. A scheme for storage, deployment and maintenance of the Temporary Flood Barriers for the entire period during which the Temporary Flood barriers are required.
 3. Once the scheme submitted under paragraph 2 has been approved by the Council (in consultation with the Environment Agency) to implement and maintain the approved scheme in accordance with the details approved therein and this to be completed within 18 months of Practical Completion of the Drainage and Levels project
- 12.23. This solution has been agreed by the EA and the recommendation recognises the need for a section 106 agreement.
- 12.24. The site is also at risk of overland and surface water flooding, i.e. flooded by water from elsewhere. The main risk of overland flooding to the site is caused through the overtopping of the Mill Lease Stream culvert northwest of the site, which contributes to the surface water flood risk identified along the western boundary of the site. Overtopping flows from this culvert could potentially be conveyed down the railway and surrounding region before flowing down Albermarle Road and ultimately to Canal Road and through the western region of the site and into the River Tone.
- 12.25. The combination of river flooding from the Tone and overland flooding necessitates the need for the proposed works in order to facilitate future development of the site.
- 12.26. In addition, Wessex Water (WW) has several drainage assets located within the existing site, which includes combined, surface water and combined overflow sewers. Several WW combined trunk sewers run through the site from Priory Bridge Road and Canal Road, which ultimately discharge into a 4 no. piped siphon located immediately adjacent to the River Tone that conveys flows beneath the river. Canal Road contains smaller public combined sewer infrastructure which served the former uses on the site and currently serves the Prospect Terrace, Canal Terrace and Market Terrace properties.
- 12.27. The existing site is also served by a private network of foul and surface water sewers. However, due to the current state of the site many of these are currently disused/abandoned. One of the upstream surface water sewers that connects into the main trunk sewer serves the relatively new development north east of the site and will need to be maintained/diverted as part of any proposed works for the site.
- 12.28. Extensive investigation has been carried out by Wessex Water at the behest of the applicant to identify the existing sewer networks on the site and the live sewers. The combined sewer network in particular presents a constraint to development with large brick sewers crossing the development zone and the existing siphon being a significant infrastructure asset that requires maintenance and operation.

- 12.29. The sequential test by the Local Planning Authority (LPA) is required as per NPPF guidance as the site is located outside of Flood Zone 1. The site is allocated within the Local Plan and by Policy Fp1 of the Taunton Town Centre Area Action Plan, which is designated for a mixed-use scheme, and the sequential test is passed, and no further assessment will be required.
- 12.30. The proposed works effectively include an untangling of a network of underground services to create unhindered development areas for future buildings. Four WW diversions are proposed, new foul drainage infrastructure will be constructed to serve future development and a new surface water drainage network, inclusive of a swale (part of the future SuDs treatment train for the site) will be provided. A new surface water outfall is required within the bank of the River Tone and will partially sit beneath the water level. Works within 8m of the watercourse requires an EA permit.
- 12.31. Lastly, due to the risk associated with surface water flooding from the overtopping of the Mill Lease Stream Culvert, it is proposed to provide a flood relief culvert as part of the drainage scheme which will connect into the main proposed surface water network for the development and ultimately discharge into the River Tone.
- 12.32. It is evident in the Flood Risk Assessment and Drainage Strategy document that the site supports two combined sewer overflows, which collect and convey overtopping flows from the combined sewers directly into the River Tone. This has recently become a high-profile issue in the media but it should be stressed that the Firepool site is merely the end point of this existing infrastructure and does not currently contribute any foul load to the sewer. In discussions with WW it has been confirmed that with redevelopment of brownfield land they look for opportunities to separate out surface water from the combined or foul systems to land drainage to reduce flooding and overflow operation. However with regards to the Firepool site the systems are already predominantly separate with surface water entering the combined system from further upstream. They state storm overflows are a legacy arrangement and exist on their networks to protect properties from flooding, flows are very dilute when they do operate.
- 12.33. WW have installed Event Duration Monitoring on site (No.17338) recording 5 spills in 2019 and 2 spills in 2020. In response, WW since 2000, has invested £181 million on upgrading nearly 600 storm overflows across its region, with a further £150 million set aside for improvements between 2020 and 2025.
- 12.34. Importantly WW state it would not be possible for the Firepool developer to achieve any measures on site to enable the overflow to be abandoned without increasing the risk of flooding to upstream properties; during storm conditions it is likely the excess water would find another point to discharge and in a less controlled manner. Improvement will need to be implemented in the upstream catchment through surface water separation schemes. WW is working in partnership with other flood risk management authorities on the wider Taunton Flood Alleviation Scheme. As part of this project they are

seeking to redirect surface water flows from impermeable areas (typically rainwater draining from roofs and driveways) connected to the foul sewer and into land drainage upstream from Firepool. WW are currently assessing the feasibility of disconnecting surface water from a development upstream which has separate systems of foul and surface water flows but connection of both flows has been made to the combined sewer. There are limited opportunities to separate significant flows without tackling the issue on a house by house basis. WW accept that there is need for a step change in the way storm overflows operate in the UK, but to do so is not simple and will require several years of sustained investment – to eliminate all overflows in England and Wales will cost in excess of £300 billion.

- 12.35. The proposal has been subject to consultation with the Environment Agency and the Lead Local Flood Authority. A meeting was also convened to address concerns and queries initially expressed by these bodies. Further modelling information has been reviewed and this led to the EA withdrawing its initial objection subject to conditions, which have been imposed.
- 12.36. The LLFA were similarly consulted and following the lead from the EA have also withdrawn their objection subject to two conditions relating to SUDs and a plan for the future responsibility and maintenance of the surface water drainage system.
- 12.37. In light of the above, it is considered that the development complies with the NPPF and Local Development Plan Policies CP1, CP7 and CP8 (of the Core Strategy), and I4 (of the SADMP).

Transport and Highways

- 12.38. The most significant transport impacts of this proposal are short-term whilst the variety of groundworks (remediation, infrastructure and ground raising) are undertaken. Thereon, only traffic movements associated with the re-provided public car park and general maintenance of the site, river, syphon and lock will continue as they have done.
- 12.39. The most notable period for traffic movement associated with this proposal is the period when material is being brought to site to raise the levels. The Construction Traffic Management Plan states all HGV deliveries will be between 9.30am and 3pm on weekdays, and up to 20 per day can be expected, on top of daily staff movements of 10 per day. At its peak based on the associated calculation of material movements this would likely result in 1108 movements over a 12-week period.
- 12.40. In the context of the site this is considered acceptable. The Highway Authority has sought a 'road condition survey condition'; this surveys the carriageway prior to the development taking place so any identifiable damage caused by an increase in HGV use from the construction activity can be put right post works.
- 12.41. The re-provided cycle link through the site is welcome.

- 12.42. One representation requested a small area to be retained for resident parking and as a short-term connection point for the businesses in Station Road. There is no policy to require such, but the Council as applicant will no doubt take on board this feedback.
- 12.43. It is therefore considered that the proposal complies with policies within the National Planning Policy Framework (NPPF) as well as CS policies CP6, CP7, CP8 and DM1 plus SADMP policies A3, D7 D8 and D9.

Heritage and Archaeology

- 12.44. There are a number of designated heritage assets in the immediate vicinity surrounding the site including the Firepool Pumping Station, a cluster of buildings around Taunton Station, GURDS and the Former Shirt and Collar Factory Premises of Barnicotts Limited Printers, all of which are Grade II Listed, plus Staplegrove Road Conservation Area. These heritage assets will not be adversely impacted by the proposal. SADMP policy ENV4 is relevant.
- 12.45. With respect to archaeology, a Written Scheme of Investigation (WSI) has been submitted. A condition refers to its implementation.
- 12.46. Impact on the Canal – The lock has been identified as a non-designated heritage asset. Policy ENV5 of the SADMP is also relevant. The site levels are not substantially increased in the vicinity of Firepool Lock and so there is no direct impact envisaged. It is absolutely right that the development team take into account Firepool Lock as part of the Masterplan progression, to that end they will no doubt heed the calls for further engagement with the Canal and River Trust.
- 12.47. In light of the above, it is considered that the proposals comply with the NPPF and Policy CP8 of the Core Strategy as well as Policies ENV4 and ENV5 of the SADMP.

Landscaping and Arboriculture

- 12.48. Policy ENV1 provides for the protection of trees and other green infrastructure, seeking for development to minimise its impact in this respect or otherwise providing adequate replacement tree provision to compensate.
- 12.49. There are very few, if any trees, or indeed any greenery, of any significance on the site. One category B sycamore on the boundary with Priory Bridge Road has some presence and is to be retained plus some lime trees along the river bank may be saveable given the extent of the works to allow a comprehensive review when the future scheme, inclusive of planting can be considered. For the purposes of these works, tree protection fencing will be conditions for all retained trees. One group of trees which will be lost is a notable group of four Silver Birch bordering Canal Rd, due south of the GWR Goods Office. This is regrettable but the prospect of tree planting as part of future development is tangible enough to justify this loss.

12.50. The comments of the Green Infrastructure Officer are noted; however this application is limited to site enabling and groundworks only, leaving the question of “what next?” to the Masterplan process and future applications. This proposal therefore represents the foundations of the scheme with all above ground development still to be fully designed. Similarly, Policy ENV2 seeks to encourage the planting of new trees in a development, however this application simply seeks to prepare the site for future development where tree planting will be required.

Ecology

12.51. An accompanying Ecological Statement describes the site as of low ecological interest and opines there will be no impact on designated sites in the area. While acknowledging the low species diversity on site, it goes on to recommend some possible mitigation measures.

12.52. These are reaffirmed and enhanced by suggested conditions from the Somerset Ecology Service as consultee. These conditions in part protect bats, birds, small mammals and badgers from the works and two conditions seek to enhance the ecological value of the site via a Biodiversity Net Gain plan.

12.53. In light of a court Judgement (known as Dutch N), Natural England have advised the Local Planning Authority that in light of the unfavourable condition of the Somerset Levels and Moors Ramsar Site, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should undertake a Habitats Regulations Appropriate Assessment. However, the application proposals do not contain any of the uses which would give rise to an increase in nutrient loadings at the wastewater treatment works and so a project level Appropriate Assessment is not required to be undertaken in this case (see Paragraph 7 above).

Impact on Residential Amenity

12.54. Works of the nature proposed here inevitably cannot be undertaken without some impact on residents. Policy DM1 outlines that potential noise pollution which could adversely impact amenity of residents or occupants of a site should be appropriately dealt with. To mitigate as far as possible these impacts a Construction Management Plan has been submitted.

12.55. It states site working hours will be 0700 – 1900 Monday to Friday and 0700 – 1300 on Saturdays. No construction works are proposed to be carried out on Sundays or Public Holidays and it states any variations from this will only occur with the prior agreement of the client after appropriate consultations with local residents and businesses (or their representatives) and the Local Planning Authority.

- 12.56. All heavy goods deliveries will be restricted to take place between 09:30 and 15:00 on weekdays, outside both the highway peaks and the drop off/pick up periods at the local schools. The most intense phase of construction traffic movements would be during the initial earthworks phase (i.e. cut and fill). Based on the associated calculation of material movements this would likely result in 1108 movements over a 12-week period.
- 12.57. The site will also be served by wheel washing facilities.
- 12.58. It is considered these provisions are acceptable.

Origin of Materials

- 12.59. In order to raise ground levels, it is certain new material will need to be brought to site and the traffic impacts of this activity is assessed previously in this report. Whilst the importation of material is governed by EA permits it is considered appropriate to impose a condition to set out the type and origin of new materials being brought to site once it is known once a contractor is appointed.
- 12.60. The applicant team are seeking to reuse as much on-site material as possible to limit importation (and cost).

Ground Conditions

- 12.61. The submitted ground report confirms that there is limited contamination on the site which is generally to be capped by hardstanding and buildings, with limited soft landscaping and no specific remediation measures required. The report concludes that a watching brief should be maintained during site works to ensure any unexpected contamination is dealt with correctly. The reports have been reviewed by Environmental Health colleagues whose comments are replicated in Section 8.2. A condition is imposed to require the remediation scheme to be implemented and any unexpected contamination to be reported.

Other Issues

- 12.62. Produce Market - Para 8.3.2 refers to the representation received regarding the Auction House which is noted. It is not considered Policy C4 of the SADMP is relevant and therefore there is no policy to prevent the demolition of the Auction House, historically used for a variety of uses. It is also worth noting that the St Modwen scheme did permit the demolition of the Auction House. Future development plans will need to address Policy Fp1 and therefore the point raised relating to the relocation of the Produce Market within the town centre. This is a matter for the development team and wider Council to consider.

13. Planning Balance and Conclusion

- 13.1. Delivering the redevelopment of the Firepool site is one of the Council's key corporate priorities and this planning application proposal is another vital step towards achieving that objective. The Firepool site has remained vacant for over a decade and there is strong support within the local community for it to be redeveloped. A new Masterplan and revised mix of uses for the wider Firepool site is being prepared and the Council's objective is to deliver the site itself, starting with the commencement of enabling work on the application site as soon as possible.
- 13.2. Whilst that Masterplan is being produced this planning application should be treated on its merits and on the balance of considerations, applying the relevant policies in the Development Plan, the weight that can be given to them, and all material considerations including national policy. It is concluded that the proposal accords with the Development Plan, read as a whole.
- 13.3. Significant weight should be given to catalytic effects of this proposal to finally realise the economic benefits of the wider proposals, the value of re-using brownfield land, the intended high quality of the overall regeneration project and that the application will facilitate the actual delivery of development on a brownfield site that has remained vacant for over a decade.
- 13.4. The recorded concerns and objections have been replicated, explained, and assessed in this report, balanced against a series of material considerations.
- 13.5. It is considered that the tangible benefits of the scheme outweigh any minor residual concerns. For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted subject to the stated conditions set out in full in Appendix 1.
- 13.6. In preparing this report the Case Officer has considered fully the implications and requirements of the Human Rights Act 1998 and the Equality Act 2010.

Appendix 1 – Planning conditions and informatives

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 and documents:

21137-100-P3	Location Plan
21137-142-T3	Proposed Plateau Levels
21137-144-T1	Proposed Plateau Levels Sections
21137-150-T2	General Arrangement
21137-151-P2	Proposed Footway/Cycle Link
21137-160-P2	Revised Car Park Entrance Section
21137-200-T3	Site Clearance
21137-501-P3	Enabling Infrastructure Drainage Layout Plateau
21137-570-P2	Drainage Construction Details Plateau
21137-601-P3	Proposed Isopachyte Site Strip v Formation Plateau

Reason: For the avoidance of doubt and in the interests of proper planning.
3. No development shall take place (including investigation work, demolition, siting of site compound/welfare facilities) until a survey of the condition of the adopted highway has been submitted to and approved in writing by the Local Planning Authority. The extent of the area of adopted highway to be surveyed must be agreed by the Highway Authority prior to the survey being undertaken. The survey must consist of:
 - a) A plan to a scale of 1:1000 showing the location of all defects identified;
 - b) A written and photographic record of all defects with corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey.
 - c) A timetable for the 'making good' of any defects (in this regard all work should be to the satisfaction of the Highway Authority)Reason: To ensure that any damage to the adopted highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer.
4. No development shall take place (including site clearance and any other preparatory works) until a scheme for the protection of trees to be retained (trees to be felled are shown on the Site Clearance Plan, DwgNo. 200 RevT3) has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a plan showing the location of the protective fencing and shall specify the type of protective fencing, all in accordance with BS 5837:2012. Such fencing shall be erected prior to commencement of any other site operations and at least two working days' notice shall be given to the Local Planning Authority that it has been erected. The fencing shall be maintained and retained for the full duration of development works or until such time as agreed in writing with the Local Planning Authority. No activities whatsoever shall take place within the

protected areas without the prior written agreement of the Local Planning Authority.

Reason: To ensure the enhancement of the development by the retention of existing trees and natural features during the construction phase.

5. Prior to any excavations within the Watching Brief Area (as defined in the WSI) a programme of archaeological work shall be implemented in accordance with the submitted and approved Written Scheme of Investigation (WSI - Cotswold Archaeology October 2021) The development hereby permitted shall be carried out in accordance with the WSI.

Reason: The site has been identified as of possible archaeological interest and therefore as requiring further archaeological investigation in accordance with section 16 of the National Planning Policy Framework and Policy CP8 of the adopted Taunton Deane Core Strategy.

6. Prior to the commencement of the drainage works comprised in the development, details of any temporary connection works required to maintain operation of live drainage assets shall be submitted to and approved in writing by the Local Planning Authority together with a timetable for implementing the permanent works.

Reason: The suggestion that temporary measures may be required necessitates consultation and agreement with Wessex Water to ensure the site and wider area is suitably drained.

7. Prior to the importation of any material to the site, a specification of the materials to be used for ground raising plus their quantum and origin and any proposals for the phasing of works shall be submitted to and approved in writing by the Local Planning Authority. There shall be no processing of material on the site (crushing, riddling) without the prior written consent of the Local Planning Authority.

Reason: To control the importation of materials in the interest of pollution control, highway safety and residential amenity.

8. The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) by Jubb Consulting Engineers dated October 2021 ref: 21137-FRA&DS-01v2 and the mitigation measures it details, particularly:

- a) Ground levels should only be raised to enable Finished Floor Levels (FFLs) of new buildings and roads to be raised 300 mm and 150 mm above the post TSFAIP 1 in 100 year including climate change level.
- b) The overland flow route should not be interrupted as a result of the land raising work and as such, prior to any land raising that would interrupt the overland flow path, the twin culvert and drainage system must be in place.

These mitigation measures shall be fully implemented in accordance with a timetable based on the FRA's timing/ phasing arrangements to be submitted to and approved by the Local Planning Authority prior to any works taking place. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding.

9. The approved Construction Traffic Management Plan reference W21137-CTMP01-D, dated December 2021 shall be implemented in full and maintained throughout the duration of the works (or phase thereof) unless otherwise agreed in writing by the Local Planning Authority. Once a contractor

is appointed to undertake the development, the outline Construction Environmental Management Plan reference 21137-CEMP-Rev1 dated October 2021 shall be updated, refreshed and resubmitted and once agreed in writing by the Local Planning Authority shall be implemented in full and maintained throughout the duration of the works (or phase thereof) unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, to protect the amenities of nearby properties during the construction of the development and to protect the natural and water environment from pollution.

10. The development shall be carried out in accordance with the recommendations in the document "Firepool, Taunton Infrastructure Works, Remediation Strategy, 20 August 2021. Jubb Consulting Engineers Ltd" unless otherwise agreed in writing by the Local Planning Authority. In the event that contamination is found at any time when carrying out the approved works that was not previously identified, such contamination must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must then be undertaken and where remediation is necessary a remediation scheme must be submitted which is subject to the approval in writing of the Local Planning Authority, and then carried out in full, in accordance with a timetable which shall have also been submitted to and approved by the Local Planning Authority.

Reason: To ensure the approved remediation scheme is implemented and unexpected contamination is reported in the interests of controlling pollution to the benefit of the environment and future residents.

11. Prior to installation of any external lighting, a lighting design for bats, following Guidance Note 8 - Bats and Artificial Lighting (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 the said 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 approved design, and these shall be maintained thereafter in accordance with the approved 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.

12. No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or works to or demolition of building structures commences and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.

- Reason: In the interests of nesting wild birds.
13. 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 2021) 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.
14. 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 approved plan.
Reason: To safeguard the long-term maintenance and operation of the proposed system to ensure development is properly drained in accordance with the NPPF.

Notes

1. In accordance with the National Planning Policy Framework the Council and relevant statutory consultees have worked in a constructive and pro-active way with the applicant to find solutions to problems in order to reach a positive recommendation and to enable the grant of planning permission.
2. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted a footpath is built on or otherwise interfered with.
3. The applicant is advised to contact Network Rail Asset Protection Team via assetprotectionwestern@networkrail.co.uk at least 3 months before works commence to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required.
4. The applicant is advised of the comments received 30 November 2021 from the Canal and River Trust concerning restrictive covenants.
5. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.
6. 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.

7. The applicant is advised of these comments from the Environment Agency-
- a) It should be noted that Block 3 Phasing and Infrastructure enabling works from the adjacent application (ref: 38/21/0436 and Agency Ref: WX/2021/135813/02) indicates drainage infrastructure within this red-line. A co-ordinated approach is required. Land raising on this site should not compromise the temporary attenuation provided for Block 3, and plans should be made for the attenuation system to merge into one as part of the final design.
 - b) Measures should be taken to prevent the runoff of any contaminated drainage during the construction phase. 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. 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. Generic advice on managing contamination is available on the Land Contamination: Risk Management pages of the GOV.UK website:
<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>
 - c) Any waste generated must be disposed of in accordance with Waste (England and Wales) Regulations 2011. If waste material is brought onto site for construction purposes, the developer should ensure that appropriate permits are held according to [Waste \(England and Wales\) Regulations 2011](#)
 - d) The above proposal falls within Flood Zone 3 which is an area with a high probability of flooding, where the indicative annual probability of flooding is 1 in 100 years or less from river sources (i.e. it has a 1% or greater chance of flooding in any given year). The EA recommend the applicant contacts the EA on 0345 988 1188 to sign up for our free Floodline Warnings Direct service. Future occupants of the properties would also be advised to sign up to this service.
 - e) The EA recommend that the applicant prepares a Flood Warning and Evacuation Plan for this site as there will not be a safe access during a flood event whilst the land raising is taking place. The Council's Emergency Planners should be consulted in relation to these arrangements for the site. The EA 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 LPAs to consult their Emergency Planners with regard to specific emergency planning issues relating to new development.

- f) The applicant should note that this development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the River Tone, designated a 'main river'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available on the GOV.UK website:
<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>
 - g) The need for an Environmental Permit is over and above the need for planning permission. To discuss the scope of the controls please contact the Environment Agency on 03708 506 506. Some activities are now excluded or exempt; please see the following link for further information:
<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>
 - h) It is noted that material is being sought to import to the site to raise site levels for development. It is important that this is done in such a way as to prevent introduction of additional risks to controlled waters. The importation and reuse of materials require an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2016, from the Environment Agency, unless an exemption applies, or the material is reused in accordance with a scheme such as the CL: AiRE DoW CoP. The applicant is advised to contact the Environment Agency on 03708 506 506 for further advice and to discuss the issues likely to be raised. They should be aware that there is no guarantee that a permit will be granted. Additional 'Environmental Permitting Guidance' can be found at:
<https://www.gov.uk/environmental-permit-check-if-you-need-one>
8. The applicant is advised of these comments from the Lead Local Flood Authority when seeking discharge of Conditions 13 and 14 –
- a) 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.
 - b) Detailed, network level calculations demonstrating the performance of the proposed system are required and this should include:
 - c) Details of design criteria etc and where relevant, justification of the approach / events / durations used within the calculations.
 - d) Where relevant, calculations should consider the use of surcharged outfall conditions.
 - e) Performance of the network including water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details / discharge rates

- f) Results should be provided as a summary for each return period (as opposed to each individual storm event).
- g) 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
- h) Detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific.
- i) 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.
- j) 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.

Application Details	
Application Reference Number:	38/21/0436
Application Type:	Full Application
Description	Erection of an office building with ancillary ground floor commercial use (Class E), conversion and erection of extension to the GWR building to form restaurant (Class E), public realm, landscaping and associated infrastructure works on land to the south of Trenchard Way, (Block 3), Firepool, Taunton
Site Address:	FIREPOOL Regeneration Site, South of Trenchard Way, Canal Road/Priory Bridge Road, Taunton
Parish:	Taunton unparished area
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment area:	Yes
AONB:	No
Case Officer:	Simon Fox, Major Projects Officer (Planning) 07392 316159 s.fox@somersetwestandtaunton.gov.uk Should you wish to discuss the contents of this report item please use the contact details above by 5pm on the day before the meeting, or if no direct contact can be made please email: planning@somersetwestandtaunton.gov.uk
Agent:	J Price Consulting
Applicant:	Somerset West and Taunton Council
Reason for reporting application to Members:	In the interests of probity - The proposal is submitted by Somerset West and Taunton Council on a strategic regeneration site owned by Somerset West and Taunton Council.

1. Recommendation

That planning permission be **GRANTED** subject to conditions

2. Executive Summary of key reasons for recommendation

- 2.1 The application seeks permission for the northern gateway into the Firepool site, enclosed by a new office building and the northern portion of the boulevard. After consideration of all representations, planning policy and material considerations including the planning history, the scope of the application and the knock-on benefits of the scheme the application is considered appropriate to be recommended for approval subject to the conditions listed at Appendix 1 to this report.

3. Planning Obligations, conditions and informatives

3.1 Obligations

None

3.2 Conditions (see Appendix 1 for full wording)

- 1) Time Limit
- 2) Drawing numbers
- 3) Clarification of Use/Permitted Development Rights – Office Building
- 4) Clarification of Use/Permitted Development Rights – GWR Building
- 5) Materials
- 6) Biodiversity Enhancement Plan
- 7) Archaeology
- 8) Construction Environmental Management Plan
- 9) Flood Risk Assessment
- 10) Unexpected Contamination
- 11) Plant, Machinery and Equipment
- 12) Landscape and Ecological Management Plan
- 13) Tree and Hedge Removal outside bird nesting season
- 14) Lighting for Bats
- 15) Landscaping scheme
- 16) Provision of Public Art
- 17) Highway scheme implementation
- 18) Cycle route implementation
- 19) Cycle parking provision
- 20) Provision of disabled parking spaces
- 21) Prevention of surface water onto the highway
- 22) Travel Plan

3.3 Informatives (see Appendix 1 for full wording)

- 1) Statement of positive working
- 2) Rights of Way
- 3) Protection of Badgers
- 4) Protection of Bats
- 5) Protection of Network Rail Assets
- 6) Plant, machinery and equipment comprising development
- 7) Crime Prevention Advice
- 8) Highway Authority Advice – Legal Agreement
- 9) Highway Authority Advice – s278
- 10) Highway Authority Advice – Drainage
- 11) Environment Agency Advice

4. Proposed development, Site and Surroundings

Details of proposal

- 4.1 This is a full application for the proposed mixed-use redevelopment of 'Block 3', an initial phase of the wider Firepool Development Site, within Taunton town centre. The application proposes the delivery of a new four storey office building (1550sqm office), with commercial space on the ground floor (302sqm), as well as the conversion and extension of the former GWR building to form a restaurant (427sqm), and public realm works for the northern section of the proposed 'boulevard'.
- 4.2 The proposed new office building will be four storeys and is to be located to the north of the Block 3 development site presenting a gable to Trenchard Way. An active frontage will be provided in the form of a café or shop at ground floor level, located parallel to the 'boulevard' public realm area to maximise activity. Meanwhile, ancillary uses to the building including cycle stores, a Changing Places Facility, plant space and refuse storage areas will be positioned on the eastern side of the building, 2no. disabled car parking spaces and a dedicated delivery space will also be provided on site. The upper floor plan is divided into small rentable office spaces, with kitchenette spaces, and WCs also being provided on each floor.
- 4.3 In terms of materiality, the proposed building is to be predominantly a contemporary brick and zinc design. The building's 'lighter' glazed base provides contrast to the 'heavier' zinc top, while a pitched asymmetric roof is said to provide the building's prevailing distinctiveness in the street scene.
- 4.4 Located in the centre of the Block 3 site, the GWR building is to be refurbished and the ground floor is proposed to be extended outwards to provide a larger ground floor footprint that makes use of the external space to the south and west. The proposed terrace area which is created by the roof of the ground floor extension and provides an inherent sense of activity around the building and will provide users with views over the proposed boulevard. The main entrance will be through the terrace with a secondary / service entrance to the east. This side extension will only take place once an occupant is found.
- 4.5 This full application also provides the opportunity to deliver the northern most portion of the 'Boulevard' which will eventually provide a pedestrian and cycle connection between the railway station and the Somerset County Cricket Club/River Tone/town centre within a high-quality area of public realm.
- 4.6 The proposals will be initially accessed by vehicles using the existing arrangement from Canal Road although no car parking (except 2 disabled bays) are provided for the Block 3 scheme. A separate application, ref

38/21/0464, has been approved by the Planning Committee on 3 February 2022 for a new access into the wider Firepool site from Trenchard Way (to the north east of Block 3) which will connect to Canal Road and allow an alternative means of access when delivered. Block 3 does not however depend on this access to be delivered and can be brought forward using Canal Road in the interim.

- 4.7 It should be noted that Somerset West and Taunton Council is in this case both applicant and Local Planning Authority. The application is being brought forward by the Somerset West and Taunton Council after the site has lain dormant for many years and to provide some stimulus to unblock and unlock the site for development. Reference hereon to 'the Council' is as applicant/developer, the Somerset West and Taunton Council planning team referred to as the 'Local Planning Authority' or 'LPA' whose defined role is to apply national and local planning policy and assess material considerations without fear or favour in order to provide a recommendation to the Planning Committee.

Site and surroundings

- 4.8 The application site is located within Taunton town centre. It comprises an area of approximately 0.95 hectares (ha) and is arranged in a broad 'L' shape as shown on the submitted Site Location Plan.
- 4.9 The application site is bounded by Trenchard Way to the north, Canal Road to the south and currently comprises previously developed land. The railway station, including its recently constructed new multi-storey car park, lies to the north of the site on the other side of Trenchard Way. The site is bordered to the west by further vacant previously developed land which has recently been granted planning permission for a three storey Innovation Centre being developed by Somerset County Council (ref SCC/3775/2020) and is now under construction. To the east, the Firepool site is bordered by a four-storey retirement apartment building (Lock House) and further residential beyond (Firepool Lock). The site is therefore surrounded on three sides by either recently constructed or consented development. To the south of Canal Road lies the majority of the Firepool site, itself also vacant and subject to an enabling infrastructure application, 38/21/0440 which is reported to the Planning Committee in a separate report on the agenda.
- 4.10 The site, along with the adjoining land described above to the north, west and east, forms part of a wider previously developed area of land known as Firepool which has been vacant for over ten years.
- 4.11 Formerly, the wider Firepool site comprised a livestock market but this use ceased in 2008 and the site was largely cleared to facilitate its redevelopment. The Block 3 site has since been used as a site compound for construction

within the wider area, while also including the existing GWR office building which is to be retained. The existing application site is also largely fenced around the perimeter.

- 4.12 The application site is not within a Conservation Area, nor does it contain any Listed Buildings. However, there are a number of listed buildings in the wider vicinity, including Grade II Listed Taunton Station to the north and the Firepool Pumping Station to the east.

5. Planning (and enforcement) history

Reference	Description	Decision	Date
Somerset County Council Decision 4/38/08/223	Taunton Northern Inner Distributor Road (NIDR): Proposal for a new highway linking Staplegrove Road to Priory Avenue.	Approval	28/04/2008
Somerset County Council Decision 4/38/09/338	Link section of the Taunton Northern Inner Distributor Road across the Firepool Lock development site, consisting of 460m of distributor road, 130m of estate road and 160m of cycleway links.	Approval	24/09/2009
Firepool South - 38/10/0214	Up to 11,200 sq m of office floorspace, up to 4,475 sqm of hotel floorspace, up to 49 residential units together with associated car parking, landscaping, infrastructure and access on the southern part of the Firepool site adjacent to Priory Bridge Road, including the now constructed Viridor building which was later granted reserved matters approval pursuant to this outline.	Approval	30/11/2010
Wider Firepool Site - 38/15/0475	Outline planning application with some matters reserved for the redevelopment of the former cattle market site to provide up to 3500sqm of convenience retail development, up to 6000sqm of non-food development (class A1), up to 4000sqm of office (B1) or hotel (C1) use, up to 2400sqm for a cinema (D2), up to 2600sqm of food and drink establishments (A3/A4/A5) and up to 200 residential units with redevelopment of the former priory bridge road car park to provide up to 4014sqm of office (B1) and 4475sqm of office (B1) or hotel (C1) uses and a	Refusal	01/09/2016

	further 1300sqm of A3/A4/B1 (office) D2 uses with car parking, landscaping, public realm, access, highways, infrastructure works and relevant demolition.		
Wider Firepool Site - 38/17/0150 <i>'the approved St Modwen scheme'</i>	Outline planning application with some matters reserved, except for access for the NIDR only, for the redevelopment of the former cattle market site to provide up to 3500sqm of convenience retail development (Class A1), up to 6000sqm of non-food development (A1), up to 4000sqm of office (B1) or hotel (C1), up to 3900sqm of assembly/leisure (D2) and non-residential institutions (D1) (of which no more than 1500sqm shall be D1), up to 2600sqm of food and drink establishments (A3/A4/A5), and up to 200 residential units (C3) with redevelopment of the former Priory Bridge Road car park and former 84-94 Priory Bridge Road to provide up to 2964sqm of office (B1) and 5525sqm of office (B1) or hotel (C1) uses and a further 1300sqm of A3/A4/B1 (office) D2 uses with car parking, landscaping, public realm, access, (in detail for the NIDR connection) highways, infrastructure works and relevant demolition, (resubmission of 38/15/0475)	Approval	13/03/2019
38/21/0109/SCO	EIA Screening for 1,800 sqm, four storey office building and 300 space, four storey car park.	No EIA required	31/03/2021
Somerset County Council Decision SCC/3775/2020	The erection of a three storey Innovation Centre building of 2,613 sqm floor space (Use Class E) and external car parking area.	Approval	09/02/2021
38/21/0440	Demolition of Auction House and site clearance with temporary diversion of cycle and pedestrian route through the site, raising of ground to create platform formation levels, ground remediation, flood mitigation, primary foul and surface water drainage networks and connections for future sites/developments surrounding the site	Pending	

38/21/0464	Formation of vehicular access with associated works and alterations to highway	Approved	09/02/2022
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6. Environmental Impact Assessment

With respect to Block 3, a Screening Opinion was submitted to the LPA under case ref. 38/21/0109/SCO for: “*the requirement of an environmental impact assessment with the submission of a full planning application proposing a 1,800 sqm, four storey office building and 300 space, four storey car park on land at Trenchard Way, Firepool, Taunton*”. It was concluded by the LPA that the described development was not considered to be EIA development with regards to the criteria laid out in Schedule 3 of the Regulations.

It should be noted that the screened development included a multi-storey car park and therefore a higher quantum of development than the eventual scheme proposed by this full application.

7. Habitats Regulations Assessment

The site lies within the catchment area for the Somerset Moors and Levels Ramsar site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that the proposed uses as offices and other employment uses in line with Natural England Advice will not increase nutrient loadings at the catchment’s waste water treatment works. The Council is satisfied that the development is not likely to have a significant effect on the Ramsar site should permission be granted (either alone or in combination with other projects) pursuant to Regulation 63(1) of the Habitats Regulations 2017.

8. Consultation and Representations

Statutory consultees (the submitted comments are available in full on the Council’s website.

Date of Consultation: 03 November 2021

Date of revised consultation (if applicable): Limited additional consultation was undertaken with specific statutory consultees (HA, LLFA, EA)

8.1 Statutory Consultees

8.1.1 It should be noted not all statutory consultees are consulted on all planning applications. The circumstances for statutory consultation are set out in the Development Management Procedure Order. The following statutory consultees were consulted on this application:

Statutory consultee	Comments	Officer comments
Highway Authority - SCC	Initial comments made raised several concerns. Following re-consultation-	After initial comments a series of

	<p><i>“We have reviewed the highways and transportation aspects of the further information and have the following additional observations to make.</i></p> <p><i>It was previously noted that there would be a need to ensure that in any development scenario Canal Road must not become a “through route” to Trenchard Way. Planning application 38/21/0464 considered the detail of the proposed Trenchard Way vehicular access and it is understood that a planning condition has been attached to that permission which overcomes such concerns. This being the case, there is not requirement to repeat the same condition as part of any permission for this scheme.</i></p> <p><i>As presented in the latest amended scheme, and as shown in Drawing FB3-AHR- S1-XX-DR-L-08109 P07, there is now a dedicated cycle corridor through the site and this helps to overcome the earlier concerns relating to the requirements of the LTN 1/20 cycle scheme guidance. The proposal will provide an alternative “through” cycle route and would avoid the highly trafficked pedestrianised areas which will be located immediately to the west of the proposed office building. The implementation of any amendments within the highway along Trenchard Way will need to be secured as part of an appropriate highway agreement, and it is recommended that this requirement is secured by a planning condition.</i></p> <p><i>The future status of Canal Road has been discussed, and it is clear that the preferred ultimate scenario is that the road is “stopped up” and the route is maintained by a private management company as part of the overall Firepool master plan development. However, the project team has explained that there may need to be an interim scenario where the existing Canal</i></p>	<p>meetings with the Highway Authority took place that led to amended plans that resolved those issues.</p> <p>The suggested conditions are imposed.</p>
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	<p><i>Road remains adopted highway and the associated works are also adopted. The extent of these areas have now been shown in Jubb Drawing 131 T3. As previously mentioned, this would add further complexity and another level of process, with the highway authority having to undertake a comprehensive design check and highway adoption process at a later date (and before the site access could be used). This same highway layout will then be “stopped up” at a later date, and that process will need to be scheduled to suit the delivery of the Trenchard Way vehicular access and any other Firepool projects that could have an impact on the use of Canal Road. It is also noted that there are retaining walls now proposed to be constructed within the highway, and these will be subject to the Approval in Principle (AiP) processes. A planning condition is recommended to secure the design check and adoption process.</i></p> <p><i>The site servicing and disabled parking arrangements have been discussed with the applicant’s team, and there is no objection to the layout now presented.</i></p> <p><i>The scheme does require that the existing Bridleway is diverted as part of the construction phase, however, it is assumed that the appropriate advice has been provided by our Public Rights of Way colleagues.</i></p> <p><i>Whilst the highway authority now raises no objection to the planning application, should planning permission be granted it is recommended that the following conditions are attached”.</i></p>	
<p>National Highways</p>	<p>No objection – “We have reviewed the submitted Transport Statement dated October 2021 together with the Transport Assessment submitted in support of the 2019 permission (ref: 38/17/0150). Based on our assessment the application will result in a net decrease in traffic generated by the Block 3</p>	<p>No action required.</p>

	<p>site over that previously consented under the 38/17/0150 permission. As such it is accepted that the development at Block 3 is unlikely to result in an adverse impact on the safe operation of the strategic road network, in this case M5 Junction 25”.</p>	
Environment Agency	<p>An initial objection was raised due to the lack of a Flood Risk Assessment. <i>“An acceptable FRA is vital to making informed planning decisions. In its absence, the flood risks posed by the development are unknown. This is sufficient reason for refusing planning permission”.</i></p> <p>Upon submission of an FRA the EA commented: <i>“Provided the Local Planning Authority (LPA) is satisfied the requirements of the Sequential Test under the National Planning Policy Framework (NPPF) are met, and provided the temporary drainage infrastructure for this site has been included within long term drainage strategy for the overall site, the Environment Agency can now WITHDRAW its earlier objection, in principle, to the proposed development, subject to the following conditions being included within the Decision Notice”.</i></p> <p><i>“For the applicant’s information I can confirm that based on the environmental sensitivity of the site, its past uses and ground conditions reported in the supporting material we don’t wish to make detailed comments relating to land contamination”.</i></p>	<p>The conditions referred to in the final EA response have been imposed.</p> <p>The matter of the sequential test is discussed at para 12.80.</p>
Wessex Water	No comments received.	
Lead Local Flood Authority (LLFA) - SCC	No comments received.	
Canal and River Trust	No comments received.	
Historic England	<p><u>“Significance</u> <i>Taunton is the historic county town and one of major urban centres in Somerset. It sits within a shallow dip, encircled by Brendon Hills to the west, Quantock Hills to the North, the Somerset levels to the east and Blackdown Hills AONB to the south. This peculiar topographical position has significantly influenced the historic</i></p>	<p>Assessment of the proposal’s impact on heritage assets is given from para 12.50</p>

	<p><i>development of the town, whose urban growth is contained within its basin and surrounded by a predominantly rural landscape.</i></p> <p><i>This contained development is also behind the distinctive and aesthetically pleasing townscape identity in long views from the surrounding ridges.</i></p> <p><i>Taunton's centre and skyline is defined by the church towers of St James, St Mary Magdalene and St George's and the spire of St John's. Because of their intrinsic historic and architectural interest, as well as their group and communal value, those churches are highly designated buildings and Taunton's skyline is an important aspect of these churches' setting, contributing both to their significance and their visual and historical appreciation.</i></p> <p><i>Consequently, the ability to view these competing church towers and spire from longer ranged views, which have formed a characteristic of the settlement's skyline, is an important part also of their collective significance.</i></p> <p><u><i>Impact of the proposals</i></u></p> <p><i>The application seeks permission for the erection of a four storey office building and associated landscaping within Block 3 of the Firepool site, which is an allocated site.</i></p> <p><i>Although there are no designated heritage assets on site, the highly designated assets outlined above might be impacted by the development through their setting, which greatly contributes to their significance.</i></p> <p><i>National Planning Policy Framework sets out in Paragraph 194 that the LPA should require an applicant to describe the significance of any heritage asset affected, including the contribution made by their setting.</i></p> <p><i>We are aware that a Master Plan for the Firepool site is currently been revised. We would have expected this proposal to come forward once that exercise is complete and submitted as part of the application supporting information. We would expect it to include: a thorough assessment of Taunton's key views in and from the town, an analysis of the key sightlines towards the designated heritage assets throughout the development</i></p>	
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	<p><i>and their contribution to the significance of the designated heritage assets along the lines outlined above. It should also include the impact of the proposed development on that significance.</i></p> <p><i>Due to the lack of these important information, we are not able to provide you with detailed comments on the submitted proposals but we would recommend that you satisfy yourself that the above requirements are met.</i></p> <p><u><i>Recommendation</i></u></p> <p><i>Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 194 of the NPPF.</i></p> <p><i>In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.</i></p> <p><i>Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us”.</i></p>	
Natural England	No comments to make.	Noted, no action required.
Network Rail	<p><i>“No objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission”.</i> Comments to be added as Informative Note related to Drainage,</p>	<p>These precautionary comments are noted and the site is considered far enough away as to not require further action at this time.</p>

	Ground Levels, Foundations, Ground Disturbance, Plant, Scaffolding and Cranes, and Access to Railway.	Informative Note to be added.
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8.2 Non-Statutory Consultees

Non-Statutory consultee	Comments	Officer comments
SWT Conservation Officer	<p><u>Proposals</u> <i>Planning permission is sought for erection of a four-storey office building with associated landscaping within Block 3 of the Firepool site. The Master Plan for the Firepool site is currently being revised and this application is being brought forward prior to the completion of the masterplan.</i></p> <p><u>Significance</u> <i>The significance of Taunton's centre and skyline is defined by the church towers of St James, St Mary Magdalene and St George's and the spire of St John's. The churches are high grade designated heritage assets and the church of St Mary Magdalene and St James lie within the conservation area of St Mary and St James while the Church of St John lies within the conservation area of Park Street and Wellington Road.</i></p> <p><u>Policy</u> General duty as respects listed buildings in exercise of planning functions</p> <ul style="list-style-type: none"> <i>In considering whether to grant planning permission for development Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Local Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses</i> <p>General duty as respects conservation areas in exercise of planning functions</p>	Assessment of the proposal's impact on heritage assets is given from para 12.50

	<ul style="list-style-type: none"> • <i>In considering whether to grant planning permission for development Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 the Local Authority special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area</i> <p><i>NPPF para 194</i></p> <ul style="list-style-type: none"> • <i>194. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.</i> <p><u><i>Information requested</i></u></p> <p><i>Due to the significance of the church towers and their appearance and contribution to Taunton's skyline further information has been requested by Historic England in accordance with para 194 of the NPPF. A heritage impact assessment and an understanding of the impact of the development on key views some of which may be far reaching should be provided. Nb the Councils general duty as above. The Panoramic Viewpoints documents is incomplete and does not include some of the far-reaching views that would best demonstrate the impact of the development on the skyline and heritage assets. The town centre viewpoints should be on named locations ie viewpoint 1 is at high level but potentially could be on a popular throughfare; the viewpoint has not identified where it was taken from. The document demonstrates before and after pictures on some viewpoints but not all. Viewpoint 1 is a telling impact on the significance and harm to the church tower and the Taunton skyline. Viewpoint 2 wireframe would be better served without the hoardings. Viewpoints 7-11 and 13-21 are incomplete".</i></p>	
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SW Heritage Trust	<p><i>“The submitted Heritage Statement and archaeological WSI are sufficient to enable the significance of the archaeology on the site to be understood”. Condition suggested.</i></p>	<p>Noted, condition imposed.</p>
SWT Green Infrastructure Officer	<p><i>“Broadly, the design changes answer most of my previous comments, and I think that the current layout works much better. I am writing here a few comments for further consideration:</i></p> <ul style="list-style-type: none"> <i>• The new proposal provides a mixture of raised and flush planters that allows collecting rainwater. I am a bit concerned that the amount of soft landscaping is still relatively low compared with site size.</i> <i>• Canal Road is currently dominated by hardscaping and lacks natural green elements. However, it was mentioned that trees and green elements will be considered as part of future applications.</i> <i>• The cycleway goes along the ramp and east to the new building, and it is now separate from pedestrians' footpaths and creates a safer environment for both (pedestrians and cyclists) than previously. The ramp gradient is pretty low (less than 1:20) and should be comfortable to cycle. However, I think that adding a gully at the edge of the staircase is important in order to create another cycling route. It would probably be used by cyclists who come to the site or by 'slow' cyclists who might prefer not to use the ramp. In a strategic view, adding more options for cyclists is an important measure to encourage active travel mode.</i> <i>• The new design omits the lift and replaces its area with planting and trees. Although it increases the soft landscaping area it might harm people with disabilities that now need to use the ramp in order to get from the lower to the upper part of the site. I think the design should consider the lift in a different location.</i> 	<p>These comments are noted and are assessed in the Design, Layout and Equalities section starting at para 12.24.</p>

	<ul style="list-style-type: none"> • <i>The amended plan reduces the width of the eastern stairs and expands the gallery adjacent to the GWR building, which creates an attractive sitting area and viewpoint. But I think that the multiplicity of stairs might be confusing and doesn't create a clear hierarchy of walking routes. I would prefer one wide staircase that creates a clear connection between the upper area and the future boulevard".</i> 	
<p>SWT Placemaking Officer</p>	<p><u><i>Building Design</i></u> - <i>The relocated substation is a slight improvement although allowing parking in front of this on Trenchard Way will visually detract from this improvement and may hinder the provision of landscaping due to visibility splays. There are plenty of substations where direct access to the front of the unit does not occur. The design of the office block building is supported although there are still concerns relating to the rear elevation which will provide no natural surveillance of the public realm at ground floor. This, together with the shielding from the substation will make this area an unsafe and unwelcoming environment. The revised GWR building is an attractive feature and will work well without the additional floor. The glazed extension and terrace is supported and works well with changes in level.</i></p> <p><u><i>Public Realm</i></u> <i>There are still concerns at the lack of an integrated route along the boulevard for pedestrians, cyclists and other users with mobility and disability issues. It has not been demonstrated what options have been explored for achieving this. Whilst the design of the previous scheme which included a lift was a concern (due to lack of surveillance of the entrance to the lift and lack of transparency of the structure), this could have been overcome. To omit the lift in this scheme will cause people with mobility a significant detour. It is not accepted that the provision of regularly spaced seats along this route is adequate</i></p>	<p>These comments are noted and are assessed in the Design, Layout and Equalities section starting at para 12.24.</p>

	<p><i>compensation for a well-designed proposal that caters for all users.</i></p> <p><i>There is concern at the proposed cycle route to the rear of the office building. Cycle movement would be re-routed across the main access point to the proposed future MSC. This would also be a conflict with the proposed blue badge parking spaces (which are shown outside the red line boundary of this application). The provision of 3 sets of steps is visually confusing and could be better provided for in one wider set of steps providing a direct link between the station and the town centre.</i></p> <p><i>There remains concerns that the public realm is not being considered holistically across the entire length of the boulevard. By designing small sections in a piecemeal fashion risks a disjointed route. As it is the crossing with Canal Road does not appear to have been considered as a nodal point with pedestrian priority. The different colour of paving surfaces in their serpentine design will also appear visually confusing and not aiding direct access and movement.</i></p> <p><i>There also remains a concerns over the use of tree planters. Trees in this type of environment are rarely successful and the surface in the above ground planter is not easy to maintain and often ends up acting as an informal litter bin.</i></p> <p><i>It would be useful if thought could be given to public art as an integral part of the public realm proposals. It would also be useful to consider the possible provision of power points in the public realm to enable such facilities as pop up kiosks/ market stalls”.</i></p>	
<p>SWT Environmental Health</p>	<p><i>“The proposal is to extend and convert an existing building to a restaurant, to erect a new office/commercial building on the western part of the site and for landscaping and public access paths.</i></p> <p>Noise.</p> <p><i>A report was provided with the application</i></p> <ul style="list-style-type: none"> - <i>Firepool, Taunton Block 3. Noise Survey Report 16th April 2021. Ion Acoustics</i> 	<p>Noted, a condition referring to unexpected contamination is imposed.</p> <p>The EA has responded positively to the suggested it</p>

	<p><i>The report included details of a noise survey to determine existing levels on site, which found fairly high levels close to the road. An assessment was made of the potential impact on both residential and office use. It concluded that for residential use improved façade sound insulation would be required for dwellings close to the road. For office use sufficient sound insulation would be provided with standard double-glazed windows.</i></p> <p><i>As this development is for office/commercial uses the use standard double-glazed windows would be acceptable. If any future proposals include residential use the developer should be required to carry out an additional assessment to determine the level of sound insulation that would be required.</i></p> <p>Ground Contamination</p> <p><i>The information provided confirms that there are no significant risks to future users of the site or to controlled waters and there is no need for any remedial works. However, the Report recommends keeping a watching brief which is good practice. It is recommended that the Environment Agency also review the information regarding any concerns about controlled waters.</i></p> <p><i>The information provided on contamination includes</i></p> <ul style="list-style-type: none"> - <i>Block 3, Firepool Taunton. Ground Condition Assessment Report. July 2021. Jubb Consulting Engineers Ltd</i> <p><i>The Report includes a review of previous investigations and reports carried out for this site and assesses possible risks.</i></p> <p>Risks to Human Health</p> <p><i>Samples were tested for a range of possible contaminants and compared to Generic Assessment Criteria for Public Open Spaces. The report states that all samples were below the relevant thresholds other than minor exceedances that were linked to isolated fragments of tarmacadam and coal in the ground and therefore were removed as outliers. The Report concludes that “The resulting risks to human health from site</i></p>	<p>reviews the approach to contamination remediation with respect to controlled waters.</p>
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	<p>soils in the proposed development are considered to be low and as such no specific remediation measures are required”.</p> <p>Ground Gas Monitoring was carried out and the report states that “based on these results no specific gas protection measures would be required”. Note that gas protection measures are part of the Building Regulations and should be agreed and signed off as part of the Building Control process.</p> <p>Asbestos Based on the site investigation the report noted that asbestos is unlikely to be present or pose a significant risk, however, a watching brief should be kept at the site.</p> <p>Risk to controlled waters Monitoring and sampling was carried out and the report concluded that no significant leachate or groundwater contamination had been encountered and that significant impacts have not been identified, and risk to controlled waters are low. The report does state that “A watching brief should be maintained during demolition and construction phases and any future significant earthworks, in particular in the area underlain by made ground, to ensure any unexpected contamination is dealt with correctly” This is good practice and should be in place throughout the development.”</p>	
<p>SCC Ecologist</p>	<p>“The application is located within the catchment of the Somerset Levels and Moors Ramsar site. Following recent advice from Natural England this application may now require a Habitats Regulations Assessment (HRA). However, further to discussions with Natural England, the proposed application, with associated low levels of Phosphate production, is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore a Likely Significant Effect under The Conservation of Habitats and Species Regulations 2017 (and as amended by The Conservation of</p>	<p>Noted, Conditions and Informatives imposed.</p>

	<p><i>Habitats and Species (Amendment) (EU Exit) Regulations 2019) can be ruled out. The application site lies within Band C of the Bat Consultation Zone for the Hestercombe House SAC which is designated for its lesser horseshoe bat feature. However, the proposed development is highly unlikely to have an effect on lesser horseshoe bats and therefore I do not propose to carry out a Habitats Regulations Assessment for the application.</i></p> <p><i>A Preliminary Ecological Appraisal of the application site was carried out in April 2021 by Cotswold Wildlife Surveys updating historic site protected species survey results.</i></p> <p>Bats: <i>Emergence surveys on the building found likely absence of roosting bats but identified bats commuting and foraging around the site.</i></p> <p>Badgers: <i>Commuting opportunities are associated with the site.</i></p> <p>Birds: <i>Nesting bird habitat was identified associated with the building and vegetation on site”.</i></p> <p>Conditions and Informative proposed relating to bats, small mammals, badgers, birds, a LEMP and biodiversity net gain.</p>	
SWT Tree Officer	Initial comments relating to the apparent use of tree planters and the impact on establishing trees of a certain size.	Comments referred back to the applicant, comments incorporated into amended plans.
SCC Rights of Way	Any proposed works must not encroach onto the width of the PROW (public bridleway), ref T33/21. Health and safety should be considered. Informative suggested.	Informative added.
SWT Economic Development	<i>“This application will develop space for a range of employment uses at a key development site near the centre of Taunton and will provide amenities to support other proposed development in the Firepool area. As such the Economic</i>	No action required.

	<i>Regeneration team of the Council is supportive”.</i>	
Crime Prevention Officer – Avon and Somerset Police	No objection subject to comments – perimeter treatment, defensible spaces, layout and surveillance, bollards, street furniture, glazed curtain walling, climbing aids, lighting, parking, landscaping, cycle/refuse stores, doorsets, windows, alarms, CCTV, access controls and Secured by Design accreditation.	These comments have been discussed with the applicant and amendments have been made. Informative added.
Devon and Somerset Fire and Rescue Service	Comments relating to means of escape and access and facilities for the service and how this is set out in the Buildings Regulations provisions.	For information – No action required.

8.3 Local representation

8.3.1 This application was publicised by 96 letters of notification to neighbouring properties and 6 site notices were displayed around the periphery of the wider Firepool site on the 11th November 2021.

8.3.2 No representations of support or objection have been received from members of the public.

8.3.3 The application was referred to the Council’s Equalities Working Group. The Case Officer also approached the Royal National Institute of Blind People and Taunton Disability Action Group, given the area of public realm proposed. Commentary on this collective input is contained with the section on Design and Equalities at para 12.24 onwards.

8.3.4 The Case Officer also approached Taunton Area Cycling Campaign (TACC). TACC confirmed support for the proposed cycle and wheeled ramped link, which will provide a link into Firepool destinations and between the Station and Town Centre. Some detailed comments were made regarding gradient, visibility, surfacing and segregation, which have been considered. See more commentary at para 12.24 onwards.

9. Relevant planning policies and Guidance

9.1 Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) ("the 2004 Act") requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies in the former Taunton Deane area. The Development Plan

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

- 9.2 Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 are currently being reviewed and the Council undertook public consultation in January 2020 on the Council's issues and options report. Since then the Government has announced proposals for the local government reorganisation and regulations are currently going through Parliament with a new unitary authority for Somerset to be created from 1 April 2023. The work undertaken towards a new local plan will feed into the requirement to produce a Local Plan covering the new authority.
- 9.3 Relevant policies of the development plan in the assessment of this application are listed below.

Core Strategy 2012

SD1 - Presumption in Favour of Sustainable Development
CP1 - Climate Change
CP2 - Economy
CP3 - Town and other Centres
CP5 - Inclusive Communities
CP6 - Transport and Accessibility
CP7 - Infrastructure
CP8 - Environment
SP1 - Sustainable Development Locations
SP2 - Realising the Vision for Taunton
DM1 - General Requirements
DM4 - Design
DM5 - Use of Resources and Sustainable Design

Site Allocations and Development Management Plan 2016

TC4 - Primary Shopping Areas
C4 - Protection of community facilities
C6 - Accessible facilities
A1 - Parking
A2 - Travel Planning
A3 - Cycle network
I4 - Water Infrastructure
ENV1 - Protection of trees, woodland, orchards and hedgerows
ENV2 - Tree Planting within New Developments
ENV4 - Archaeology
ENV5 - Development in the Vicinity of rivers and canals
D1 - Taunton's skyline
D7 - Design Quality
D8 - Safety
D9 - A co-ordinated approach to development and highway planning
D13 - Public Art

Taunton Town Centre Area Action Plan 2008

Fp1 - Riverside - Development content

Fp2 - Riverside - Transport measures

Tr1 – Multi-storey car parks

Tr2 – Parking in New Development

Tr3 – Smarter Choices

Tr4 – Travel Plans

Tr5 – Car Sharing

Tr6 – Developer Contributions to Transport

Tr10 – Cycle Schemes

F1 – Development in the Floodplain

ED1 – Design

ED2 – Public Art

ED3 – Mixed Use

ED4 – Density

ED5 – Combating Climate Change through New Development

ED6 – Off-site Public Realm Enhancements

TS1 – Training & Skills

IM1 – Priorities for Developer Funding

Supplementary Planning Documents

Taunton Town Centre Design Code

Public Realm Design Guide for the Garden Town, December 2021

District Wide Design Guide, December 2021

Other relevant policy documents

Somerset West and Taunton Council's Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (February 2021)

Neighbourhood Plans

There is no made Neighbourhood Plan for the area

The National Planning Policy Framework

The revised National Planning Policy Framework (NPPF), last update July 2021 sets the Governments planning policies for England and how these are expected to be applied.

Relevant Chapters of the NPPF include:

2. Achieving sustainable development

3. Decision-making

5. Delivering a sufficient supply of homes

6. Building a strong, competitive economy

7. Ensuring the vitality of town centres

8. Promoting healthy and safe communities

9. Promoting sustainable transport

11. Making effective use of land

12. Achieving well-designed places

14. Meeting the challenge of climate change, flooding and coastal change

15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

10. Conclusion on Development Plan

- 10.1 To properly perform the S38(6) duty the LPA has to establish whether or not the proposed development accords with the development plan as a whole. This needs to be done even if development plan policies "pull in different directions", i.e. some may support a proposal, others may not. The LPA is required to assess the proposal against the potentially competing policies and then decide whether in the light of the whole plan the proposal does or does not accord with it. In these circumstances, the Officer Report should determine the relative importance of the policy, the extent of any breach and how firmly the policy favours or set its face against such a proposal.
- 10.2 There are specific policies in the Core Strategy (CP3) Taunton Area Action Plan (Fp1) that support the development of the Firepool site, making it a strategic priority for the Council, given its transformative impacts on the Town Centre and delivery of the Garden Town objectives.
- 10.3 This report assesses the material planning considerations and representations before reaching a conclusion on adherence with the development plan as a whole.

11. Local Finance Considerations

Community Infrastructure Levy

The creation of retail floor space (old use classes A1-A5 inc.) is CIL liable, however the application is for retail development in Taunton Town Centre where the Community Infrastructure Levy (CIL) is £0 per square metre. Based on current rates, there would not be a CIL receipt for this development.

12. Material Planning Considerations

- 12.1 The main planning issues relevant in the assessment of this application are as follows:
 - The principle of development
 - Prematurity – development in advance of a Masterplan
 - Design and layout
 - The public realm and equalities
 - Active travel, access and highway safety
 - Technical Assessments – Flood Risk, Heritage
 - The impact on neighbouring residential amenity

Principle of Development

- 12.1. Delivering the redevelopment of the Firepool site is one of the Council's key corporate priorities. This application is one of three recent applications and is another important first steps towards achieving that objective.
- 12.2. Planning Committee approved in February 2022 the application for an access off Trenchard Way and this in time will become the principal means of access for vehicular traffic relieving Canal Road.
- 12.3. The third application for enabling works, ground raising, and drainage infrastructure is subject to a separate report also on the agenda for the 17 March 2022 Planning Committee.
- 12.4. Delivering the redevelopment of the Firepool site is one of the Council's key corporate priorities and the planning application proposals is an important step towards achieving that objective. The Firepool site has been vacant for over a decade and there is very strong support within the local community for it to be redeveloped. The proposed development, as one of the first phases of Firepool, therefore represents a significant opportunity within a highly accessible and sustainable location.
- 12.5. The redevelopment of the application site which forms part of a key brownfield site (Firepool) within Taunton's town centre, is supported by the Development Plan and is an important part of its strategy for Taunton. The clear focus of long-established national and local planning policy is to secure sustainable patterns of redevelopment and regeneration through the efficient use of previously developed urban land and through concentrating development in accessible locations. Paragraph 119 of the NPPF states that local planning authorities should adopt a clear strategy for accommodating objectively assessed needs in a way that makes as much use as possible of previously developed or 'brownfield' land. Paragraph 120 states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for development needs.
- 12.6. The Development Plan echoes the rhetoric of the above. The Core Strategy (Policy SP1) makes it clear that the Taunton urban area will remain the strategic focus for growth and will be the focal point for new development. It states that priority has been given to the regeneration and expansion of the town centre, with a number of strategic sites allocated in the adopted Taunton Town Centre Area Action Plan (2008). The SADMP proposals map defines the town centre area as including Firepool, but the Primary Shopping Area defines the centre for retail purposes and Firepool is beyond this. Meanwhile, SADMP Policy DM1 seeks to ensure new development makes the most effective and efficient use of land, giving preference to the recycling of previously developed (brownfield) land. It also sets out the scale of additional office and retail space that the vision for Taunton will require.

- 12.7. Policy CP3 of the Core Strategy states that any proposal for main town centre uses (such as those proposed) will be assessed sequentially and also that on the edge of centre or out of centre sites, such uses above 500sqm must undertake an impact assessment. Only the office building is caught by this threshold.
- 12.8. The SADMP uses Policy TC4 to set the Primary Shopping Area (PSA) and describes how this sets requirements for sequential test and impact assessment. Policy TC5 then essentially sets out the criteria for qualifying developments to fulfil, including in relation to sequential test and impact assessment, but other aspects as well.
- 12.9. These policies are generic and cater for generally speculative or windfall type proposals, but in the case of Firepool the site is allocated for the uses proposed and at significantly greater floor area than the fraction of that proposed by this portion of the wider site. There is also an extant permission which carries weight. In particular the retail supermarket which would have laid on the Block 3 area with an arguably transformative impact on the town centre, adjudged to be acceptable. The future intentions regarding the appropriate quantum of retail on the wider site will need assessing at the Masterplan stage. In line with Policy TCS the Firepool site is a long-term commitment of the Council for planned investment and as an allocated site all policies will have been mindful of its impact on the town centre, both positive and negative. As such one could argue a need for the application of the sequential test and impact assessment but given the relatively small floor area and the fact high quality employment, leisure and residential developments near transport hubs like railway stations is generally sequentially preferable to those further away, and so in reality, what would such assessments tell us that would or should change the approach to Firepool set out in the Town Centre Area Action Plan (AAP) for example?
- 12.10. The AAP is essentially a delivery plan. It includes Firepool as one of its main proposals enshrined in Policy Fp1 where new offices, retailing and leisure uses are promoted alongside a boulevard linking the railway station with the River Tone and the town centre and two multi-storey car parks (including one for rail users).
- 12.11. In detail Policy Fp1 states that development at Firepool will provide:
- a) at least 47,000 sq m (net) office space
 - b) approximately 8,000 sq m gross of additional retail and leisure floorspace, of which 4,000 sq m gross should be convenience retailing
 - c) approximately 400 dwellings, including 25% affordable housing
 - d) a 500-space multi-storey car park (screened with single aspect development where it adjoins public space)
 - e) a 3- or 4-star hotel with at least 100 bedrooms
 - f) primary healthcare facilities

- g) the relocation of the Produce Market within the town centre
- h) a 'boulevard' linking the railway station with the River Tone and Priory Bridge Road
- i) public conveniences close to public parking and the River Tone, to replace the existing facilities at Canal Road and Priory Bridge Road
- j) potential for active street level uses at locations shown on the Proposals Map
- k) high quality riverside promenades
- l) a contribution towards public art at 0.3% of construction cost

- 12.12 This application is seeking to deliver a part of this Firepool proposal, broadly in accordance with the AAP. Clearly all the requirements cannot be provided within just a small part of the site. The application does propose a new office building, with café on the ground floor, as well as a bar/restaurant all at a scale which is consistent with the AAP proposals for the wider site.
- 12.13 The AAP envisages a 'boulevard' linking the railway station (to the north) with the River Tone and Priory Bridge Road and the application proposals include the first section of this boulevard. The AAP considers that 4-5 storey buildings would be acceptable in this location which the application proposals are consistent with.
- 12.14 The uses and scale of uses proposed, being offices, café and a bar/restaurant are entirely consistent with what the Development Plan policies allow and propose within the Town Centre Boundary, within which the application site lies.
- 12.15 The proposed uses fall into the Class E of the Use Classes Order (the planning regulations that assign a 'planning use' to each building or piece of land and govern what that building or land can change to without the need for planning permission but in line with certain criteria). This is a recently broadened use class that now amalgamates the previously separate Commercial, Business and Service uses. What this means in practice is that whilst the ground floor area of the office building and the GWR Goods Office are described as for food and beverage or retail, they could change between office, medical service, retail, food and drink, or use whereby services are offered to visiting members of the public, i.e. bank, insurance uses for example, without need for a planning application.
- 12.16 Importantly under the Use Classes Order there is also the potential permitted change from Class E to Class C3, which is dwelling houses, via a prior approval process, a mixed use and up to 2 flats, and/or a state funded school. The proposed Class E floorspace could be changed to residential under Class MA after 2 years of use as Class E and after being vacant for 3 months, up to a floor area of 1500sqm. In consideration of this the only counter is to formally withdraw permitted development rights so the use stays as office, retail, café as part of Class E and a planning application is required to change to anything else. Otherwise one must rely on Class MA or any subsequent amendment to govern what the buildings could otherwise turn into as is the case currently across the rest of the district.

12.17 In consideration of the merits of changing the GWR building and/or office block, with ground floor retail to residential or part thereof, it is felt withdrawing the right to change is the correct thing to do, to allow a future application to assess the practicalities (living standards, refuse storage, car parking, amenity space) plus the impacts on the vitality of the Block 3 development and to allow the wider picture to emerge via the Masterplan process.

Prematurity – Development in advance of Masterplan

12.18 The revised NPPF provides policy support for the application proposals. In addition to the presumption in favour of sustainable development, the following paragraphs are pertinent:

- Paragraph 38 states that decision-makers at every level should seek to approve applications for sustainable development where possible.
- Paragraph 80 states that significant weight should be placed on the need to support economic growth and productivity.
- Paragraph 118 states that planning decisions should give substantial weight to the value of reusing brownfield land within settlements and promote and support the development of under-utilised land and buildings.

12.19 While the application proposals are broadly consistent with the AAP, planning permissions have previously been granted for development on the Firepool site which was perceived to be in conflict with the AAP policies due to the change in market conditions and other material considerations. Outline planning permission (LPA Ref:38/17/0150) was granted on 13 March 2019 for a retail-led, mixed-use redevelopment of the site. The officer report to committee advised that *“it is accepted that the mix and quantum of uses identified in Policy FP1 would be difficult to deliver in the current market”* and *“it would be prudent when determining an application that is not fully in accordance with the development plan to consider whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. It is also necessary to consider whether there are material considerations which warrant a deviation from the adopted development plan policies”*. The report concluded that the benefits of granting planning permission outweighed the conflict with the AAP.

12.20 A new masterplan and revised mix of uses for the wider Firepool site is being prepared and it is understood the Council’s objective is to commence development, starting with the application site, later this year. Whilst ideally this application would have waited to be informed by a site wide Masterplan the LPA is required to determine applications on their own merits.

12.21 If, due to the way the development has been designed, it later causes a constraint to development potential, then any financial risk in this ‘cart before the horse’ approach lies with the applicant. This will ultimately only be known post-Masterplan when planning applications are submitted for assessment. The previous approval for the St Modwen scheme was a comprehensive

development led by a proposed final design where one knew where buildings were going to be located, trees planted, and roads constructed.

- 12.22 Albeit not ideal, the LPA must therefore proceed on the basis that this planning application should be treated on its merits and on the balance of considerations having regard to the Development Plan, the weight that can be given to it, and all material considerations including national policy. Significant weight should be given to the economic benefits, value of re-using brownfield land, the high quality of the design proposed and that the applications will seemingly facilitate the actual delivery of development on a site that has lain vacant for over a decade.
- 12.23 It is considered that the development complies with the Development Plan when taken as a whole.

Design, the public realm and equalities

- 12.24 A Taunton Town Centre Design Code SPD was prepared to complement the policies in the Town Centre Area Action Plan. The SPD explains that it builds on previous design studies such as the Taunton Design Code (2004) to create distinct character areas whilst strengthening design linkages within the town centre as a whole. It identifies design principles for the Fp1 area as follows:
- a) The priority area for office and retail use is in the west of the area, focused along the route from the station to the riverfront and along Priory Bridge Road. This area will be predominantly commercial in character but must incorporate a mix of residential, retail, leisure and community activity.
 - b) The eastern sector will be predominantly residential in character but must incorporate a mix of employment, retail and leisure activity.
 - c) Strategic public spaces should be provided at the station, the southern end of the boulevard and at Firepool Weir. The riverside promenade will form a key public realm resource.
 - d) The development will enhance the setting of and views to the Pump House listed building and retain and frame views towards Taunton's church towers from the station and boulevard.
 - e) Imaginative contemporary design will be encouraged.
- 12.25 The application contains a detailed Design and Access Statement which explains the design evolution and how it would sit within the wider emerging Masterplan. It is considered, as far as is possible from the limited extent of this particular application that the requirements of the Town Centre Design Code referenced above has been met.
- 12.26 Policy ED1 provides overarching policy guidance on design, seeking appropriate and sensitive responses to a site's context. However, the Garden Town District Wide Design and Public Realm Guide SPD's provide more focused design criteria with relevance to the development site. The Public Realm Design Guide seeks to raise the standard of the public realm and streetworks within the Taunton Garden Town. Extensive discussions have taken place to ensure the boulevard meets all expectations and meets the needs of all users as far as is reasonably possible.

- 12.27 The proposal has also been assessed by Design Review Panel and more recently the Council's Quality Review Panel and these reviews have positively influenced the design. The QRP report from September 2021 is attached as Appendix 2. The QRP assessed the emerging Masterplan and detailed plans for Block 3 as part of an iterative process. QRP opined "*The panel is encouraged by the thought that has gone into the detail design for Block 3. The Block's identity and purpose are clear and expects that as the scheme progresses, the applicant will apply an equivalent level of thoughtful contextual design to the remaining blocks*". Comments relating to the wider boulevard referred to creating an identity, considering more greenery over a predominantly hard paved area, the character and scale of the public realm spaces, use of the term 'boulevard', inclusive design and considering onward connections beyond the site boundaries. The panel also made comment on cycling – "*Given the scale and location, the panel anticipates this site will be busy and suggests that cyclists and pedestrians are separated on selected key routes to ensure everyone can move through it with ease and enjoyment*".
- 12.28 These comments provided a focus for evaluating the public realm, mindful this is a small area compared to the remainder of the boulevard still to come forward. Cycling segregation has been thoroughly considered, and more greenery included. Overall, as can be seen, the Panel recognised the design quality. Concerns remain however from the Council's Placemaking Officer.
- 12.29 With regards to the office building the intention has been to provide an attractive and emblematic introduction to the architectural style of the rest of the Firepool Site, with design references to the wider site incorporated. It also complements the approved Innovation Centre to create uniformity, despite the deferent commissioners. There have been no concerns raised over this building in elevational terms; its height and consequential townscape/heritage impact is assessed at para 12.50 onwards.
- 12.30 One significant advantage of this scheme is the retention of the GWR Goods office (a non-designated heritage asset) and the proposal to enrich the building's existing character, by appropriately updating its function and appearance to foster a vibrant and attractive restaurant/bar. It is perhaps worth reflecting on the fact under the 'approved St Modwen scheme', ref 38/17/0150 (which was approved within the last 3 years) the Block 3 area was to receive a supermarket with associated surface level car park, and this would have required the GWR building to have been demolished. In the wider discussion regarding accessibility, public realm and the overall quality of the scheme this fact alone should be given weight.
- 12.31 This building was to receive a rooftop extension, but that was withdrawn due to different design opinions and the fact it impacted on useable floorspace in the building when taking into account the additional fire safety elements required from installing a third floor. The side extension and first floor terrace would contribute significantly to the overall scheme; however they will only be built as and when a tenant is secured.

- 12.32 An Energy and Sustainability Statement has been submitted detailing how the development meets the relevant policy criteria, including the Climate Positive Planning guidance (adopted February 2021), Sustainability Checklist and the requirements of Policy DM5 of the Core Strategy. The development proposals have been designed to be energy efficient, with very low levels of predicted energy use. As a new building, the office building is said to achieve 33.3% carbon reductions through a range of means including the provision of a PV array and the use of Air Source Heat Pumps. Meanwhile the existing GWR building has been updated to improve its energy efficiency but without impacting the heritage value of the building. However, the new elements of the GWR building have taken the opportunity to incorporate the same very high fabric standards as the office building. In this vein the development proposals are considered to be policy compliant, and representative of the sustainable principles encouraged within the 'Climate Positive Planning' guidance document.
- 12.33 The third aspect of the proposal is the northern portion of the Boulevard, an important linkage and intended area of public realm through the entire Firepool site and one of the fundamental facets of the allocation. It is the public realm that has attracted most comment and attention. The issues can be identified as concerning green infrastructure, use of materials, and accessibility. The next paragraphs assess these different aspects of the public realm.
- 12.34 In terms of green infrastructure there are very few, if any, trees, or indeed any greenery, of any significance in the Block 3 area. Soft and hard landscape plans have been submitted to demonstrate the proposed landscaping strategy for the site focused on the boulevard.
- 12.35 Policy ENV2 seeks to encourage the planting of new trees and circa 30 trees plus other shrub planting is proposed. Concerns have been raised about the use of some raised planters but these are bottomless and the raised walls allow the opportunity for seating and a definition of the space. They also present a colour contrast to the floor paving which aids those with visual impairments to navigate the space.
- 12.36 Policy DM1 of the Core Strategy and D8 of the SADMP supports the use of appropriate lighting in developments. Policy DM1 seeks to resist unacceptable impacts from lighting schemes on the surrounding environment, while Policy D8 seeks to foster a safer public realm via the provision of lighting. A Lighting Plan and specification report including lux plots has been provided in support of this full application to demonstrate that appropriate provision will be included in the design of the Block 3 site. The overall approach to lighting has been to create a sense of safety and activity in the public realm, while being respectful of the surrounding environment in terms of pollution. Up lighting of trees and hidden lighting within staircase handrails will add visual interest at night.
- 12.37 The surfacing materials and street furniture specifications largely follow those prescribed by the Council's Public Realm Design Guide.

- 12.38 The applicants have been asked to consider their policy response to the requirement for public art and they have proposed that the public art strategy for Block 3 will be agreed through the wider masterplanning process to ensure a coordinated site wide approach can be delivered, this will include provision within the Block 3 / Northern Boulevard area of the Firepool Site. They have agreed a condition be imposed to recognise this requirement. This may also have merit because the adjacent Innovation Centre being constructed by Somerset County Council via application SCC/3775/2020 also has a planning condition requiring the provision of public art to be agreed six months after first occupation, so there could be a collaborative approach.
- 12.39 This will be a disappointment for some in not seeing specific details now, however there is a real prospect of a better outcome reserving judgement until the wider boulevard plans and site wide Masterplan are advanced.
- 12.40 The application has undergone assessment through the lens of accessibility and equalities. This has required the space to be assessed from a number of users' viewpoints, including pedestrians, cyclists and those with mobility, hearing and visual impairments. Added to this is the proposed ramp to the north of the GWR Goods Office which provides a gradient friendly means of making up the 4m level difference between Canal Road and Trenchard Way within the Block 3 site area. One of the consequences of the piecemeal approach to the site so far is the fact that all users have had to be accommodated in the red-line area as drawn. When emergency, service, delivery and disabled parking vehicular movements are also added to the conversation then the ability to suit all needs becomes that much more difficult. Nevertheless, through the input from the RNIB, the Council's Equalities Group and Highways Authority the plans have been altered during the application process to come to an agreeable position that allows Block 3 to stand alone, whilst minimising the impact on the future development options on adjoining land.
- 12.41 The Case Officer also sought to involve the Taunton Disability Action Group in similar positive discussions, who were surprised an Equalities Impact Assessment (EIA) had not been completed. TDAG's input was to state the scheme must be inclusive and comply with the provisions of the Equality Act 2010 until such time as the EIA could be reviewed and were happy to provide future input should the projects proceed.
- 12.42 This was discussed with the applicant. An EIA is not a validation requirement nor referenced in any planning policy, as such the applicant has not produced one to date. Its importance in the wider provision of public realm is fully understood and one is currently being produced although the applicants maintain this proposal is fully in accordance with all regulations, primarily Building Regulations.
- 12.43 One such challenge in meeting such regulations is the 4m level difference presenting a difficulty in proving gradient friendly transition and hence alongside the flights of steps proposed there is the 6m wide ramp. The steps

themselves are also of different gradients and widths to aid their use by different people. The ramp caters for cyclists, pedestrians who cannot or who choose not to use the steps, plus service and emergency vehicles which are an irregular occurrence. This facilitates access from Trenchard Way to Canal Road at a gradient no steeper than 1 in 22, and the ramp contains level sections, and there is also seating throughout the scheme at intervals for rest. All users are protected from unmanaged vehicular access by droppable bollards.

- 12.44 Previously it was proposed as use for access to disabled parking spaces and for delivery vehicles but spaces have been identified at the bottom of the ramp instead now, meaning this conflict is avoided.
- 12.45 In the initial submission a lift was also proposed but after design issues were raised the applicants reappraised its necessity and it was omitted. This matter was a key discussion point at the Council's Equalities Group. The inclusion of a lift is not a planning or building regulations requirement plus its installation cost and ongoing maintenance costs were not considered to represent value for money given the existence of the ramp as an alternative to the steps and therefore it remains omitted from the scheme.
- 12.46 Returning to the issue of cycle connectivity which is an objective of the boulevard through Firepool this has also been a matter of debate given the space and layout of the public realm between the proposed office and SCC Innovation Centre currently being constructed. Whilst trying to avoid 'Cyclist dismount' signage and taking into account the desire to segregate cyclists and to ensure the route is as direct as possible whilst allowing for gradients, the plans have been altered to show a dedicated route behind the office building and along the segregated ramp and therefore taking this potential conflict out of a potentially crowded area of public realm. Another cycle route is also provided via the tie in of Block 3 with the Trenchard Way vehicular access.
- 12.47 Another interesting area of public realm created by the levels change is a stepped informal seating area to the side of the retained GWR Goods Office. South facing, the area will allow people to dwell, eat lunch perhaps and enjoy views over the roofscape of Taunton.
- 12.48 The matter of ongoing maintenance and management of the public realm is one for the landowner, in this case the Council to consider. Landscaping will be protected for a period of time by condition.
- 12.49 Whilst concerns persist from the Council's Placemaking Officer it is considered the benefits significantly outweigh these subjective matters and provide the best fit given all the constraints and objectives.

Heritage and Archaeology

- 12.50 The NPPF is clear that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better

places in which to live and work and helps make development acceptable to communities (paragraph 126). With respect to the historic environment, the NPPF states that the heritage assets, such as Conservation Areas and listed buildings, should be conserved in a manner appropriate to their significance (paragraph 189). The comments from Historic England and the Council's Conservation Officer are noted with respect to the assessment the Local Planning Authority should undertake when assessing the impact of new development on heritage assets.

- 12.51 At this point it is important to differentiate between adjacent and local listed buildings, conservation areas and non-designated assets and the related but separate issue of the townscape impact in particular that on the setting of the listed Churches of St Mary's and St James'.
- 12.52 There are a number of designated heritage assets in the immediate vicinity surrounding the site including the Firepool Pumping Station, a cluster of buildings around Taunton Station, GURDS and the Former Shirt and Collar Factory Premises of Barnicotts Limited Printers, all of which are Grade II Listed. These heritage assets are not adversely impacted by the proposals by the presence of intervening development and a lack of direct intervisibility.
- 12.53 The nearest Conservation Area is the Staplegrove Conservation Area. The Conservation Area derives its special historic interest as the supposed original location of the medieval St. Thomas's Fair and land which held the nurseries of John Young, nineteenth century founder of the West Somerset Horticultural Society and instigator of Taunton's annual Flower Show. Many good examples of late nineteenth and early twentieth century terraced, semi-detached and detached middle-class housing survives in an externally well-maintained condition. Much of this occurs within the Elms Nursery Estate, a planned development whose largely intact layout and street planting makes it a very good example of its type. The Conservation Area is located a reasonable distance west with intervening development including Deane House, the tree lined streets and enclosure of buildings mean there are few, if any outwards views of the rest of the town. Only when you reach Staplegrove Road can you glimpse the Cricket Ground floodlights looking due east.
- 12.54 The application site also includes a Local Heritage Asset in the form of the GWR Goods Office, which is to be retained and is close to the Firepool Lock which is similarly of local importance, and both of which are not considered to be harmed by the proposal.
- 12.55 With reference to the town wide impact on heritage assets the decision-maker should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

- 12.56 Historic England makes specific reference to the topography of Taunton and its influence in shaping the town and the consequent identity that is appreciated from long views from surrounding ridges. From those views the skyline is defined by the church towers of St James, St Mary Magdalene and St George's and the spire of St John's. Historic England state *'because of their intrinsic historic and architectural interest, as well as their group and communal value, those churches are highly designated buildings and Taunton's skyline is an important aspect of these churches' setting, contributing both to their significance and their visual and historical appreciation. Consequently, the ability to view these competing church towers and spire from longer ranged views, which have formed a characteristic of the settlement's skyline, is an important part also of their collective significance"*.
- 12.57 Historic England has been involved in a workshop relating to the wide Firepool Masterplan where the skyline/setting of churches issue was discussed. Work continues on the Masterplan including a Visual Impact Assessment. As well as a comprehensive site visit the Case Officer has also viewed the Firepool site from the respective towers of St Mary's and St James' to inform this report.
- 12.58 With respect to this specific application Historic England has asked that a Heritage Impact Assessment be undertaken to address concerns that the proposed four-storey office building will not significantly impact on the skyline and therefore the setting of the churches. Historic England has not stated that they perceive there to be an impact, let alone one that could be considered significantly, merely the process of assessing such impacts has not, to date, been robustly evidenced by the applicant. As such a study is currently being undertaken and will be referred to Historic England. What follows is the Case Officer's assessment of the impact and rationale as to why this application can be progressed pending the final comments of Historic England.
- 12.59 Block 3 sits on the northern edge of the Firepool site, as part of a wider masterplanned area located between the Canal/River and the railway line. The area has effectively been opened up to the public via the construction of the Northern Inner Distributor Road (NIDR) now the A3087 Trenchard Way which now affords some views across the town centre skyline. However, these views are merely glimpses from the new bridge north of Priory Avenue and where space has been left around the listed Pump House. Otherwise Trenchard Way to the east of the application site is enclosed by 3-7 storey development, including Lock House, the retirement living accommodation which is 3-4 storeys which Members will recall sits alongside the wider Firepool site and adjacent to where vehicular access to the wider site is to be achieved. This mass of development largely screens and competes with any opportunity to view the skyline from the north-eastern fringes of the town centre up to the Priorswood area.

- 12.60 Further to the west of the site views of the punctured skyline are obscured by commercial buildings with only the 6-storey 'Viridor' building at Priory Bridge Road and Cricket Ground floodlights providing points of reference. It is not until you reach the bridge over Station Road that the roofscape presents itself, at this point the proposed office building at Block 3 would barely register in your peripheral vision. Again, your eye is drawn to the Cricket Ground floodlights before registering and appreciating the towers and spires.
- 12.61 It is again not until you reach the site frontage of Block 3 that a view again avails itself. The west of the application site is where the 4-storey Innovation Centre is being constructed by Somerset County Council. As is true with the proposed office building, they present a gable or their shorter side to Trenchard Way in order to create the north-south boulevard. This intervention and creation of a clear gap actually lines up and frames the very view Historic England are concerned about. A new view in a new area of public realm to enjoy the uniqueness and quality of the skyline and its topographic setting. Whilst great attention is made to the churches, again one has to visually filter the Cricket Ground floodlights in the foreground. Clearly that development had to assess the very same policies and approach to conservation and was found to be acceptable.
- 12.62 Views from the north are then restricted somewhat by the change in topography alongside the alignment of Trenchard Way and the railway until you are much further north. East and west where again the Cricket Ground Floodlights form the first point of reference for interpreting the skyline. The office building proposed will also have no impact on immediate views from the north because of the screening effect caused by the new railway station multi-storey car park which lies on the north side of Trenchard Way. This building was built utilising permitted development rights and therefore no planning application was required. As such, no assessment of heritage impacts nor the skyline was possible. Views of the proposed office building from the south would be influenced by the multi-storey car parking forming a dominant backdrop being sited behind and being wider.
- 12.63 In addition, it is also worth acknowledging that neither the wider original Firepool Lock Masterplan, Lock House nor the Innovation Centre developments were assessed specifically for their impact on the skyline in the way Historic England is suggesting this application needs to be.
- 12.64 As has been evidenced throughout this report the Firepool area is subject to policies that support its development. It is worth noting that the Taunton Area Action Plan at Policy Fp1 states development is likely to require buildings averaging 4-5 storeys, with potential for taller structures (up to 8 storeys) in selected locations. At 4-storeys this application accords with that policy.

- 12.65 The choice of materials can be as important as establishing overall storey height. The red-brick and zinc roof will blend in with the general colour tone of the town-scape when viewed against other building of great height and light colour treatment.
- 12.66 Concern regarding high rise development in Taunton has in part been triggered and influenced by the Quantock House development at the junction of Mary Street and Paul Street. At 8-storeys, broad in elevation and clad in light coloured materials it is easily viewable from vantage points at Stoke Hill, Henlade and Cotlake Hill. Interestingly, the application for this building (38/18/0173 significantly revised design of 38/16/0345) did not involve consultation with Historic England and received support from Arts Taunton. The officer recognised the skyline and heritage impact but took the view the economic impacts were a significant material considering in recommending approval.
- 12.67 Simply put, Policy D1 of the SADMP 'Taunton's skyline' states 'Development which would detract from the distinctive character and attractiveness of Taunton's skyline will not be permitted'. Given the officer's assessment it is concluded the office building at Block 3 will not detract from the distinctive character at attractiveness of Taunton's skyline to the extent that the building will, in the view of the officer provide a benefit as a gateway to the boulevard which itself opens up the very skyline view that people will enjoy for years to come.
- 12.68 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The benefits of the Firepool site are well known, the catalytic impact of Block 3 is important in realising the development of the remaining and most problematic area of the Firepool area left and being progressed by the Council in the absence of the market being sufficiently incentivised.
- 12.69 Whilst Historic England has concerns regarding the application on heritage grounds this revolves around the skyline impact and setting of churches. After assessment by the Case Officer and the added weight of a Heritage Impact Assessment which will detail the argument made in this report it is considered the application meets the requirements of paragraphs 194 of the NPPF.
- 12.70 With respect to archaeology, a Written Scheme of Investigation (WSI) has been submitted. A suitable condition is imposed.
- 12.71 In light of the above, we consider that the proposals comply with the NPPF and Policies DM1 and CP8 of the Core Strategy as well as Policies ENV4, D1, D7 of the SADMP.

Transport, Highways and Active Travel

- 12.72 The site is an inherently sustainable site by reason of its location and opportunity to foster and promote sustainable and active travel for future residents, customers and visitors but also for those surrounding the site by way of the connecting linkages and sustainable/active travel initiatives.
- 12.73 The site is within a short walk of several bus stops, the mainline train station, a short scoot from the town centre where there are good connections to the National Cycle Route and those cycle routes associated with Trenchard Way and longer term those associated with the development of the wider Firepool site. The scheme includes significant cycle parking and detailed consideration has been given to pedestrian and cycle movements through the site and the public realm and linkages that will be delivered as already detailed in this report.
- 12.74 No car parking is provided within the scheme (with the exception of 2 disabled spaces) and staff/visitors could park in the retained Council car park whilst further development plans are considered on the wider Firepool site or use the GWR multi-storey.
- 12.75 The separate planning application for the new access junction off Trenchard Way will, in time, serve the wider Firepool site including Block 3, and at that time the Canal Road connection would be blocked up. If the Trenchard Way access was not constructed in time then Canal Rd would provide access for the initial construction and if still not completed when Block 3 is completed then at worst vehicular access for refuse collections, deliveries to the commercial areas, service and emergency vehicles, the two disabled parking spaces and pedestrians/cyclists for Block 3 plus any other current usage, for example the Council car park and access to the Canal lock, river and weir, until and unless any other application dictates otherwise.
- 12.76 If the Trenchard Way access, approved under reference 38/21/0464, was constructed and this application was also fully implemented then there is the potential for a through route from Trenchard Way to Priory Bridge Road via Canal Road. This wouldn't be acceptable and so anticipating that issue, Members may recall the imposition of Condition 9 on the access application that stated:
"Save for pedestrian and cycles, the access road hereby approved shall not be brought into use by vehicles until such time as a scheme setting out the areas within the wider Firepool site to be accessed by vehicles has been submitted to and approved by the Local Planning Authority. The said scheme shall prevent through traffic from Canal Road, Priory Bridge Rd and/or via the bridge from/to Youngman Place. The access road shall thereafter only be used in accordance with the approved scheme. The scheme may be varied over time through submissions to and approval in writing by the Local Planning Authority, but no new areas of the Firepool site shall be served by vehicles using the approved access road until and unless suitable mitigation is agreed with the Local Planning Authority and fully implemented".

It is felt this provision safeguards that scenario, albeit unlikely.

- 12.77 The application has been thoroughly considered by the Highway Authority and several meetings have taken place to ensure matters such as the alterations to Canal Road and the provision of the cycle route are acceptable.
- 12.78 With the conditions suggested by the Highway Authority it is considered that the Block 3 development is in compliance with the NPPF and will not have a severe residual cumulative impact on the local highway network as defined within the National Planning Policy Framework (NPPF) as well as meeting the requirements of AAP policies Fp2, Tr4, Tr10, ED1 and ED5 as well as SADMP policies C6, A1, A2, A3 and D9.

Flood Risk and Drainage

- 12.79 Block 3 falls within Flood Zone 1 (the zone of lowest risk). Whilst the site-wide masterplan seeks to establish a comprehensive SuDS led strategy, Block 3 will initially drain to a temporary basin with onward outfall to the River Tone.
- 12.80 The sequential test by the Local Planning Authority (LPA) is required as per NPPF guidance. The site is allocated within the Local Plan and by Policy Fp1 of the Taunton Town Centre Area Action Plan, which is designated for a mixed-use scheme, and the sequential test is passed, and no further assessment will be required.
- 12.81 A Flood Risk Assessment has been submitted and confirmed as acceptable by the Environment Agency. The lack of comments from the LLFA is not seen as critical in this scenario.
- 12.82 In light of the above, it is considered that the development complies with the NPPF and Local Development Plan Policies CP1, CP8 (of the Core Strategy), and I4 (of the SADMP).

Ecology

- 12.83 An accompanying Ecological Statement describes the Block 3 land as of low ecological interest and opines there will be no impact on designated sites in the area. While acknowledging the low species diversity on site, it goes on to recommend some possible mitigation measures.
- 12.84 These are reaffirmed and enhanced by suggested conditions from the Somerset Ecology Service as consultee. These conditions in part protect bats, birds, small mammals and badgers from the works and two conditions seek to enhance the ecological value of the site via a Landscape and Ecological Management Plan and a Biodiversity Net Gain plan.
- 12.85 Away from the application site, a court Judgement (known as Dutch N), Natural England have advised the Local Planning Authority that in light of the unfavourable condition of the Somerset Levels and Moors Ramsar Site, before determining a planning application that may give rise to additional

phosphates within the catchment, competent authorities should undertake a project level Appropriate Assessment. However, the application proposals, in accordance with Natural England, do not contain any of the uses which would give rise to an increase in nutrient loadings at the wastewater treatment works and so a project level Appropriate Assessment is not required to be undertaken in this case (see Paragraph 7 above).

Noise

- 12.86 Policy DM1 outlines that potential noise pollution which could adversely impact amenity of residents or occupants of a site should be appropriately dealt with. A noise survey report has been prepared by Client: Somerset West and Taunton Council Report Title: Planning Statement Date: September 2021 Page: 37 Ion Acoustics to support this full planning application and concludes that although there is moderate noise pollution deriving from the nearby highways, sufficient sound insulation in the form of standard thermal double-glazed windows will mitigate the impact of this on the proposed office building. This has been reviewed by Environmental Health Colleagues who agree given the commercial uses proposed.

Ground Conditions

- 12.87 The submitted ground report confirms that there is limited contamination on the Site which is generally to be capped by hardstanding and buildings, with limited soft landscaping and no specific remediation measures required. The report concludes that a watching brief should be maintained during site works to ensure any unexpected contamination is dealt with correctly. The reports have been reviewed by Environmental Health colleagues whose comments are replicated in Section 8.2. A suitable condition has been imposed in the event unexpected contamination is discovered.

The impact on residential amenity

- 12.88 Works of the nature proposed here inevitably cannot be undertaken without some impact on residents. Policy DM1 outlines that potential noise pollution which could adversely impact amenity of residents or occupants of a site should be appropriately dealt with. Due to ground conditions piling will form part of the works which has potential to be disruptive. To mitigate as far as possible these impacts a Construction Management Plan will be secured via condition. It is also worth acknowledging that it is entirely possible that several projects within the domain of Firepool will be carried out at the same time. As such clear lines of communication with local residents is imperative.

13. Planning Balance and Conclusion

- 13.1. Delivering the redevelopment of the Firepool site is one of the Council's key corporate priorities and this planning application proposal is another vital step towards achieving that objective. The Firepool site has remained vacant for over a decade and there is strong support within the local community for it to be redeveloped. A new Masterplan and revised mix of uses for the wider

Firepool site is being prepared and the Council's objective is to deliver the site itself, starting with the commencement of work on the application site as soon as possible.

- 13.2. Whilst that Masterplan is being produced this planning application should be treated on its merits and on the balance of considerations, applying the relevant policies in the Development Plan, the weight that can be given to them, and all material considerations including national policy. It is concluded that the proposal accords with the Development Plan, read as a whole. Specific matters which Members will need to take a view on in their balanced decision making is the applicant's piecemeal approach to developing Firepool, the approach to Public Art, the lack of an Equalities Impact Assessment, the approach to general accessibility within the arbitrary red-line area of the application, withdrawing PD rights and the lack of any management of maintenance plans. The recorded concerns and objections have been replicated, explained, and assessed in this report, balanced against a series of material considerations.
- 13.3. Significant weight has been given to the catalytic effects of this proposal to finally realise the economic benefits of the wider proposals, the value of re-using brownfield land, the intended high quality of the overall regeneration project and that the application will facilitate the actual delivery of development on a brownfield site that has remained vacant for over a decade.
- 13.4. It is considered that the tangible benefits of the scheme outweigh any minor residual concerns. For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted subject to the stated conditions set out in full in Appendix 1.
- 13.5. In preparing this report the Case Officer has considered fully the implications and requirements of the Human Rights Act 1998 and the Equality Act 2010.

Appendix 1 – Planning conditions and informatives

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 approved plans and documents as stated on the 'Planning Document List, Firepool-Block 3', dated 23/02/2022.
Reason: For the avoidance of doubt and in the interests of proper planning.
3. The ground floor of the new building hereby approved shall be used as a shop other than for the sale of hot food (Class E(a)), and food and drink which is mostly consumed on the premises (Class E(b)) and the first, second and third floors shall be used for offices (Class E(g)(i)) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Reason: To clarify the use and to prevent changes to sub-optimal uses that undermine the viability and vitality of the intended development.
4. The GWR Goods Office Building (and as extended) shall be used for food and drink which is mostly consumed on the premises (Class E(b)) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Reason: To clarify the use and to prevent changes to sub-optimal uses that undermine the viability and vitality of the intended development.
5. Notwithstanding the approved plans full details of all external finishing materials, for buildings, public realm and highway shall be submitted to and approved by the Local Planning Authority prior to their use in the development hereby approved. Details shall include manufacturers details with the provision of samples to be ascertained with the Local Planning Authority prior to submission of the detailed specification. Once agreed, any subsequent variation to the approved details shall only be achieved via agreement in writing with the Local Planning Authority. Reason: In the interests of visual amenity and to reflect flexibility in the current/future availability of materials.
6. Save for the works shown on drawing number 21137-TA2-131-T2 (Highway General Arrangement Canal Road East), no construction works shall be commenced until a Biodiversity Enhancement Plan (BEP) has been submitted to, and been approved in writing by, the Local Planning Authority. Photographs of the installed features will also be submitted to the Local Planning Authority prior to first occupation of any part of the development. The content of the BEP shall include the following:
 - a) Provision for 2x integrated bird boxes to be installed on each building and maintained thereafter.
 - b) Provisions for invertebrate refuge in the form of a minimum 2x insect towers incorporated into the landscaping/planting scheme shown on the approved plans and maintained thereafter.

- c) The grassland areas of the application site will be sown with a native species wildflower seed mix such as Emorsgate Flowering lawn mixture (EL1) or similar and managed appropriately.
- d) All new shrubs 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.

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 programme of archaeological work shall be implemented in accordance with the submitted and approved Written Scheme of Investigation (WSI, Cotswold Archaeology October 2021) for each phase which has been submitted to the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved WSI. Reason: The site has been identified as of possible archaeological interest and therefore as requiring further archaeological investigation in accordance with section 12 of the National Planning Policy Framework and Policy CP8 of the adopted Taunton Deane Core Strategy.
- 8. No development shall commence on any phase (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority for that identified phase or works. In discharging this condition the following information shall be supplied:
 - a) A 24-hour emergency contact number;
 - b) Locations for the storage of all plant, machinery and materials;
 - c) Details of fuel oil and chemical storage, bunding, delivery and use, including how both minor and major spillages will be dealt with.
 - d) Construction vehicle routes to and from site including any off-site routes for the disposal of excavated material;
 - e) The proposed hours of operation of construction activities;
 - f) Construction delivery hours;
 - g) Expected number of construction vehicles per day;
 - h) Car parking for contractors;
 - i) A scheme to encourage the use of Public Transport amongst contractors;
 - j) Measures to avoid traffic congestion impacting upon the Strategic Road network;
 - k) Measures to protect vulnerable road users (cyclists and pedestrians);
 - l) Any necessary temporary traffic management measures;
 - m) Arrangements to receive abnormal loads or unusually large vehicles;
 - n) Site security, inclusive of details of all bunds, fences and other physical protective measures to be placed on the site including the time periods for placing and retaining such measures;
 - o) The control and removal of spoil and wastes;
 - p) Containment of silt/soil contaminated run-off;
 - q) Disposal of contaminated drainage, including water pumped from excavations;

- r) Measures to prevent the pollution of surface and ground water arising from the storage of plant and materials and other construction activities;
- s) The frequency, duration and means of operation involving demolitions, excavations, drilling, piling, and any concrete production;
- t) Sound attenuation measures incorporated to reduce noise at source (to include specific reference to piling activities);
- u) Details of measures to be taken to reduce the generation of dust;
- v) Site induction for workforce highlighting pollution prevention and awareness;
- w) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice; and
- x) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The agreed Construction Environmental Management Plan shall thereafter be implemented in full unless otherwise agreed in writing by the Local Planning Authority. Reason: In the interests of highway safety, to protect the amenities of nearby properties during the construction of the development and to protect the natural and water environment from pollution.

9. The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) by Jubb Consulting Engineers dated December 2021ref: 21137-FRA-02v1 and the mitigation measures it details, particularly:
 - a) The final drainage for the site should be fully integrated within the overall Firepool development.
 - b) Block 3 Finished Floor levels must be no lower than 20.14m AOD. These mitigation measures shall be fully implemented prior to occupation of [any part of the development/Block 3] and subsequently in accordance with the FRA's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To prevent the increased risk of flooding.

10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall be implemented as approved. Reason: To prevent increased risk of pollution to the water environment.
11. Prior to its installation the specification of any ground-based, wall-mounted or rooftop plant, machinery and equipment shall be submitted to and approved in writing by the Local Planning Authority. Such a specification shall also include provisions for screening, colour treatments or other ways of reducing its visual impact. Reason: In the interests of visual amenity.
12. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to first occupation of the development. The content of the LEMP shall include the following:
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.

- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The LEMP shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved LEMP will be implemented in accordance with the approved details.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006.

13. No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or works to or demolition of building structures commences and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds. Reason: In the interests of nesting wild birds.
14. Notwithstanding the approved plans and prior to the installation of any external lighting, a "lighting design for bats", following Guidance Note 8 - Bats and Artificial Lighting (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 the said Guidance Note, including submission of contour plans illustrating Lux levels. 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 approved 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.
15. The landscaping/planting scheme shown on the approved plans shall have been completely carried out by the end of the first available planting season after the first occupation within Block 3, unless any variation is agreed in writing with the Local Planning Authority relating to phasing. When undertaken

- the planting scheme shall also include sensory planting. For a period of ten years after the completion of the development, the trees and shrubs shall be protected and maintained and any trees or shrubs that cease to grow, shall be replaced by trees or shrubs of similar size and species or other appropriate trees or shrubs as may be approved in writing by the Local Planning Authority. Reason: To meet the objectives of the Garden Town status of Taunton and ensure that the proposed development benefits from the approved landscaping scheme in the interests of visual amenity, ecological enhancement and landscape character.
16. Prior to first occupation of any part of the development a strategy for Public Art shall have been submitted to and approved by the Local Planning Authority. The strategy shall set out how Public Art is being considered in this application area or as part of the wider Firepool site (within the application blue line) and timescales for provision. Reason: To ensure Public Art is integrated into the Public Realm.
 17. No part of the development hereby permitted shall be brought into use until the highway access scheme, as shown in principle in Drawing 131 T3, has been provided in accordance with a design and specification to be submitted to and approved in writing by the Local Planning Authority and to be fully implemented in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority. Reason: To ensure the development is afforded safe and convenient access.
 18. No part of the development hereby permitted shall be brought into use until the cycle route, as shown in principle in Drawing FB3-AHR-S1-XX-DR-L-08109 P07, has been carried out in accordance with a design and specification to be submitted to and approved in writing by the Local Planning Authority and to be fully implemented in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority. Reason: To promote cycling in the interests of sustainable development.
 19. Before the development is occupied or utilised the cycle parking facilities shown on the submitted plans must have been constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified. Reason: To promote cycling in the interests of sustainable development.
 20. No building or use hereby permitted shall be occupied or use commenced until the disabled parking, and facilities for loading, unloading, circulation and manoeuvring have been completed in accordance with the approved plans. Thereafter, these areas shall be kept free of obstruction and available for these uses. Reason: To ensure the development is afforded suitable provision.
 21. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed prior to development above damp-proof course level and thereafter maintained at all times. Reason: To ensure the highway is not inundated with surface water for the safety and convenient of all road users.

22. No occupation of the development shall commence until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied. Reason: To promote sustainable modes of transport.

Notes

1. In accordance with the National Planning Policy Framework the Council and relevant statutory consultees have worked in a constructive and creative way with the applicant to find solutions to problems in order to reach a positive recommendation and to enable the grant of planning permission.
2. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted a footpath is built on or otherwise interfered with.
3. 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.
4. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.
5. The applicant is advised to contact Network Rail Asset Protection Team via assetprotectionwestern@networkrail.co.uk at least 3 months before works commence to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required.
6. With regard to Condition 11, the Local Planning Authority reserves the right to confirm such plant and equipment installations require full planning permission. Such installations include those for renewable energy purposes, air handing for heating/cooling, odour control, IT and security.
7. The applicant is advised of the comments received 16 November 2021 from the Crime Prevention Design Advisor at Avon and Somerset Police.
8. *With regard to Conditions 18 and 19 the provision of these works will require a legal agreement and contact should be made with the Highway Authority well in advance of commencing the works so that the agreement is complete prior to starting the highway works.*

9. The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the Council, which would specify the works and the terms and conditions under which they are to be carried out. Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.
10. With regard to Condition 21 any systems provided for the purposes of draining the site shall be constructed and maintained privately until such time as the drainage is adopted. At no point will this Authority accept private infrastructure being connected into highway drainage systems. Consent from the riparian owner of any land drainage facilities affected, that are not within the developer's title, will be required for adoption.
11. The applicant is advised of these comments from the Environment Agency-
 - a) Measures should be taken to prevent the runoff of any contaminated drainage during the construction phase. 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. 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. Generic advice on managing contamination is available on the Land Contamination: Risk Management pages of the GOV.UK website:
<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>
 - b) Any waste generated must be disposed of in accordance with Waste (England and Wales) Regulations 2011. If waste material is brought onto site for construction purposes, the developer should ensure that appropriate permits are held according to [Waste \(England and Wales\) Regulations 2011](#)

Appendix 2 – Quality Review Panel Report - September 2021

The emerging Masterplan and detailed plans for Block 3 were presented to and assessed by QRP in September 2021. The QRP report, whilst marked 'Confidential' is now appropriate to place in the public domain given this application has now been submitted and the Masterplan has undergone further consultation.



Somerset West and Taunton Quality Review Panel

Report of Formal Review Meeting: Firepool

Thursday 30 September 2021

Via Zoom

Panel

Andrew Beharrell (Chair)

Marie Burns

Barny Evans

Richard Lewis

Sowmya Parthasarathy

Attendees

Alison Blom-Cooper	Somerset West and Taunton Council
Simon Fox	Somerset West and Taunton Council
Graeme Thompson	Somerset West and Taunton Council
Fiona Webb	Somerset West and Taunton Council
Paul Bryan	Somerset West and Taunton Council
Karen Wray	Somerset West and Taunton Council
Ann Rhodes	Somerset West and Taunton Council

Sarah Povall	Somerset West and Taunton Council
Jeremy Guise	Somerset West and Taunton Council
Dan Friel	Somerset County Council
Deborah Denner	Frame Projects
Miranda Kimball	Frame Projects
Abigail Joseph	Frame Projects

Apologies / report copied to

Rebecca Miller Somerset West and Taunton Council

Confidentiality

This is a pre-application review, and therefore confidential. As a public organisation

Somerset West and Taunton Council is subject to the Freedom of Information Act (FOI) and, in the case of an FOI request, may be obliged to release project information submitted for review.

Report of Formal Review Meeting

30 September 2021

SWTQRP01_Firepool

1. Project name and site address

Firepool, Canal Road, Taunton, TA1 1QS

2. Presenting team

Tim Bacon	Somerset West and Taunton Council
Rachel Papworth	Somerset West and Taunton Council

Jim Price	Somerset West and Taunton Council
Martin Jones	Building Design Partnership
Ed Arthur	Building Design Partnership
Adam Spall	AHR Architects
Luke Smith	AHR Architects
David Gwilliam	Jubb
Elliott Kelly	Avison Young
Pete Stockall	Avison Young

3. Planning authority briefing

Firepool is a major regeneration area within Taunton town centre, and the adopted Taunton Town Centre Area Action Plan (TCAAP, adopted 2008) allocates the site for development. Circumstances have changed since the site was allocated in the TCAAP, and as such, the policy context for the site, primarily the development mix proposed by policy, is out of date. As such, a Firepool masterplan and design guidance are now being prepared to guide the site's development.

Since the office-led allocation in the TCAAP was adopted, and since the retail-led mixed-use scheme was approved, circumstances have changed including:

- markets for both town centre office and retail have changed quite significantly;
- the COVID pandemic hit in early 2020, followed by an accompanying recession and plans for economic recovery to 'build back better';
- the establishment of Somerset West and Taunton Council (April 2019);
- the council declares a Climate Emergency (February 2019) and Ecological Emergency (November 2020) – setting out how it commits to working towards carbon neutrality by 2030 in the adopted Somerset Climate Emergency Strategy (October 2020) and SWT Carbon Neutrality and Climate Resilience (CNCR) Action Plan (October 2020);
- the council sets out its vision for Taunton Garden Town (July 2019) and adopted a Garden Town Charter and Checklist (December 2019); and;
- in final consultations on the draft Districtwide Design Guide and draft Taunton Garden Town Public Realm Design Guide SPDs with a view to adopt shortly.

Proposals for the Firepool site now call for a mixed-use scheme of up to 600 homes, with a leisure and entertainment hub, along the northern and southern edges of the River Tone. The site features a north-south oriented boulevard, which links Taunton rail station to the north, and the town centre and primary retail area to the south.

The project consists of a masterplan covering the entire site and the development of more detailed proposals for Block 3 (north), which will be submitted as a stand-alone detailed planning application. This includes an office building, restaurant and the first phase of the public realm and Boulevard to the north of Canal Road. A multi-storey car park proposal was removed from a previous iteration of the Block 3 scheme after concerns were raised by the LPA, Highway Authority and Design Review Panel, but currently remains part of the 'developer draft' masterplan.

The Firepool site is owned and is being developed by Somerset West and Taunton Council. The council is also the Local Planning Authority (LPA). It will be for the LPA to determine the correct balance between application of policy and consideration of material considerations in the determination of any relevant planning applications. As a result, the council, as developer and applicant, is producing a Firepool Masterplan and accompanying Design Guidance, and the council as LPA is working with the applicant to ensure that it can support the proposals.

Officers seek the panel's views in particular on the following issues:

- demonstration of exemplar environmental and design standards as set by the council;
- approach to transportation and if the masterplan suitably maximises the location's opportunities and demonstrates the promotion and use of non-car modes, including the potential for a car free development;
- design principles and the safeguarding of local character to protect and enhance the Taunton skyline as well as surrounding heritage assets;
- the masterplan's response to the Garden Town Vision, and if proposals will deliver development which clearly embodies the principles of a 21st century Garden Town;

- the green infrastructure and if it holistically considers the opportunities and constraints.

4. Quality Review Panel's views

Summary

The panel feels this scheme has immense potential to become an exemplar for modern local living and offers an exciting opportunity to help shape twenty-first century Taunton. The site benefits from a riverfront location, in close proximity to both the railway station and town centre, and can help to deliver Taunton's Garden Town vision. However, the masterplan has not yet fully embraced the vision or the potential of the site. The panel wants to see a scheme emerge that maximises the riverfront location and its distinctive landscape character. It feels that if the scheme puts the emphasis on sustainable green infrastructure and landscaping, a truly special place for Taunton can be delivered. Notwithstanding the strong gesture of the boulevard, the masterplan requires a clear and comprehensive network of connections with the town centre and wider surroundings. The landscape is dominated by hardstanding design, and the sense of place feels unresolved. The landscape solution should take inspiration from its surroundings and further refinement is needed to delineate what is public, semi-private and private outdoor space. In line with the Garden Town Vision, the panel encourages the scheme to futureproof any parking solution and make a concerted effort to help improve connectivity in Taunton beyond the site's boundary. Considering the local authority's aims for carbon neutrality, the panel wants to see sustainable design principles, addressing embedded and operational carbon, locked into the design. These comments are expanded below.

Placemaking and identity

- By responding to the special qualities of the Firepool site, the panel feels the applicant can start to identify, prioritise and communicate what are the key components of the masterplan, which will help to give the development its identity.
- The panel would like to see the masterplan start with spaces and the public realm and explore how the buildings enclose them. By starting with people's experience of the place, rather than with generic building types, special character areas can emerge to help create this unique new neighbourhood.

- The panel admires the ambition of the council's vision for Taunton and Firepool, and suggests a need to focus on doing a few key things really well and ensuring the main objectives are adequately funded.
- The panel welcomes the efforts to support local residents' shifting work patterns, with the workspace and innovation centre, and encourages this thinking and approach to go further across the masterplan to support the community to live, work and play locally.
- The panel is encouraged by the thought that has gone into the detail design for Block 3. The Block's identity and purpose are clear and expects that as the scheme progresses, the applicant will apply an equivalent level of thoughtful contextual design to the remaining blocks.

Landscape

- To maximise the potential of the site, the panel feels the landscaping strategy needs reconsideration.
- With the surrounding greenery and River Tone, the panel encourages the applicant to soften the landscape with more greenery as hardstanding landscaping dominates the current design.
- In particular, the panel is unsure if the amphitheatre and market square, which rely on hard landscaping, are the right interventions for the scheme. It would be helpful to understand how they fit into the wider Taunton context.
- The panel also questions the character and scale of the major public realm interventions. The boulevard and plaza are significant city-scale spaces and it would like these spaces and their identities to be reviewed.
- As part of this process, the panel encourages the applicant to think carefully about the words used to describe the development. Boulevard and plaza sound like large scale urban spaces, which may not be sympathetic to the special character of Firepool and the wider context of Taunton..
- The panel encourages the applicant to introduce more diverse open spaces, including public, private, and semi-private spaces, to help breakdown the blocks and to ensure the landscape is woven through the scheme.

- The panel also requests greater clarity about changes in level and the site's topography, to demonstrate accessibility and inclusive design.

Connectivity

- The panel recognises the opportunity for the site to become a key connector, linking the train station and town centre. However, the current designs need to go further to demonstrate these connections beyond the site's boundary and how Firepool links into the wider city.
- Given the scale and location, the panel anticipates this site will be busy and suggests that cyclists and pedestrians are separated on selected key routes to ensure everyone can move through it with ease and enjoyment. While the panel welcomes the approach to the riverfront as an active connector, the current design's lack of surveillance and safety strategy are of concern. The panel recommends either clear daytime and night time routes through and out the site, or a design approach that animates and activates the riverfront 24 hours a day.

Parking

- Given the proximity to the train station, the town centre, and the high proportion of flats proposed, the panel questions the need for a 0.4 car parking ratio.
- However, if this level of parking is required to meet current local needs, it suggests that a temporary multi-story facility, could offer a future proof solution. If parking requirements reduce in future, the car park could be converted or redeveloped.
- A centralised parking solution would also be less convenient for residents, supporting behaviour change by discouraging habitual car use.
- The design should avoid surface parking courts unless there is a clear and demonstrable strategy to convert these into open space or homes once the predicted reduction in car ownership is realised.
- The planning authority should also take a lead in aligning the Firepool development with the town's wider parking and transport strategy, minimising car dependency, and maximising sustainable modes of transport.

- The applicant should support this process by improving the site's connections to Taunton, for example by contributing to an improved cycling route to the secondary school north of the site.
- As part of the wider transportation and connectivity strategy, the panel hopes to see further consideration for car clubs and bike hire for the scheme.

Sustainability

- The scheme's sustainability strategy needs to demonstrate further detail as design progresses. There is a risk these aspirations will get value engineered out if the targets are not embedded into the design.
- The panel welcomes the scheme's all electric approach to energy. However, it feels further work is needed to demonstrate the scheme's embodied carbon and construction strategy, the approach to material selection and durability, and the wider circular economy strategy.
- In terms of materials and building performance, the panel cautions the potential risk of overheating from highly glazed south facing facades. The south facing river frontage is a key asset of the site – but the detail of the architectural design will need to balance maximising river views with thermal performance.

Next steps

- The panel would welcome the opportunity to review the masterplan again, as detail design progresses.
- The scale and significance of the development mean that it could benefit from a series of Quality Review Panel sessions on specific topics such as: the masterplan's riverfront and public realm strategy; sustainability; housing typologies; and more detailed designs for individual plots.
- The panel recommends that the applicant and planning team visit other comparable places together to establish a common understanding of what works and what does not. The panel would be happy to suggest potential destinations for a study tour.

22/21/0012

WESTOWE WORKSHOPS LTD

Change of use from Class B8 to Class E(g) of existing Old Cheese Factory and erection of an additional Class E(g) unit at The Old Cheese Factory, Deans Cross to Broad Oak, Lydeard St Lawrence

Location: THE OLD CHEESE FACTORY, DEANS CROSS TO BROAD OAK,
LYDEARD ST LAWRENCE, TAUNTON, TA4 3QN
Grid Reference: 312148.133332 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:

- (A1) DrNo 84_1_7 Existing E and W Elevations
- (A1) DrNo 84_1_8 Existing Elevations
- (A1) DrNo 84_1_4 Existing GF and FF Plans
- (A1) DrNo 84_1_6 Existing North Elevation
- (A1) DrNo 84_1_3 Rev A Existing Site and Roof Plan Existing Surroundings
- (A1) DrNo 84_1_2 Existing Site and Roof Plan
- (A1) DrNo 84_1_5 Existing South Elevation
- (A1) DrNo 84_3_3 Rev A Proposed East Elevation
- (A1) DrNo 84_3_2 Rev A Proposed GF and FF Plans
- (A1) DrNo 84_3_6 Rev A Proposed North Elevation
- (A1) DrNo 84_3_8 Proposed Shop Elevations 2
- (A1) DrNo 84_3_7 Rev A Proposed Shop Elevations
- (A1) DrNo 84_3_9 Rev A Proposed Shop Plan
- (A1) DrNo 84_3_10 Rev A Proposed Site and Roof Plan 2
- (A1) DrNo 84_3_1 Rev A Proposed Site and Roof Plan
- (A1) DrNo 84_3_4 Proposed South Elevation
- (A1) DrNo 84_3_5 Proposed West Elevation
- (A3) DrNo 84_1_1 Rev A Site Location Plan

Addendum to Transport Statement dated 05 August 2021
(A1) DrNo 84_3_7B-Proposed Unit 16 Elevations 1_50
(A1) DrNo 84_3_8A Proposed Unit 16 Elevations 1_100
(A1) DrNo 84_3_9B Proposed Unit 16 Floor and Roof Plans
(A3) DrNo 21031-SPA01 Swept Path Assessment of Turning Areas
(A1) DrNo 84_3_1B Proposed Roof Plan
(A3) DrNo 84_1_1B Site Location Plan
(A3) DrNo 21031-GA01 Rev B Site Access Arrangements

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

3. The premises hereby approved shall be used for offices (Class E(g)(i), research and development of products and processes (Class E(g)(ii)) and/or light industrial processes (Class E(g)(iii)) and for no other purpose (including any other purpose within Use Class E of the Schedule to the Town and Country Planning (Uses Classes) Order 1987 or any provision equivalent to that Class in any statutory instrument revoking and reenacting that Order with or without modification).

Reason: The Local Planning Authority wishes to ensure that any future change of use, including changes with Use Class E, do not adversely affect the highway network.

4. Before the development hereby permitted is brought into use the first 8 metres of the access shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details set out on drawing number 21031-GA01, unless otherwise agreed in writing by the Local Planning Authority. Once constructed the access shall be maintained in the accordance with the agreed details thereafter at all times.

Reason: To improve the existing access by providing a drained sealed surface at the junction with the main road, so that it can accommodate the additional traffic generated by the development in accordance with Policy DM1, general requirements, of the adopted Core Strategy.

5. The parking and turning areas shown on approved plan drawing number 84_3_1B shall be marked out and be made available for use prior to the development hereby permitted being brought into use. The parking and turning areas shall thereafter be kept clear of obstruction at all times and not used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: To ensure that the parking areas shown on the approved plans are provided prior to the commencement of the use and subsequently retained for the use of the occupiers of the units in accordance with Policy A1, Parking Requirements, of the adopted Site Allocations and Development Management Plan (Cross referenced to appendix E).

6. The access, internal road and HGV turning areas, as detailed on

drawings numbered 84_3_1B, 21031-SPA01 and 21031-GA01, shall be made available for use prior to the development hereby permitted being first brought into use. These areas shall thereafter be kept clear of obstruction at all times and not used other than for the purpose of access and turning in connection with the development.

Reason: To ensure that the HGV turning areas shown on the approved plan are provided prior to the commencement of the use and subsequently retained for the use by the occupiers of the units in accordance with Policy DM1, General Requirements, and Policy DM2, Development in the Countryside, of the adopted Core Strategy.

7. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed in accordance with the approved details before the development hereby permitted is first brought into use and thereafter maintained at all times.

Reason: To ensure that surface water from the development does not discharge onto the highway adversely affecting highway safety in accordance with Policy DM2, Development in the Countryside, of the adopted Core Strategy.

8. Prior to the development hereby permitted being first brought into use access to secure, covered cycle storage and electric vehicle charging points shall be made available in accordance with details which shall have been submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure adequate provision is made for secure, under cover, cycle storage and the charging of electrically powered vehicles in the interests of sustainability and in accordance with policies CP6, Transport and Accessibility and DM5, Use of Resources and Sustainable Design of the adopted Core Strategy and Policy A5, Accessibility of Development of the adopted Site Allocations and Development Management Plan.

9. The works to the former Cheese factory building shall not in any circumstances commence unless the Local Planning Authority has been provided with either:
 - a. a copy of the licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
 - b. a copy of a letter from Natural England confirming that the works fall within the remit of a Bat Mitigation Class Licence (WML-CL21) and that the site has been registered in accordance with the class licence; or
 - c. a statement in writing from a licensed bat ecologist to the effect that he/she does not consider that the specified development will require a

licence

Reason: A pre-commencement condition in the interest of the strict protection of European protected species and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

10. The works hereby permitted will not in any circumstances commence until:
- a. Construction operatives have been inducted by a licensed bat ecologist to make them aware of the possible presence of bats, their legal protection and of working practices to avoid harming bats. Written confirmation of the induction will be submitted to the Local Planning Authority by the licensed bat ecologist within one week of the said induction
 - b. 2x 1FF Schwegler bat boxes, or similar, to provide suitable alternative roosting location, and to accommodate any discovered bat(s), have been hung on a suitable tree or building on or adjacent to the site at a minimum height of 4 metres as directed by a licensed bat ecologist. Any such box will be maintained in-situ thereafter. Photographs showing their installation will be submitted to the Local Planning Authority.
 - c. Works potentially affecting bats will then proceed under the supervision of the licensed bat ecologist.
- Reason: A pre-commencement condition in to ensure the strict protection of European protected species and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

A scheme for the provision of roosts must be submitted to and approved in writing by the Local Planning Authority prior to work commencing on site. The roosts will be implemented in strict accordance with the agreed scheme and maintained for the exclusive use of bats thereafter. Provision shall be made for roosting bats in accordance with Section 6 of the Further Bat Surveys, Former Cheese Factory, Lydeard St Lawrence Report (Seasons Ecology, 2021). The location of and type of roost entrances will be set out in the approved scheme. Any areas that are accessible to bats must be lined with traditional black bitumen felt (type 1F) to avoid the risk of entanglement of bats. Modern roofing membranes will not be permitted in areas which are accessible to bats.

Any timbers that are to be retained and requiring remedial timber treatment should only be treated with 'bat friendly' chemicals (see <https://www.gov.uk/guidance/bat-roosts-use-of-chemical-pest-control-products-and-timber-treatments-in-or-near-them>).

Reason: A pre-commencement condition in the interests of the Favourable Conservation Status of populations of European protected species and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

11. Prior to first occupation of the development, a lighting design for bats, following Guidance Note 8 - bats and artificial lighting (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 or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the approved design, and this 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 Taunton Deane Core Strategy 2011-2028: Policy CP 8 Environment.

12. No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or works to or demolition of buildings commences and provides written confirmation to the Local Planning Authority that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

13. 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. These 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 Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

14. A Biodiversity Enhancement Plan (BEP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to commencement

of construction works hereby permitted. Photographs of the installed features will also be submitted to the Local Planning Authority prior to occupation: The content of the BMEP shall include the following:

- a) 2x 1FF Schwegler bat boxes or similar will be built into the structure at least four metres above ground level and away from windows of the west or south facing elevation and maintained thereafter.
- b) 1x no. Schwegler 1B and 1x Schwegler 2H bird boxes (or similar) will be installed on retained trees at the site boundary and maintained thereafter.
- c) 1x bee brick will be built into the wall about 1 metre above ground level on the south or southeast elevation of the building.
- d) One log pile as a resting place for reptiles and or amphibians constructed on the northwest boundary of the site
- e) Where the landscaping scheme allows, new trees and hedgerow/s will be planted up with native species comprised local native stock including a minimum of 5 of the following species: field maple, hornbeam, smallleaved lime, pedunculate oak, silver birch, beech, hazel, blackthorn, hawthorn, elder, bird cherry and spindle.

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

Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. 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.

Proposal

Planning permission is sought for change of use of the existing Old Cheese Factory from Class B8 to Class E(g) to allow the building's use for workshops and manufacturing together with the insertion of a mezzanine floor, some changes to the external appearance of the building, erection of a new small (51sqm) workshop building and the laying out of 25 parking spaces. As originally submitted the proposal included the erection of Class E(a) Local Convenience Store, but

subsequently the scheme was amended to remove this element and substitute it with another commercial unit.

The applicants envisage developing a hub for creative industry on the site, improving space for existing tenants (a woodworking business) and making an attractive for artisan enterprise mainly through the conversion and improvement to the existing building. The existing rectangular shaped building is currently 2 storey. The proposal would result in it having three levels: a ground floor, a smaller second floor created by the insertion of a mezzanine and a very small second floor. The overall appearance would be improved with external cladding, first floor veranda and extra external doors. The scheme includes a new build element being a 51sqm timber and metal clad building. This was originally intended to be a convenience store but is now proposed as an extra commercial unit. The development would provide 1,282sqm gross floor area.

25 parking spaces are proposed plus 2 parking spaces suitable for use by people with disabilities, 10 cycle parking spaces and 2 motorcycle spaces and EVC charge points.

The application is accompanied by a suite of supporting documents:

- Transport Statement prepared by Miles White
- Addendum Transport Statement prepared by Miles White
Transport 05/08/2021
- Design and Access Statement (DAS) prepared by TetraTech
- Ecological Appraisal prepared by Seasons Ecology

The applicants claim that the history of the site and the change of use permissions granted on neighbouring commercial and farm sites, "*demonstrates its' Brownfield nature and longstanding employment use, firstly for dairy and more recently for storage and industry.*"

Site Description

The site is located in open countryside approximately 1.2 kilometres to the northwest of Lydeard St Lawrence village and, in a wider context, approximately 7km to the northwest of Bishops Lydeard. The site has an overall area of approximately 0.3 hectares and currently consists of a principal building with associated informal parking areas.

To the north east of Deans Cross the junction of Whitemoor Lane, Dean's Lane and Binsford Lane.

Dean's Cross cottage is located on the corner of Whirtemoor Lane and Binsford Lane to the west, and there is another mixed commercial/ residential use in the former Cold Store building, offsite to the south.

Further along Binsford lane, to the east, is another industrial building. It shares the same access. Whitemoor Lane leads to the B3224, to the south.

The existing building is a utilitarian structure of little architectural merit mixture of blockwork, corrugated cladding and shiplap boarding.

The site is located in Flood Zone 1.

Relevant Planning History

Ref. 22/11/0004 Change of use to storage and distribution, Granted conditionally May 2011

Consultation Responses

LYDEARD ST LAWRENCE & TOLLAND PARISH COUNCIL - Offered qualified support for the original proposal. Welcoming local businesses to use as workshops and studios but raised concerns over the narrow access road leading to the site for a vehicles and therefore its use to access the site for a convenience shop.

Amended Proposal - Offered support 27/09/2021 for the amended proposal.

SCC - ECOLOGY - To comply with local and national policy, wildlife legislation, and the requirements of the mitigation hierarchy and for biodiversity net gain, conditions relating to bats, birds, trees and hedgerows and biodiversity net gain are recommended to the planning permission if granted.

SCC - TRANSPORT DEVELOPMENT GROUP -

In the HA's previous comments it was noted that the proposed development was likely to give rise to an increase in traffic to the site compared to that existing and concern was raised that this would lead to an intensification in use of the substandard access. There were also concerns regarding the low level of parking being proposed. In response the applicant has provided an amended site access plan, plan detailing the HGV turning area and amended site plan showing a revised parking layout.

The proposed turning area is of a suitable size and configuration to allow large refuse lorries to be able to turn within the site. The nature of the units are such that they are unlikely to generate much in terms of larger HGV traffic, as such this arrangement is considered to be acceptable.

The visibility splays as detailed on the access plan are well below the standard usually required. It is understood however that the applicant does not have control over land to either side of the access to enable the splays to be improved. The applicant is however now proposing to make other improvements including providing a consolidated surface for the first 8 metres of the access and to install a surface water drainage scheme to prevent runoff going on to the highway.

The surfacing and drainage improvements go a little way to mitigating the impact of the development and as such are welcomed. It is disappointing that the visibility splays are not to be improved as part of this scheme however it is noted that no Personal Injury Accidents (PIA's) have been recorded in the vicinity of the access within the last 5 years. It is also accepted that the level of intensification in use of the access resulting from the proposed scheme, whilst material, will not be so significant as to be a sufficiently robust reason to object

to the scheme based on the substandard visibility.

In regard to the drainage scheme it should be noted that whilst the principle is acceptable further consideration is required as in its current form it is unlikely to be fully effective in preventing runoff on to the highway. This matter however can be addressed through condition.

Turning to the parking arrangements. Additional parking spaces are proposed although the overall level of parking still falls short of that required under SCC's Parking Strategy. The high number of tandem spaces is a concern however given how they are to be allocated it is acknowledged that it should be feasible for the separate businesses to manage their use effectively. There is still a shortfall of 7 spaces which, if the development proves to be a success, could lead to parked vehicles within the access and internal road, potentially causing problems of access including to the designated parking areas and other users of the wider site.

A condition is therefore proposed requiring that the access, internal road and HGV turning area be kept available for access and turning purposes only. Matters of cycle parking and EV charging points can be subject to a condition. Based on the above comments the HA is content to withdraw their previous objection. Should the LPA be minded to approve the application then conditions are recommended.

WESSEX WATER - no objections to this application.

ECONOMIC DEVELOPMENT - no comments received to date.

Environmental Health - all Areas including Housing Standards - no comments received to date.

Habitats Regulations Assessment

The site lies within the catchment area for the Somerset Moors and Levels Ramsar site. As competent authority it has been determined that a project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required as the Council is satisfied that the new commercial development will not significantly increase nutrient loadings at the catchment's wastewater treatment works. This is on the basis that people working in the buildings are likely to live in the catchment area and therefore there will be no additional impact on the Ramsar site as a result of the development. As such, the Council is satisfied, as the competent authority, that the development is not likely to have a significant effect on the Ramsar site (either alone or in combination with other projects) pursuant to Regulation 63(1) of the said Habitats Regulations 2017.

Representations Received

Neighbours have been informed of the plans, and reconsulted in connection with the amended plans.

The original plans, which included the convenience store, attracted considerable support (27 letters) mainly on grounds that the convenience store would be an

asset to the village limiting the need to travel elsewhere. But it also attracted some strong objections (5) from those in closest proximity, who objected on grounds of poor access, limited car parking and general noise and disruption.

There is support for the proposal on grounds of convenience, sustainability and improvement to the appearance of the building. But concern continues to be expressed by those living closest to the property on grounds of adequacy of the access road and parking.

Consultation on amended plans

One further letter received welcoming the removal of the convenience store from the plans, raising concerns about the lack of restriction on the hours of business a reiterating earlier concerns about the commercial units.

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. Core Strategy

Policy CP1 Climate
Change Policy CP2
Economy
Policy CP6 Transport &
Accessibility Policy CP8
Environment
Policy SP1 Sustainable Development
Location Policy SP4 Realising the Vision for
Rural Areas Policy DM1 - General
Requirements
Policy DM2 Development in the
Countryside Policy DM4 Design
Policy DM5 Use of Resources and Sustainable

Design CP8 - Environment,

Site Allocations and Development Management Plan
(SADMP) Policy A1 Parking Requirements
Policy A5 Accessibility of
Development (Policy TC3 Local
Shopping)
Policy I4 Water Infrastructure
Policy ENV1 Protection of Trees, Woodlands, orchards and hedges Policy ENV2
Tree Planting within new development

Policy D7 Design Quality
Policy D9 A co-ordinated approach to development and highway planning
Policy SB1 Settlement Boundaries

District Wide Design Guide SPD
Climate Positive Planning Statement

Determining issues and considerations

Principle of commercial use in this location

The site is located in open countryside where Policy DM2 Development in the Countryside is relevant. It states:-

Outside of defined settlement limits the following uses will be supported:

2. Class B Business Use

- a. new, small scale buildings up to 5000sqm near a public road and adjacent to a rural centre within which there is no suitable site available.*
- b. extensions to existing businesses where relocation to a more suitable site is unrealistic and the economic benefit of the proposal outweighs any harm to the objectives of the policy.*
- c. within existing buildings*

The re-use and improvement of this building for business purposes is in broad accordance with this policy as it is mostly located within an existing building, criteria c, and provides economic benefits to the rural economy.

It is concluded that the proposal accords with the Development Plan, read as a whole.

Class E - Commercial, Business and Service is very broad. It covers uses previously defined in the revoked Classes A1/2/3, B1, D1(a-b) and 'indoor sport' from D2(e).

Class E(a) is the old A1 retail and E(g) is roughly the old B1 light industrial research / offices. By placing them together in the same use class the Government clearly intends interchangeability between the uses. LPAs limiting this provision by restricting change of use within a use class goes against this intention and therefore needs to be justified.

In this case, concerns about the traffic and general disturbance caused by a convenience store have been raised by close neighbours. The applicant has amended the plans to remove the convenience store element and provide an additional commercial unit instead. A condition restricting the use to Class E(g), meaning that a further planning permission would be required in the future if a change from Class E(g) to class E(a) is considered necessary to prevent an unacceptable intensification.

Design & Sustainability

The addition of cladding and extra glazing, on all elevations, together with the insertion of a ramp access and a veranda would greatly improve the appearance and setting of the main building within the wider landscape. The proposed small new building would be built in similar style. This would accord with the Design

Guide which emphasises the importance of using suitable robust materials for non- residential development.

The proposal reuses and adapts an existing building. The sunk resources used in the construction of the original cheese factory in 1976 are recycled and given new purpose, representing a positive response to the challenge of climate change.

Impact upon the amenity of neighbours

The proposal represents an intensification on the existing low key use, but historically, as a cheese factory it has been more intensively used. Without the convenience store to attract multiple visits for short duration, it is considered that the impact on neighbouring residential property is acceptable. There are other properties in the wider area including commercial ones.

Access and parking

The Highway Authority note the site's relatively isolated, car dependent, location and poor access approach road. They further note that the proposed division of the property into 16 business units represents an intensification on from the previous storage use. Nevertheless, they do not consider the impact of the development to be 'severe' and that it does not meet the test in paragraph 111 of the NPPF which states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

They have therefore not raised an objection to the proposal on highway impact grounds.

The level of car parking proposed was originally considered to be too low. It has been amended to show 25 spaces, which is closer to the maximum level recommended. This level is considered to be adequate.

It is recommended that conditions be imposed to ensure: improvements to the access (visibility and surface); the provision of 25 standard sized parking spaces prior to first occupation of the units; the provision of at least 2 spaces suitable for use by people with disabilities, the provision of EVC points; a restriction on HGV deliveries and the provision of secure under cover cycle storage, the highway aspects of the proposal are considered to be acceptable.

Ecology

The applicant's ecological appraisal and the further bat surveys, requested by the SCC ecologist, identified the presence of bats, a protected species, potential badger habitat and habitats suitable for dormice and reptiles within hedgerows. Conditions relating to the protection of these animals and their habitats are recommended by the ecologist together with biodiversity enhancement measures. These are included in the recommendation.

Conclusion

The proposal re-uses an existing commercial building for business purposes – offices, studios etc. It, thus, provides local employment opportunities and contributes to the rural economy. There are some residual concerns about the

adequacy of the proposed access and parking arrangements, but the applicant has amended the plans to maximise the deliverable improvements., In its amended form without the proposed convenience shop, it is considered to be acceptable. The existing building is utilitarian in character and is in a poor state of repair. The proposed changes to the elevations and surroundings represent a significant improvement upon its appearance.

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

Contact Officer: Mr Jeremy Guise

30/21/0022

WEST OF ENGLAND DEVELOPMENTS (TAUNTON) NO 2 LTD

Erection of 1 No. detached bungalow with detached double garage and alteration to access arrangement, on land adjacent to Matthews Farm, Blagdon Hill Road, Blagdon Hill

Location: LAND ADJACENT TO MATTHEWS FARM, BLAGDON HILL ROAD,
BLAGDON HILL, TAUNTON, TA3 7SF

Grid Reference: 321211.118874 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:

(A2) DrNo 21.10.05 Elevations and Sections
(A3) DrNo 21.10.04 Floor Plans
(A2) DrNo 21.10.03 Site Plan
(A3) DrNo 21.10.02ABlock Plan
(A3) DrNo 21.10.01C Site Location Plan
(A3) DrNo 21.10.06 Access Elevations
(A3) DrNo 21.10.08 Landscape Plan

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

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

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

4. Prior to occupation, a “lighting design for bats”, following Guidance Note 8 - Bats and Artificial Lighting (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 or having access to their resting places. All external lighting shall be installed in accordance with the specifications and locations set out in the approved 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 Taunton Deane Core Strategy 2011-2028: Policy CP8 Environment

5. The development hereby approved shall not be occupied or the use commenced until space has been laid out, drained and surfaced within the site in accordance with the approved plan(s) for the parking, and turning of vehicles, and such area(s) shall not thereafter be used for any purpose other than the parking and turning of vehicles associated with the development.

Reason: To ensure that there is adequate space within the site for the parking and turning of vehicles clear of the highway, in the interests of highway safety.

6. No works shall be undertaken on site unless details for the provision of parking and servicing of vehicles during the construction phase have been submitted to and approved in writing by the Local Planning Authority. The details shall include plans for the:

- (i) parking of vehicles of site personnel, operatives and visitors;
- (ii) loading and unloading of plant and materials; and
- (iii) storage of plant and materials used in constructing the development

The parking/servicing area(s) shall be provided in accordance with the approved details prior to any other works being undertaken on site. The parking/servicing area(s) shall be retained for the duration of the site clearance and construction phase.

Reason: To ensure that the development does not prejudice the free flow of traffic or highway safety nor cause inconvenience to other highway users.

Reason for pre-commencement: This matter is critical to the safe operation of development at the site, given the acknowledged limitations of the site access and the local road network.

7. The parking spaces in the garage hereby approved shall at all times be kept available for the parking of vehicles and shall be kept free of obstruction for such use.

Reason: To retain adequate off-street parking provision in the interests of highway safety and to ensure that the garage is not used for habitable accommodation given its proximity to the boundary of neighbouring properties..

8. Prior to first occupation of the development hereby permitted the provision of facilities for the charging of electric vehicles shall be provided on site in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of securing sustainable development.

9. (i) The landscaping/planting scheme shown on the submitted plan 21.10.08 and specified within the landscape schedule submitted by Clark Landscape Design and dated December 2021 shall be completely carried out within the first available planting season from the date of commencement of the development.

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

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

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting the 2015 Order with or without modification), no extensions, alterations, outbuildings, gates, walls, fences or other means of enclosure shall be added to the building or erected on the site other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: To ensure that additional accommodation will not be created which would add to the phosphorous load calculated for the dwelling, and to ensure that the proposed development does not harm the character and appearance of the area.

11. The dwelling hereby approved shall not be occupied until:
- i. the optional requirement for potential consumption of wholesome water by persons occupying that dwelling in Part G of Schedule 1 and Regulation 36 of the Building Regulations 2010 of 110 litres per person per day has been complied with; and
 - ii. a notice specifying the calculated consumption of wholesome water per person per day relating to the dwelling as constructed has been given to the appropriate Building Control Body and a copy of the said notice provided to the Local Planning Authority.

Reason: To improve the sustainability of the dwellings in accordance with the Taunton Deane: Core Strategy Policies DM5 and CP8 and Paragraphs 134, 154 and 180 of the National Planning Policy Framework (July 2021).

12. 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 land retained in the eastern section of the site. This work may only be undertaken during the period between March and October under the supervision of a competent ecologist. 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 by the ecologist responsible.

Within six weeks of vegetative clearance or groundworks commencing, a survey for badger setts will be carried out by an experienced ecologist. The results of these surveys will be reported to Local Planning Authority and subsequent actions or mitigation agreed in writing prior to the commencement of vegetative clearance or groundworks. Where a Natural England licence is required a copy will be submitted to the Local Planning Authority prior to works affecting the badger resting place commencing

Reason: This condition must be a pre-commencement condition to safeguard amphibians, reptiles and badgers from the outset of the development, to comply with the Protection of Badgers Act 1992 and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

13. Any rubble piles should be dismantled by hand during April to October inclusive under the supervision of competent ecologist. Any reptiles or amphibians found will be left to disperse of their own accord onto land retained in the eastern section of the site. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the

ecologist responsible.

Reason: Protection of amphibians and reptiles in accordance with the Wildlife and Countryside Act 1981 (as amended) and Policy DM1c of the Taunton Deane Core Strategy 2011-2028.

14. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or works to or demolition of buildings commences and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.

Reason: Protection of nesting birds in accordance with the Wildlife and Countryside Act 1981 (as amended) and Policy DM1c and CP8 of the Taunton Deane Core Strategy.

15. No lighting during construction and operation of the site will be directed towards the site boundaries.

Reason: For the protection of bats in accordance with Schedule 2 of the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and the Wildlife and Countryside Act 1981 (as amended) and Policy DM1c of the Taunton Deane Core Strategy 2011-2028.

16. The following will be integrated into the design of the proposal

- A) The new hedgerows are to be planted up with native species in accordance with the "landscape plan" drawing number 21.10.08 dated December 2021.
- B) All new trees planted on site should ideally be from local native stock and planted in accordance with the "landscape plan" drawing number 21.10.08 dated December 2021.
- C) 1x Schwegler 1B and 1x Schwegler 2H bird boxes will be installed on retained trees at the site boundary and maintained thereafter.
- D) A Habitat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows of the west or south facing elevation and maintained thereafter.
- E) 1x reptile/amphibian hibernacula will be constructed along the north boundary and maintained thereafter.

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

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.

Notes to Applicant

1. In accordance with paragraph 38 of the National Planning Policy Framework 2021 the Council has worked in a positive and creative way with the applicant and has negotiated amendments to the application to enable the grant of planning permission.
2. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.
3. The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). During construction works, any trenches/ holes left exposed overnight should be provided with a means of escape, such as a shallow sloped edge or angled board (minimum 30cm width), positioned at a maximum angle of 30 degrees
4. Your attention is drawn to the agreement made under Section 106 of the Town and Country Planning Act 1990, relating to this site/property.

Proposal

The proposed development is for a new dwelling on land at the rear of existing housing, accessed along an existing driveway between properties. Adjacent to the curtilage to the east, it is proposed to plant an orchard on the remaining part of the field, which would be accessed via a gate. It is also proposed to plant a hedgerow around the boundaries of the site, and to plant a number of trees within the curtilage.

Site Description

The site proposed for development is a field to the rear of existing properties in the small village of Blagdon Hill. Access to the site is onto the classified road between the properties of Pixie Lawn and Matthews Farmhouse.

Relevant Planning History

30/14/0051 - ERECTION OF A DETACHED DWELLING WITH ATTACHED SINGLE GARAGE AND DOUBLE CAR PORT - Refused 08/06/15

30/15/0051 - ERECTION OF A DETACHED DWELLING WITH DETACHED DOUBLE GARAGE (AMENDED SCHEME TO 30/14/0051) - Refused 03/12/15

The more recent application for this current site was refused for one reason - "The proposal would be served by an existing substandard access that is narrow and does not provide visibility splays that would allow vehicles to enter and leave the site safely. As such no ability to provide safe access has been demonstrated and as such the proposal would be detrimental to highway safety. The proposal is therefore contrary to Policy DM1b of the Taunton Deane Core Strategy".

An additional reason was included for application 30/14/0051, this referred to the position of the proposed dwelling to the rear of existing properties.

Since these decisions, an application was submitted ref 30/18/0018 for the erection of a single dwelling and conversion of existing dwellings and extensions etc, and improvements to the entrance and visibility splays at Pixie Lawn and Shangri-La, an adjacent site. This is relevant because of the proposal to improve the entrance onto Blagdon Hill Road, which is shared with Matthews Farm.

The access works have been undertaken and completed at the entrance.

Reference has been made to two other applications within the village of Blagdon Hill by objectors. 30/18/0035 is an application for two bungalows at Curdleigh Lane, about half a mile to the south. An appeal decision was issued in October 2021, with the application being dismissed on grounds of potential harm to the Ramsar site. The Inspector in that instance considered that the development would make a positive contribution to the local housing supply and would be acceptable in terms of its effect on the character and appearance of the area.

The other application referred to, 30/20/0016, is for an approval of reserved matters of an application for 2 dwellings at Nutbeam Farmhouse, again about half a mile to the south. The principle of development has been established by the granting of the outline permission (30/18/0001), however the current reserved matters application has yet to be determined.

Consultation Responses

PITMINSTER PARISH COUNCIL - The Parish Council object to the application for the following reasons:

1. The application site is outside the village envelope (Taunton Deane Local Plan November 2004).
2. The application refers to land outside the development curtilage.
3. Contravenes Planning Policy DM2 - of which this Parish upholds and supports in every application of this type.
4. Proposed building on agricultural land.
5. The Parish Council is not convinced that safety of the access is controlled only by visibility splays. The entrance to the site and its entire length is very narrow and there is insufficient width for cars to pass so may cause an obstruction which causes cars to back up on the highway whilst safe passage for cars exiting takes place.
6. The proposal would bring a significant increase in the number of vehicles to

leave and enter the traffic stream at a point where visibility is not great as seen when approaching in low slung vehicles. The pillar tops of the wall to the north restrict clear visibility. This may cause interference with the flow of traffic and consequent danger on this stretch of road. There have been many vehicle accidents at the junction with Howleigh Lane.

7. The access is very poor. Historically, this access track has only been used by vehicles accessing Matthews Farmhouse, the agricultural land, Pixie Lawn and Shangri-La. This latest proposed development will bring potentially two more vehicles. Because the owner of Pixie Lawn owns the land on the corner of the access vehicles turning left into the access track from the main road must swing out crossing the central white line to gain access. If another vehicle is proceeding out, then one or other must give way. It may be necessary for the inbound vehicle to remain for some time in the centre of the carriageway causing a hazard on this particularly bad stretch of road with a dangerous road junction.

8. The access track is inaccessible for emergency vehicles.

9. The application has not proved due diligence in establishing the ability to access site nor or to gain permission to use proposed access routes

10. There will be intensification of use of this very narrow and bad access.

11. Application refers to fences of a certain height around the house that is out of keeping with a rural area

12. Exit from track not solely owner by applicant and has no right of way across a corner of the exit. i.e. applicant does not have a legal right to use the splay that they rely upon to exit the lane.

13. Splay not sufficient for domestic use.

14. Highways have stated refer to 'Standing Advice', Highways has not stated that the Splay and exit is satisfactory as suggested by the applicant - nor have any proposed changes to the exit been agreed to satisfy exit requirements - either agricultural or domestic. Section 1 of the Highways act covers Access, Parking and turning This application does not satisfy this criteria as the exit is on a dangerous corner with limited visibility and it does have a detrimental impact on the adjoining highway (Refusal on that point alone). Additionally, there is no provision for turning or passing in the lane they do not own. Furthermore, the 'Advice ' covers domestic exits but states that they must own all the exit - the applicant does not.

15. Previous applications refused because of splay and outside the village curtilage (not just because of the exit as the Applicant's agent would have the planning department to believe)

16. No provision for safe collection of domestic waste

17. Not carbon neutral as suggested in supporting documentation - in fact their documentation highlights that there is an increase - Phosphate report vague - no specific location of tests - furthermore, test conclusions cannot be made until post the installation of the PTP.

18. Application states already in a residential area - factually incorrect and misleading... use of PTPs and discharge locations not identified

19. Nature report is not conclusive but selective - bat migration routes not covered. At least x2 locations in the immediate vicinity have had to make provision for bats with heated loft hatches as part of their planning applications; any proposed building in any form on agricultural land will disrupt bats flight paths at that location

SCC - *ECOLOGY* - Following my initial comments in which it was suggested that the scheme was initially going to be progressed via the interim guidelines (as

suggested in the Nutrient Neutrality Assessment report at the time) I am assuming that the applicant has concluded that a PTP would not be acceptable for this location given the proximity to available main sewer connections? this will now mean that the application will require a HRA to be completed.

We have received an updated calculation of the phosphate budget calculator only by RMA to reflect this change from a PTP to WWTW connection. However, such a significant change in the scheme and subsequent mitigation proposals should really be presented in an updated version of the Nutrient Neutrality Assessment report as the original report by RAM dated 11th June 2021 could be considered completely invalid.

Further to this point the updated calculation states a total area of the development site (in stage 2) as 0.367ha whereas in the original report the area is 0.170. I'm assuming the original calculation was wrong as it suggested the entire site will become urban area whereas the new calculation more accurately reflects the proposed garden areas as open space? This is opposed to the change in area of the calculation meaning it includes the fields immediately to the east which is in the ownership of the applicant and was previously proposed as the area allocated for Phosphate mitigation?

The latest information from RMA suggest a new woodland and a SuDS pond are to be used as the mitigation although the updated calculation may have been incorrectly filled in at stage 3 with regards to the wetland/SuDS section, as it suggests no mitigation is required (and then stages 4 and 5 for the mitigation were not filled out). It is not clear within the proposals where such mitigation is to be proposed on site in accordance with the latest calculation, i.e. no details are given on where this wetland is going or any other details associated with it.

However, strictly speaking if the mitigation of a woodland/wetland is proposed to the land east of the current red line boundary then it is considered off-site mitigation, we would therefore require that all the appropriate ecological assessments are undertaken for this mitigation site to feed into the HRA. At present only the existing red line boundary has been assessed. I would also advise that the Phosphate calculation is reviewed again and incorporated into an appropriate update to the Nutrient Neutrality Assessment report.

SCC ECOLOGY 17/2/22

The development would give rise to a phosphorus surplus of 0.23 kg/year. The proposed mitigation includes converting 0.26ha of currently sheep grazed land into 0.26ha of orchard planting. The Nutrient Neutrality Assessment and Mitigation Strategy by RMA environmental dated 2nd December 2021 has calculated the proposed mitigation to offset 0.26 kg/year. However, it is noted that the Phosphate mitigation area is not within the redline boundary for this application but rather the blue line boundary which happens to be adjacent to the main development site.

The shadow HRA report by ead ecology dated December 2021 and the linked document "Ecological Management Plan" by ead ecology dated December 2021 is considered acceptable by Natural England and SES in reaching the conclusion of no adverse effect on the integrity of the Somerset Levels and Moors Ramsar Site. This is provided that the proposed mitigation (land-use change at Blagdon Hill from grazed pasture to orchard) is secured in perpetuity. The shadow HRA and its conclusions may therefore be adopted by Somerset West and Taunton Council as the competent authority.

It is understood that Somerset West and Taunton Council will legally secure the mitigation in perpetuity via a s106 agreement.

A Preliminary Ecological Appraisal of the application site (red line boundary) was carried

out in April 2021 by HalpinRobbins Ltd, result are as follows:

Amphibians:

- no ponds were identified within 250m of the site. The site has the potential to support amphibians in their terrestrial phase. vegetated rubble piles were noted on the eastern boundary of the site which have potential to be used by these species for sheltering/ hibernating.

Bats:

- The site has no roosting opportunities for bats. The boundaries of the site have the potential to be used by commuting bats and the neutral grassland provides foraging opportunities for bats.

Badgers:

- No setts were recorded within the site itself, a potential badger sett was recorded within the bank of the hedgerow located c. 40m to the east of the site and a mammal path was noted running in a north/south alignment along the hedgerow.

Birds

- Bird nesting opportunities within the site are limited to the bramble scrub patch located on the eastern boundary of the site.

Reptiles:

- The unmanaged tussocky neutral grassland is suitable habitat for reptiles. The vegetated rubble pile provides suitable refuge for reptiles. It is considered highly likely the site is used by common species of reptiles such as slow worm

An ecological assessment of the proposed orchard location for phosphate mitigation (blue line boundary) has been undertaken by ead ecology and is written in the Ecological Management Plan report dated December 2021 results included:

Amphibians:

- The site has the potential to support common amphibians in their terrestrial phase.

Bats:

- No bat roost potential but foraging and commuting opportunities

Badgers:

- An outlier badger sett was noted along the eastern hedgerow.

Birds

- Bird nesting opportunities are identified with the vegetation within the site.

Reptiles:

- The grassland is suitable habitat for reptiles. It is considered highly likely the site is used by common species of reptiles such as slow worm.

Recommendations of planning obligations/conditions:

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

Habitats Regulations Assessment (phosphate)

S106 agreement

The following will be secured by S106 agreement:

- The development shall be carried out strictly in accordance with the Ecological Management Plan, Land at Matthews Farm, Blagdon Hill report (ead ecology, dated December 2021).
- Provision of a minimum 0.26 hectares of Phosphate mitigation habitat comprising orchard planting.
- The grassland of the orchard will be sown with a native species wildflower seed mix

such as Emorsgate special general-purpose meadow mixture (EM3) or similar and cut no more than twice per year.

- Long-term maintenance and management scheme for the orchard habitat, to include legal and financial mechanisms.

Bats

Although foraging habitat associated with the grassland will be lost, the proposals include the planting of additional hedgerows within the site and an orchard to the east.

As no bat activity surveys have been submitted, I have to assume the presence of light averse species. It is unclear if external lighting will be included, if so, the proposals should avoid lighting boundary features, please attach the following condition (if lighting is required):

- 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 on the identified horseshoe bat commuting routes. 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 Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

Badgers

Due to the potential for badgers to use the site and proposed orchard area the following informative will be attached:

- Within six weeks of vegetative clearance or groundworks commencing, a survey for badger setts will be carried out by an experienced ecologist. The results of these surveys will be reported to Local Planning Authority and subsequent actions or mitigation agreed in writing prior to the commencement of vegetative clearance or groundworks. Where a Natural England licence is required a copy will be submitted to the Local Planning Authority prior to works affecting the badger resting place commencing

Reason: This condition must be a pre-commencement condition to safeguard badgers from the outset of the development, to comply with the Protection of Badgers Act 1992 and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

Birds

As nesting birds are likely to use vegetation on site the following will be conditioned:

- No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or works to or demolition of buildings commences and provides written confirmation

that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

Reptiles and amphibians

The site has been identified as being suitable for reptiles and amphibians in the form of the grassland and the rubble piles on site. It is evident that sufficient amounts of retained habitat are east of the site and the proposals will enhance the site for reptiles and amphibians. In order to avoid harm to reptiles and amphibians during construction the following two conditions must be applied:

- 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 land retained in the eastern section of the site. This work may only be undertaken during the period between March and October under the supervision of competent ecologist. 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 by the ecologist responsible.

Reason: In the interests of UK protected and priority species and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

- Any rubble piles should be dismantled by hand during April to October inclusive under the supervision of competent ecologist. Any reptiles or amphibians found will be left to disperse of their own accord onto land retained in the eastern section of the site. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible.

Reason: In the interests of UK protected and priority species and in accordance with Taunton Deane Core Strategy 2011 -2028: Policy CP 8 Environment.

Biodiversity Enhancement (Net Gain)

As compensation and enhancement measures, and in accordance with National Planning Policy Framework (NPPF) and the Environment Act, please apply the following conditions to any planning permission granted.

- The following will be integrated into the design of the proposal
 - A) The new hedgerows are to be planted up with native species in accordance with the “landscape plan” drawing number 21.10.08 dated December 2021.
 - B) All new trees planted on site should ideally be from local native stock and planted in accordance with accordance with the “landscape plan” drawing number 21.10.08 dated December 2021.
 - C) 1x Schwegler 1B and 1x Schwegler 2H bird boxes will be installed on retained trees at the boundary and maintained thereafter.
 - D) A Habitat 001 bat box or similar will be built into the structure at least four metres

above ground level and away from windows of the west or south facing elevation and maintained thereafter.

- E) 1x reptile/amphibian hibernacula will be constructed along the north boundary and maintained thereafter.

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

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.

SCC - TRANSPORT DEVELOPMENT GROUP - The proposed development derives access from/onto a classified highway that is subject to a 30mph speed restriction, this and the fact the proposal is for a single dwelling is the reason why it is considered that "Standing Advice" is applicable to this proposal. I would also refer you to section 1 of the Highways, Standing Advice Document. By referring an application to Standing Advice, the Highway Authority is not saying the proposed development is satisfactory in highway safety terms, and it provides the advice necessary for the Planning Authority to assess the proposal and make a determination.

The document sets out what is required primarily for access, parking and turning for new development. If these requirements cannot be provided, refusal on highway grounds is warranted. It should be ensured that any new development and its associated traffic generation does not have a detrimental impact on the adjoining highway or exacerbate and existing substandard arrangement. In the event that permission is granted, it should be ensured that any conditions imposed to achieve the highway requirements can be provided in perpetuity and on land that is within the ownership of the Applicant. The Standing Advice document can be used as part of the Appeals process in the event of an application being refused.

NATURAL ENGLAND - Thank you for consulting with us on the above, received on 23/12/21.

Somerset Levels and Moors Ramsar Site

Natural England considers that the mitigation proposed in the Nutrient Neutrality Assessment and Mitigation Strategy will be sufficient to achieve nutrient neutrality for the proposed development.

Natural England supports the principle of land use change for the purposes of providing a mitigation solution to enable development. This should include the necessary certainty that the project can be delivered in perpetuity as a permanent strategic mitigation solution (in this case permanent land use change from grazing land to orchard).

Shadow Habitats Regulations Assessment

The shadow Habitats Regulations Assessment provided by the applicant affords a firm basis for the LPA to assess the implications of the application in view of the conservation objectives for the Somerset Levels and Moors Ramsar Site, and we would anticipate the LPA being able to reach a conclusion of no adverse effect on the integrity of the site

WESSEX WATER - No objections

Habitats Regulations Assessment

The site falls within the surface water catchment for the Somerset Levels and Moors SPA and Ramsar site. Development at the site needs to ensure that it mitigates the impact of development and demonstrate nutrient neutrality. A project level appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is therefore required to determine that the proposed development will not have an impact on the Ramsar site either alone or in combination with other plans and projects.

The applicant has submitted an appropriate assessment which sets out how this will be achieved. It calculates that the overall phosphate budget for the purposes of determining mitigation is 0.23kgP/year. It is proposed that an area of land immediately to the east of the site would be taken out of agricultural use, which would provide phosphate credits of 0.26kgP/year. This figure exceeds the phosphate budget calculated as a result of the proposed residential development at the site.

This project level appropriate assessment has been considered by Natural England. In their response of 17 January 2022, Natural England indicate that the mitigation proposed may be sufficient to achieve nutrient neutrality for the proposed development, and that the LPA should be able to reach a conclusion of no adverse effect on the integrity of the site. The Council is satisfied on the basis of comments from the SES that the development with the mitigation proposed is not likely to have a significant effect on the Ramsar site should permission be granted pursuant to Regulation 63(1) of the Habitats Regulations 2017. A S106 agreement is required to ensure that the land is removed from agricultural use and planted and maintained as an orchard in perpetuity.

Representations Received

29 objections have been submitted raising the following issues:

- Poor visibility at access point; traffic blackspot
- The area is agricultural land
- Outside of the village envelope
- Should not be served from a package treatment plant
- Footprint of the building is too large
- Would block views from neighbouring properties
- Would impact of neighbours privacy
- Would set a precedent from further development
- Would lead to a further storey at a later date
- Not in a sustainable location - village is poorly served by public transport, no school or shop
- Issues over land ownership shown in the planning documents
- Bat migration point
- Land has not been used for agriculture
- Environmental issues are taken more seriously than they were in previous applications
- Where are services and bins to be located
- Question the level of phosphate loading from the proposed dwelling and its mitigation from the proposed orchard

6 letters of support have been received-

- Quality new home in a good location
- Visibility has now been improved to meet highway requirements

Land is currently not used

Planning Policy Context

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act"), requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations.

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

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

Relevant policies of the development plan are listed below.

CP8 - Environment,
SD1 - Presumption in favour of sustainable development,
CP1 - Climate change,
CP4 - Housing,
SP1 - Sustainable development locations,
SP4 - Realising the vision for rural areas,
DM1 - General requirements,
DM5 - Use of resources and sustainable design,
A1 - Parking Requirements,
ENV1 - Protection of trees, woodland, orchards and hedgerows,
D7 - Design quality,
D10 - Dwelling Sizes,
D12 - Amenity space,

There is no made neighbourhood plan for Pitminster parish.

The Somerset West and Taunton Design Guide SPD was adopted in December 2021 and is a material consideration

Other relevant policy documents: Climate Positive Planning: Interim Guidance Statement on Planning for the Climate Emergency (February 2021)

Local finance considerations

Community Infrastructure Levy

The creation of a new dwelling is CIL liable.
Proposed development measures approx. 200sqm.

The application is for residential development outside the settlement limits of Taunton and Wellington where the Community Infrastructure Levy (CIL) is £125 per square metre. Based on current rates, the CIL receipt for this development is approximately £25,000.00. With index linking this increases to approximately £35,500.00.

Determining issues and considerations

The relevant issues in this application are the principle of development, design and impact on neighbouring properties, access and highway matters, landscaping and ecology. These are considered below

Principle of Development

The site lies outside of the settlement boundary of Blagdon Hill, but it does adjoin the boundary. The neighbouring properties which share this access are situated within the settlement boundary. Policy SP1 allows for small scale proposals within settlement limits and whilst it is clear that this is outside the boundary the contiguous nature of the site means that it is possible to walk to the facilities within the village, such as the public house and play areas. CP8 permits development outside of settlement boundaries providing it is appropriate in terms of scale, siting and design, protects and conserves or enhances the character of the area whilst maintaining open breaks between settlements. Furthermore, previous applications accepted the principle of development in this location.

Design

It is proposed to construct a single storey, detached bungalow with a detached double garage. Materials are stated as stone walls (either natural or reconstituted) with a natural slate roof, uPVC windows and doors. The house is proposed to sit centrally within the plot, with the garage between the house and the boundary with the neighbouring property. It is proposed to construct a new native species hedgerow on this boundary, and to plant new hedges to the East and Southern boundaries, which connect to the open countryside.

The District Wide Design Guide SPD classifies this as being within the Fivehead Vale area, sitting below the Blackdowns Plateau. It describes the local vernacular as being defined by blue-grey and honey coloured stone. It is therefore considered that the use of stone would be in keeping with the character of the area and of other recently constructed dwellings within the vicinity, however precise details of materials would need to be agreed to ensure this and a condition to this effect is therefore proposed.

Other aspects of the District Wide Design Guide SPD are considered to be met in this respect- the scale, form, plot shape and size is commensurate with the area, and the new dwelling does not interrupt the established building line in the vicinity.

Impact on Neighbouring Properties

The dwelling would adjoin the boundaries of the neighbouring dwellings of Green Crest and Matson. At its nearest point the dwelling would be 10 metres to the boundary with Green Crest and 8 metres to the boundary with Matson, with the houses set back from the boundaries. The principal windows look away from these boundaries, including the kitchen, living and dining room, study and second bedroom. There are windows in the elevation towards Green Crest, however these either serve an en-suite, and can therefore be obscure glazed, or (in the case of Bedroom 3) would look directly towards the proposed detached garage. Matson is located adjacent to the site, rather than in front of it, and would not have direct views into the site.

The single storey nature of the dwelling, the configuration of the windows, and the planting of the proposed native hedge, will ensure that there is no significant impact on these neighbouring properties.

Access

It is proposed to use the existing access onto Blagdon Road which currently serves three properties. Previous applications for the site were refused on grounds of poor visibility at the junction. Since those decisions, an application to rebuild Pixie Lawn has been approved. This has resulted in the previous building being removed from its position directly on Blagdon Road, with the new dwelling now set back and visibility improved at the junction so that vehicles coming from the direction of Taunton can be seen more easily.

It is acknowledged that this land is not in control of the applicant and therefore relies on the visibility splays being maintained by the neighbour. However this was conditioned as part of the permission to that application and therefore there is a reasonable expectation that the splays will be maintained. The Highway Authority considered that this new visibility splay is acceptable for vehicles exiting the existing properties accessed from this driveway.

To the south, it is proposed to reposition the existing chert stone wall to the back of the visibility splay. However, this is an area in front of a listed building. It is considered that this wall, which is less than one metre high, does not significantly affect visibility to the south and its relocation would be detrimental to the streetscene, which is characterised in this part of the village by walls which front the highway.

Comments have been made regarding the increased likelihood of vehicles meeting in the driveway. There is already the potential for this to happen with the existing properties, and it is not considered that this results in a highway safety issue.

The highway consultant working for the applicant considers that there is no net increase in traffic due to the previous use as agricultural land. The status of the land is questioned by a number of objectors to the application. The current state of the land does not indicate that agricultural vehicles are frequent users of the drive, and therefore the issue is the increased level of activity resulting from vehicles at the new dwelling and the likely impact on highway safety.

The NPPF (para 111) states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In the absence of an objection from the highway authority, and an assessment of the current situation in operation on the driveway, including the change to visibility, it is not considered that a refusal on highway safety grounds could be sustained.

Landscaping

The application is accompanied by a landscape plan and a landscape schedule and specification. These give details for the proposed hedge and tree planting, the spacing of orchard trees and importation of topsoil. This would give a good amount of new planting and ensure that any new plants, grass or soil are sympathetic to the landscape. A condition is proposed to ensure adherence to the scheme. An objection has been received on the proposed planting which would result in an impact on the outlook from the properties. Whilst this is accepted, the planting of trees on agricultural land would not require permission and the nature of the proposal is that there will be gaps between trees which would permit views to be maintained.

Ecology

The site is acknowledged within the preliminary ecological assessment as a bat foraging habitat. The recommendations of the report state that suitable conditions should be imposed on any permission, namely that no lighting should be directed towards the boundaries of the site, and a bat box installed within the new dwelling. The County ecologist has confirmed that the introduction of the proposed orchard will increase foraging opportunities in the field to the east, and this will replace the loss of foraging habitat in the existing field.

Within the site there is a small area of bramble scrub, and a rubble pile which have potential to support birds, reptiles and amphibians which may be harmed during clearance. Further conditions are recommended which include works taking place at the appropriate time of year.

Other issues raised

Reference is made to the inclusion of land outside of the ownership of the applicant. The area to the East of Matthews Farmhouse has now been removed from the location plan and does not form part of the application form, as well as the visibility splay associated with Pixie Lawn.

It is acknowledged that the land is classified as agricultural, although there is doubt about the level of farming activity which takes place. It is not considered to be a loss of high grade land.

There is an objection to the height of fences; plans have been amended which remove fences between properties and now show hedges

Safe collection of waste- there is sufficient space within the site to store waste until collection day. Provisions for collection can be subject to a planning condition.

Any increase in height of the building would be subject to a separate planning application

Conclusion

The principle of a new dwelling at this site has been established through previous applications. The construction of a single storey dwelling would not adversely harm the amenity of nearby dwellings, and it is considered that the existing access has been improved to the extent that an additional dwelling can be served from this driveway. Nutrient neutrality will be maintained in perpetuity by the removal of adjacent land from agricultural use and its replacement with an orchard. It is considered that the development would make a positive contribution to local housing supply and would not undermine the distinctive characteristics of the village, including its pattern of development.

The applicant has submitted a draft unilateral undertaking with the following heads of terms:

- To plant the orchard in accordance with the details submitted with the application
- To maintain and manage the orchard in perpetuity in accordance with the nutrient neutrality measures

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

Contact Officer: Darren Roberts

APPEAL DECISIONS – 17 MARCH 2022

Site: LAND AT OTTERFORD 322621.115998

Proposal: Erection of a general purpose agricultural building on land at Otterford (resubmission of 29/20/0011)

Application number: 29/20/0018

Reason for refusal: Dismissed

Original Decision: Delegated Decision



Appeal Decision

Site visit made on 2 February 2022 by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal Ref: APP/W3330/W/21/3276334 Land at ST2251 1603, Otterford, Somerset

- 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 Luke Aplin against the decision of Somerset West and Taunton Council.
 - The application Ref 29/20/0018, dated 10 September 2020, was refused by notice dated 18 March 2021.
 - The development proposed is erection of general-purpose agricultural building.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal site is located at the southeast corner of a rural field of pasture. A public highway bounds it to the north, with a separate field to the east, beyond which runs the B3170 on a north to south axis. On 17 August 2021, after the appeal was lodged, Prior Approval was granted¹ for the erection of a general purpose agricultural storage building within the pasture (the Permitted Building), close to an existing building near to the north field boundary. The Council and the appellant have had the opportunity to address this change in circumstances during the appeal process. I therefore had regard to it in my own assessment without prejudice to either main party.

Main Issues

3. The main issues are:

- whether or not the proposed agricultural building would be commensurate with the role and function of the agricultural unit that it would serve; and,
- the effect of the proposal on the character and appearance of the area, with reference to the Blackdown Hills Area of Outstanding Natural Beauty (AONB).

Reasons

Agricultural need

4. The appellant's expanding enterprise extends to 215 acres and is focused on lambing, with around 500 sheep in total, and calf rearing. Whilst it is based at Cherryhayes Farm, I am led to believe that the buildings there are fully utilised. As such, at first blush, the proposal would appear commensurate to the role

¹ Ref 29/21/0006/AGN

and function of the unit. Moreover, due to the nature of the tenancy agreements in place, there is a paucity of alternative sites beyond this field.

5. However, there is now the potential for the Permitted Building to be developed, not just as an alternative, but in addition to the proposal. It is also described as a general-purpose agricultural building and, although not as large, there is an inescapable logic that it would fulfil a degree of the need for the building proposed. Indeed, the appellant has stated that the two buildings are very similar and that the need between them has been justified in a similar manner.
6. These circumstances cast significant doubt in my mind as to whether the building would be commensurate with the role and function of the agricultural unit. As such, the proposal falls into conflict with Policy DM2 of the Core Strategy 2011-2028 (adopted 2012) (CS).

Character and appearance

7. The AONB has the highest status of protection with regard to its landscape and scenic beauty. This section of the AONB is characterised by a patchwork of moderately sized fields, and areas and belts of woodland. Fields barns are present but tend to be solitary and fairly small in scale.
8. The proposed building would not be small. However, it would be set back into the far corner of the field. This would ensure that the building would be viewed at a long distance, which would reduce perception of its scale to a magnitude akin to the existing field barns. Its presence would be further ameliorated by the new landscaping, and existing hedgerows and belts of woodland to the south and east, which are well placed to screen the building from the B3170.
9. However, as I have already found, I cannot rule out that, if I were to allow the appeal, the Permitted Building would also be developed. If that were to happen, the two buildings would combine across the foreground and background of public views from the highway to the north. This would create a cumulative density and scale of development which would detract from the landscape and scenic beauty of the AONB.
10. Consequently, I conclude on this issue that the proposal would have a harmful effect on the character and appearance of the area, with reference to the AONB. It would

conflict with the landscape aims of Policies DM1 and CP8 of the CS. There would also be conflict with the similar aims of the Blackdown Hills AONB Management Plan and the National Planning Policy Framework.

Conclusion

11. The proposal would conflict with the development plan when read as a whole and there are no other considerations which outweigh this conflict.
12. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

Site: FIELD ADJACENT TO LILAC COTTAGE, STATHE ROAD,
BURROWBRIDGE

Proposal:

A - The unauthorised construction of buildings on the Land in the approximate positions shown edged green on the Plan at Oake Lodge Stathe Road Burrowbrldge Somerset TA7 0JH

B - ALLEGED UNAUTHORISED DEVELOPMENT IN FIELD ADJACENT TO LILAC COTTAGE, STATHE ROAD, BURROWBRIDGE

Application number: A – E/0128/51/15
B - E/0150/51/13

Reason for refusal:

Original Decision:



5 Appeal Decisions

Inquiry (Virtual) held on 18, 19 and 20 January 2022 Site visit made on 26 January 2022

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 March 2022

Appeal A: APP/W3330/C/20/3249482 Land at Oake Lodge, Stathe Road, Burrowbridge Somerset TA7 0JH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (herein cited as the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Richard Harborne against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice was issued on 11 February 2020.
- The breach of planning control as alleged in the notice is the unauthorised change of use of an agricultural building (as shown edged in black on the plan annexed to the enforcement notice) to use as a residential dwelling.
- The requirements of the notice are:
 1. Cease the use of the agricultural building as a permanent residential dwelling.
 2. Remove all domestic items and paraphernalia from the land.
- The period for compliance with the requirements is nine months.

- The appeal is proceeding on the grounds set out in section 174(2) (d) of the 1990 Act. **Summary Decision: The appeal is allowed following correction of the enforcement notice in the terms set out below in the Formal Decision.**
-

Appeal B: APP/W3330/C/21/3281426 Land on the north side of Statheclose Rhyne (otherwise known as land adjacent to Lilac Cottage Stathe Road) Stoke St Gregory Taunton Somerset

- The appeal is made under section 174 of the 1990 Act.
- The appeal is made by Mr Richard Harborne against an enforcement notice issued by Somerset West and Taunton Council.
- The enforcement notice was issued on 12 July 2021.
- The breach of planning control as alleged in the notice is the unauthorised construction of buildings on the Land in the approximate positions shown edged green on the plan attached to the enforcement notice.
- The requirements of the notice are:
 1. Demolish the buildings referred to in paragraph 3 of the notice.
 2. Remove from the land all materials resulting from such demolition.
- The period for compliance with the requirements is nine months.
- The appeal is proceeding on the grounds set out in section 174(2) (d) of the 1990 Act.

Summary Decision: The appeal succeeds in part and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Procedural Matters and Background – both appeals

1. The addresses in the banner headings above are taken from the enforcement notices but there is no dispute that the 2 appeals before me relate to the same land. Both appeals were before me at the Inquiry as such, and to avoid duplication, I have dealt with the decisions together. The Inquiry sat for 3 days, and it was agreed that the oral evidence of Mrs Susan Jones and Mrs Anna-Mari Galliot did not need to be affirmed at the Inquiry. All oral evidence given by the remaining witnesses was affirmed at the Inquiry.
2. Appeal A was submitted by Battens Solicitors Limited (Battens) on behalf of the appellant but when Appeal B was submitted it was confirmed in writing that Mrs Susan Jones would act on behalf of Mr Harborne for both appeals.
3. Prior to the Inquiry commencing the Council stated that it had realised that the Inquiry notification letters regarding both appeals had not been sent out 2 weeks prior to the Inquiry. The letters were sent out electronically on the 7 January 2022. Nevertheless, the appellant stated and provided a photograph to indicate that the site notice was erected prior to the 2 January 2022. Both parties were given the chance to comment on whether any interested parties would be prejudiced. I had no reason to disagree with the main parties that it appeared that no interested parties would be severely prejudiced by the Inquiry opening as planned on the 18 January 2022.

The site and relevant planning history

4. The land, shown on the plans attached to the enforcement notices, is roughly rectangular in shape and the building cited in Appeal A is located close to the access drive that is at the northeast corner. The access drive joins Stathe Road adjacent to a

dwelling called Lilac Cottage. There are 2 structures that are used as compost toilets the one adjacent to the land's northern boundary and the second closer to the centre of the land near to a track. The ground (d) appeal in Appeal B relates to those structures and the more northern structure is shown as A and the other as B on plan RH1¹. It was confirmed at the Inquiry that the 3 sworn statements had transposed those references to the compost toilets.

5. The land has been in the ownership of the appellant or his father since 2003. A number of enforcement cases² were opened by the Council between 2004 and 2015. In 2010 an enforcement notice (the 2010 notice) was issued on the same land as identified in the enforcement notices before me. The breach of planning control cited in the enforcement notice was *"Without planning permission, changed the use of the land by stationing a mobile home for residential use and occupation and erected a structure for residential use and occupation as shown in the attached photograph"*. The 2010 notice therefore, targets the residential use constituted by the stationing of a caravan on the land and the operational development involved in the construction of the straw bale structure and its residential use.
6. The requirements of the 2010 notice are:
 - Cease using the land for residential occupation and use
 - Remove the structure shown in the attached photograph in its entirety
 - Reinststate the land to the condition that it was in immediately prior to the unauthorised residential occupation.
7. Both parties were given the chance to make written and oral submissions as to whether the first requirement has any implications, or not, in relation to the ground (d) appeal of Appeal A. Based on those submissions it is apparent that the requirements are targeted specifically at the residential use and operational development associated with the alleged breach in question and the notice does not allege that the barn was in residential use at that time. There is no dispute that the requirements of the notice were complied with. Consequently, it is clear to me that the 2010 notice relates to a substantially different breach of planning control than that before me in Appeal A. Accordingly, in my judgement, the change of use of the barn for residential use would not contravene the requirements of the 2010 notice that is currently in force. I have dealt with Appeal A on that basis.
8. In 2015 the latest enforcement case was opened for the alleged noncompliance with the 2010 notice in relation to the residential occupation of the site (the 2015 case). The Council's evidence indicates that no actions, other than acknowledging the complaint, were undertaken with regard to that complaint until Mrs Salter joined the Council in July 2017. A site visit was attempted at that time but no access onto the land was possible. The appellant submitted an application for a certificate of lawfulness (LDC) for the change of use of a building from agricultural use to C3 residential use as a single dwellinghouse in July 2018 (2018 LDC). That application was refused in October 2018.

¹ CD1 in Core Documents List

² E/182/51/04; E/279/51/05; E124/51/10; E150/51/13; E/218/51/15

9. In November 2018 Council Officers, including Mrs Salter, visited the site and gained access inside the agricultural building cited in the enforcement notice relating to appeal A. In January 2019 a Planning Contravention Notice (PCN) was served on the appellant. The enforcement notice (EN1) relating to the change of use of the agricultural building (the barn) was issued on 11 February 2020 and Appeal A was submitted in March 2020. A second LDC application was submitted in July 2020 (2020 LDC) for the existing use of an agricultural barn as a single residential dwelling. That application was refused in March 2021.
10. The enforcement notice (EN2) relating to the unauthorised construction of buildings on the land was issued on the 12 July 2021 and Appeal B was submitted in August 2021. Two further enforcement notices were issued on the same land in July 2021 relating to the unauthorised change of use of agricultural land to the siting for caravans as permanent residential accommodation and the unauthorised change of use of the land from agriculture to use for the open storage of caravans. Appeals have not been made in relation to those 2 further enforcement notices.

Appeal A – The Notice

11. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the 1990 Act, or the terms may be varied, where the correction or variation will not cause injustice to the appellant or local planning authority.

Section 55 of the 1990 Act states, amongst other things, that “development,” means the making of any material change in the use of any building. To ensure that the description of the alleged breach reflects section 55 of the 1990 Act I consider that the wording ‘*unauthorised change of use*’ within the description of the alleged breach should be corrected to ‘*unauthorised material change of use*’. There was no dispute at the Inquiry that I can carry out this correction without injustice to the parties.

Appeal B

12. In its closing submissions the Council confirmed that it had come to the conclusion that on the balance of probabilities at the date on which EN2 was issued no enforcement action could be taken in respect of compost toilets A and B. It also confirmed that in its view EN2 should be corrected to remove those 2 buildings from the ambit of the notice. There was no dispute at the Inquiry that I could carry out that correction without injustice to both parties.

Applications for costs – both appeals

13. At the Inquiry applications for costs in relation to both appeals were made by Mr Richard Harborne against Somerset West and Taunton Council. These applications are the subject of separate decisions.

Appeal A – The appeal on ground (d)

14. An appeal on ground (d) is made on the basis that, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice. The time limits within which enforcement action must be taken in respect of breaches of planning control are set out in the 1990 Act. In this case, the relevant time period is set out in section 171B(2) of that Act and the burden of proof lies with the appellant. EN1 was issued on 11 February 2020, so in order to succeed on this ground the appellant needs to show, on the balance of probability, that the material change of use alleged in the notice began before 11 February 2016 and continued for at least four years thereafter.

15. A UPVC door in the front elevation of the barn leads into a large room that appears to serve as an entrance way and a reception/living room, through an internal door to the left there is a kitchen, and an office/study with a bedroom at the far end. To the right through an internal door is a small living room with access to a workshop. The rooms are relatively generous in size and there are items of furniture and personal possessions in each room. The UPVC windows on the front elevation provide light to each room, other than the workshop and office.
16. There are no mains utility supplies to the barn. Water is obtained, on a regular basis, in containers that are filled from the White Spring in Glastonbury by the appellant. Electricity is supplied by solar panels and a wind turbine and stored via a number of vehicle batteries. Gas bottles are used to fuel a 2 burner and grill camping stove. There are wood burning stoves in the small living room and bedroom. Washing facilities are within the bedroom – a sink and shower. The water from the containers is supplied to the kitchen and bedroom sink through pump garden sprayers. The appellant explained at the Inquiry how he heated and filled the ‘cistern’ with water for the shower. Compost toilet A is relatively close to the barn and is used by the appellant.
17. There is no definition of what constitutes a “dwellinghouse” in the 1990 Act, but in the case of *Gravesham*³ the Court held that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. From the outside, the barn does not have the appearance of a conventional dwelling, despite its various doors and windows on the front elevation. The barn does not have the facilities that would be found in most modern houses, and I have no doubt that most people would not care to live there. However, it appeared to be relatively warm, wind and watertight and contained the rudimentary facilities for cooking, eating, washing and sleeping associated with use as a dwellinghouse. Moreover, the Council do not dispute that the barn affords the facilities required for day-to-day private domestic existence. Based on the evidence before me and my observations at the site visit I have no reason to disagree.
18. There is no dispute that the barn was in use as a dwellinghouse in November 2018 when Mrs Salter visited the site and at the time the enforcement notice was served. The dispute relates to when the material change of use and breach took place. The Council argues that insufficient precise and unambiguous evidence has been presented to demonstrate, on the balance of probability, that the breach commenced four years or more prior to EN1 being issued.
19. The appellant explained under affirmation that many of the works to convert the barn were undertaken by himself, but the concrete floor was laid by others not long after the site was bought in 2003. In 2004 the first enforcement case⁴ on this site related to various works to the barn. It is not known what those works entailed as no further details are available. Mr Harborne states that the works to complete the dwellinghouse were finished in March 2013. The documentation he has produced relates to a quotation for the supply of blocks from Travis Perkins in 2012. He states that the blocks for under the patio windows were obtained from that firm not long after. He stated at the Inquiry that any other paperwork relating to the building works that were undertaken by others had been discarded. That this was the case some 9 to 19 years

³ *Gravesham BC v SSE & O'Brien* [1982] 47 P&CR 142; [1983] JPL 307

⁴ E/182/51/04

after he said the works were carried out could not be seen to be unusual or harmful to his case.

20. In addition, from my observations it is apparent that a large proportion of the materials utilised in the barn have been recycled and salvaged from elsewhere. Furthermore, the rudimentary nature of the works carried out does not contradict Mr Harborne's account that he has done many of the tasks himself.
21. The dated photographs, submitted by the appellant, show that the patio doors were installed in March 2013 and that some of the UPVC windows were installed prior to 2009. They also indicate that solar panels had been installed on the site close to the barn and that the room now used as a bedroom had various items of furniture and personal possessions within it in 2009.
22. In December 2013 the Council's Senior Enforcement Officer, Mr Hardy, wrote to the appellant and the letter states, amongst other things, that '*... at least two caravans appear to be used for residential purposes. Also the existing barn has been altered with the provision of windows and patio doors. Inside there was a table and chairs etc. set up as a rest/living room.*' A dated photograph supplied by the Council, taken on the 2 December 2013, shows part of the patio windows with a voile type curtain across one pane, chairs and a small table with items on it in a room lit by the windows and a vision panel in a wooden wall. I observed that the room lit by the patio windows now has 'settee' type single chairs rather than dining room chairs and the internal wall to the rear has been painted. However, the vision panel to the workshop remains in situ.
23. No other photographs relating to the barn taken at that site visit are available. I acknowledge that the letter from Mr Hardy does not state that the barn was in residential use in 2013 whereas he had stated that at least 2 caravans did appear to be used for residential purposes. It would be reasonable to consider that if it was clearly apparent that the barn was in residential use at that time that the letter would have stated that. However, as stated previously the barn does not have the appearance of a conventional dwelling externally and the letter asks for comments on the items mentioned in the letter. As such, it appears that there was a suspicion that the barn may have or may be intended to be used for a purpose not related to agriculture. It also appears that Mr Hardy may have left the Council a short period after the letter was sent.
24. In July 2014 a Council Officer undertook a site visit and took a photograph of caravans on the site. There is no indication that anyone from the Council went inside the barn during 2013/2014 or what they saw if they looked through any of the other windows/doors. There is no record of any further action taken by the Council in relation to the letter that was sent in December 2013. Mr Harborne admitted at the Inquiry that he did not reply to that letter.
25. The report by Slade Parry, chartered surveyors, dated 21 May 2020 indicates that in their opinion the wall cladding and concrete blockwork walling of the external walls has been in place for more than 10 years. The report goes on to state that the use of salvaged materials and probably unskilled labour have produced a primitive, rustic and unconventional home and that it is entirely feasible that the works were carried out between 2004 and 2012 in the author's view. However, Mr Thompson, the author of the report, also stated that assessing the date/age of building works was not

straightforward in this case due to the use of salvaged materials and probably unskilled labour.

26. There is little documentary evidence to indicate what facilities for cooking, eating and washing were within the barn in 2013. Nevertheless, it is apparent that by 2013 that there were a number of windows and doors in the front elevation of the barn, a living room/rest room was set up and domestic furniture and possessions were within it. In my judgement, the installation of the windows and doors within the front elevation of the barn would, more likely than not, have been carried out with the aim of facilitating a material change of use to a dwelling. Nonetheless, even if the barn was available for use as a dwelling from March 2013 a change of use would not commence merely through the availability for use.
27. Mr Harborne gave evidence under affirmation that he moved into the barn completely after the patio windows had been installed in March 2013 and that he has lived in it full time since 14 March 2013. He also stated that between 2009 and 2013 he lived partially in a caravan and partially in the barn. I accept that little evidence in the way of utility bills, council tax records, electoral registry records or other documentary evidence has been provided that would support the claims made by the appellant with regard to his occupation of the property. Nevertheless, no postal address was available for the barn or the site and this is corroborated by the Council's own evidence. An email from Mrs Salter on the 1 November 2019 states that a letter sent to Mr Harborne at Oake Lodge was returned to her by the Royal Mail '*no such address*'. Moreover, there are no mains utilities for there to be utility bills. Mr Harborne told the Inquiry that his post was sent to a c/o address, 14 Church Road, Street, but the friend whose house it was did not always forward the post to him.
28. The appellant's response to the PCN includes as an answer to question 24 that he first occupied the barn in 2006. He stated at the Inquiry that at that time he occupied the barn by packaging and making salads and storing various items. A letter from the Council's Planning Enforcement Officer dated 26 January 2006 states that '*I was able to view a number of vehicles, caravans and what appeared to be occupation of the agricultural building*'. What type of occupation of the barn is not stated other than the officer considered it may not be agricultural in nature.
29. Mr Harborne has also stated that he was living in a caravan that was stationed close to the bedroom end of the barn in 2009 when there was a very cold winter and he vowed to himself to move into the barn. His written response to the PCN states that he lived in the blue van 'J' until 2006 and the caravan marked 'X' from 2006 to 2012/2013. However, in a letter dated 14 December 2007, from the appellant to Mr Hardy, the activities described by the appellant do not include a residential use of the vehicles/caravans and the occupation of the barn is not mentioned.

30. At the Inquiry Mr Harborne said that caravan 'X' was in the position marked

'L'/M' on the PCN response and it is the caravan shown in the photograph at Appendix A of his proof of evidence. That photograph is dated 9 January 2009 and shows a caravan stationed near to the one end of the barn. The caravan has the lettering LMC on one end. A caravan with the same lettering on appears to be within the Council's submitted photographs dating from 2005, 2007 and 2013. In all of these photographs that caravan is stationed near to the one end of the barn. The PCN response also states that caravan 'X' was moved to its current position, at

the date of the response, in 2015. The Council's photographs from 2018 appear to indicate that this caravan was not positioned near the barn at that time.

31. The 2010 notice related, in part, to the change use of the land by stationing a mobile home for residential use. It is not known if that notice specifically related to caravan 'X', but the Council's records indicate that the 2010 notice was complied with by January 2012. Therefore, at that time the Council were satisfied that the change of use had ceased in that a mobile home stationed on the land was not in residential use. There is no evidence before me to indicate that Mr Harborne has lived at a different address since 2012. It is therefore highly likely that the appellant had completed the internal works on the conversion of the barn to enable him to continue living on the site and live in the barn full time by the time the patio windows were installed in March 2013.
32. Caravan 'X' remained on site and additional caravans and vehicles have been stationed on the site since 2013. However, I can see no logical reason why Mr Harborne would have moved back into a caravan even on a part-time basis, given the relative warmth and comfort of the facilities in the converted barn. Moreover, it appears that caravan 'X' had been moved some distance from the barn sometime in 2015 and that third parties occupied other caravans/vehicles.
33. As stated previously, the 2015 case related to the alleged non-compliance with the 2010 notice with regards to residential occupation of the site. No additional evidence of what the specific complaint entailed, that resulted in the case being opened, or any actions taken at that time are available. In July 2016 the owner of Lilac Cottage sent emails to the Planning Enforcement Officer at the Council relating to the appellant's activities on the land. The email dated 30 July states, amongst other things, that *'your predecessor Mr John Hardie closed the case relevant to the subject without taking any action...I strongly believe the site is being used for more than agricultural purposes. Over the years many caravans have entered and exited ...the dilapidated barn on the site has been improved and now has double glazed doors..'* Even though the spelling of the surname is different it is reasonable to consider that the Mr Hardie cited is Mr John Hardy the Principal Enforcement Officer. It is not clear which case Mr Hardy had closed without action but given that no action was taken after the December 2013 letter it is likely that is the case cited. I acknowledge that the email does not state that the barn is being used as a dwelling, it only states that it has been improved and has double glazed doors. However, as stated previously the external appearance of the barn is not that of a conventional dwelling.
34. Mrs Salter tried to undertake a site visit in July 2017 in relation to the 2015 case that had not been closed. She could not gain access to the site and proceeded to try and contact Mr Harborne and his father in relation a number of vehicles on the land and other items being stored on the land and also someone possibly living on site. In December 2017 Mr Harborne responded in an email to Mrs Salter and stated, amongst other things, that *'A variety of workers do spend short periods of time on the land mostly in the summer. They are engaged in field and land management and also direct agricultural activities like orchard management and vegetable production and fruit harvesting. This also provides a degree of security which is most needed due to the numbers of thefts of equipment that we have suffered over the years. Your predecessor did say that it was permissible for agricultural workers to live*

in non permanent accommodation for up to 6 months of the year, although I am not sure exactly how much time individuals do spend at the land.'

35. Mr Harborne does not make any reference to the barn or him living in it in that email. Mrs Salter considers that if Mr Harborne was living permanently on the site at that time his very presence would be a form of security and security in the form of transient workers would not be necessary. She also deduces from the response that the agricultural workers are not living in the barn and that Mr Harborne would be aware of how much time individuals spend on the site if he was living in the barn at that time. Under cross-examination Mrs Salter agreed that the deductions were based on her assumptions. In my judgment, her assumptions are not unreasonable. Nevertheless, I also consider that the response could be read as Mr Harborne trying to make a case to retain the caravans and vehicles on the land, be evasive about how long individuals stay on the site and ultimately delay any potential enforcement action.
36. There was a protracted time period between Mrs Salter's attempt to undertake a site visit in July 2017 and the date of the actual site visit in November 2018. The Council has provided copies of the correspondence related to various attempts to set up meetings and site visits. Mr Harborne has admitted that he was trying to delay matters as he was fearful of losing his home. Mrs Salter cited obtaining a warrant for entry in an email to Mr Harborne's father in November 2017 but there is no evidence before me to indicate that this was ever progressed.
37. In March 2018 Mr Harborne emailed Mrs Salter that he had retained an agent to assist him in the planning process and to state that he had been living in the barn for four and a half years, at least, at that time. The 2018 LDC was subsequently submitted. In response to the 2018 LDC the owner of Lilac Cottage stated in an email, amongst other things, that *'if the Council had investigated any of my complaints and accessed the site none of this would have happened because the enforcement officer would have discovered him living on the site and made moves to remove him.'* Again that email only states that Mr Harborne would have been discovered living on the site and that could reasonably be taken to mean living in a caravan and/or the barn. Also in response to that LDC Burrowbridge Parish Council stated that it had historically and consistently asked the Council to enforce action since 2013 against the problems raised by them. The nature of those problems is not stated. A dwelling is cited in point 1 of that response but the description of the existing use the subject of the LDC relates to *'use as a dwelling'*. Therefore, when read in context no further inferences can reasonably be taken from that response.
38. The 2018 and 2020 LDC applications contained sworn and unsworn statements from third parties who had stayed on the land. The Statement of Case submitted by the original agent on this appeal cited 3 sworn statements of truth. However, it was confirmed at the Inquiry that those statements were no longer relied upon and did not form part of the appellant's case. Whilst such evidence may have been of assistance to the Inquiry, following the *Gabbitas*⁵ principle, the withdrawal of them should not necessarily count against the appellant's case.
39. Based on the written and oral evidence the only breaks in occupation of the barn relate to the appellant's holidays in America and Canada and short periods working away providing security at festivals. The Council stated at the Inquiry that it is not arguing that there have been any significant breaks in the occupation of the barn.

⁵ *Gabbitas v SSE & Newham LBC* [1985] JPL 630

I have no reason to dispute that the cited periods of vacancy can be treated as *de minimis* and the Council would not have been prevented from taking enforcement action against the use during those vacancies.

40. Mr Harborne's documentary and written evidence in regard to his residential use of the barn is somewhat spartan and it provides little specific evidence of him residing in the barn itself. However, as stated above, the photographs do indicate that windows and doors had been installed in the front elevation, a living room/rest room was set up and domestic furniture and possessions were within it by March 2013. Furthermore, his oral evidence given under affirmation, set out precisely and unambiguously when he started to live fulltime in the barn and how he has occupied the barn without mains utilities. Clearly, Mr Harborne's evidence is self-serving, in that it supports his case. There are discrepancies in the evidence in relation to the period around 2007 and he also admitted that he tried to delay the Council visiting the site in 2017/2018. These considerations reduce his credibility as a witness.
41. However, the appellant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If there is no evidence to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to reject the appellant's evidence provided it is sufficiently precise and unambiguous. The Council stated in the Officer Report relating to the 2020 LDC that it *'arguably has no direct evidence of its own which categorically demonstrates that the building was not in residential use prior to Feb 2016'*. Mr Harborne's 2017 email response could be read more than one way and it is understandable that he feared losing his home.
42. The enforcement history provided by the Council and the ongoing complaints from the owner of Lilac Cottage and the Parish Council can reasonably be regarded as being consistent with Mr Harborne's evidence, but they could also relate to him living on the site in a caravan. Nonetheless, given that the Council's records indicate that the 2010 notice's requirements had been complied with in 2012 it is more likely than not that the material change of use occurred in 2013. Moreover, nothing has been presented that contradicts the evidence provided by the appellant regarding the sequence of events from 2009 onwards described above and there is little that makes his version of events less than probable. When viewed in totality, as a matter of fact and degree the evidence presented indicates that on the balance of probabilities that Mr Harborne has lived in the barn for a period of more than four years without significant breaks in occupation.
43. Therefore, the material change of use of the barn for residential purposes is immune from enforcement action by virtue of the terms of section 171B(2) of the 1990 Act.

Conclusion – Appeal A

44. On the balance of probabilities, the appeal on ground (d) should succeed in respect of those matters which, following the correction of the notice, are stated as constituting the breach of planning control. The enforcement notice will be corrected and quashed.

Appeal B – The appeal on ground (d)

45. The appellant's case on ground (d) is limited to 2 of the buildings cited within EN2, compost toilets A and B. Accordingly, there is no basis on which EN2 could be quashed under ground (d), but there is scope for argument over whether the notice can require removal of those buildings. In

this case the burden of proof lies with the appellant to show that the operations involved in the construction of compost toilet buildings A and B were substantially completed prior to 12 July 2017. The appellant has submitted invoices dated 17 May 2014 and 7 April 2015 for Tardis Interiors to design and build compost toilets. He has also submitted 3 sworn statements from third parties who had stayed on the land and used compost toilet B. Dated photographs from 30 October 2016 and 19 March 2018 of compost toilet B are also before me.

46. Mr Harborne's oral and written evidence indicates that since its erection he has used compost toilet A as the barn does not include any sanitary facilities and that the invoice dated the 17 May relates to that building. He also indicates that the building replaced an earlier compost toilet structure that was close to toilet A. I was shown the remnants of the earlier toilet structure at the site visit.
47. The Council was initially concerned with discrepancies that were apparent between Mr Harborne's response to the PCN, the references to compost toilets in the Slade Parry Report and aerial photographs that the Council had sourced. However, through cross examination at the Inquiry it became clear that the inconsistencies were derived from confusion relating to the earlier compost toilet and its replacement. Moreover, the Council acknowledged that its aerial photographs may not show the toilets due to the amount of vegetation and the quality of the photographs. I observed at the site visit that the compost toilets are located adjacent to shrubs and trees. When that landscaping is in full leaf it would more likely than not screen the 2 compost toilets in aerial photographs.

Conclusion – Appeal B

48. Consequently, based on the evidence before me, on the balance of probability the buildings identified as compost toilets A and B were substantially completed prior to 12 July 2017. Therefore, at the date on which EN2 was issued no enforcement action could be taken in respect of compost toilets A and B. The ground (d) appeal succeeds to that extent. I intend to correct the notice by substituting the plan attached to EN2 with the amended plan annexed to this decision and adding the word 'amended' between 'the' and 'plan' in paragraph 3 prior to upholding it.

Formal Decision - Appeal A

49. It is directed that the enforcement notice is corrected by:

- the wording '*unauthorised change of use*' within the description of the alleged breach being substituted with '*unauthorised material change of use*'.

50. Subject to the correction, the appeal is allowed and the enforcement notice is quashed.

CD43 Wyken Field, Warwick, PINS decision of 11 January 2017,
APP/T3725/X/16/3147317;

CD 44 Swale BC v First Secretary of State [2005] EWCA Civ 1568

CD45 Council's Opening Statement;

CD46 Council's Closing Statement;

CD47 Appellant's Costs Application Submission.

(numbering follows on from documents in the Core Document
List)



Amended Plan

This is the plan referred to in my decision dated:

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

Land on north side of Statheclose Rhyne (otherwise known as land adjacent to Lilac Cottage Stathe Road) Stoke St Gregory Taunton Somerset

Reference: APP/W3330/C/21/3281426

Scale: Not to Scale





Costs Decisions

Inquiry Held on 18, 19 and 20 January 2022 Site visit made on 26 January 2022 **by D**

Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 March 2022

Costs application in relation to Appeal Ref: APP/W3330/C/20/3249482 (Application A) Land at Oake Lodge, Stathe Road, Burrowbridge Somerset TA7 0JH

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Richard Harborne for a partial/full award of costs against Somerset West and Taunton Council.
 - The inquiry was in connection with an appeal against an enforcement notice (EN1) alleging the unauthorised change of use of an agricultural building (as shown edged in black on the plan annexed to the enforcement notice) to use as a residential dwelling.
-

Costs application in relation to Appeal Ref: APP/W3330/C/21/3281426 (Application B) Land on the north side of Statheclose Rhyne (otherwise known as land adjacent to Lilac Cottage Stathe Road) Stoke St Gregory Taunton Somerset

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr R Harborne for a partial/full award of costs against Somerset West and Taunton Council.
 - The inquiry was in connection with an appeal against an enforcement notice (EN2) alleging the unauthorised construction of buildings on the Land in the approximate positions shown edged green on the plan attached to the enforcement notice.
-

Preliminary Matters

1. The costs applications were submitted in writing by the applicant at the Inquiry. The appeals cited above in the banner heading relate to the same site and both were before me at the Inquiry. The issues raised in the costs applications are inter-related and to avoid duplication I have dealt with them together.

Decisions – both applications

2. The applications for an award of costs are refused.

The submissions for Mr Richard Harborne

3. The application was submitted in writing and supplemented orally, in summary, the applicant contends that a full award of costs is justified because:
- The Council were given the chance to withdraw its opposition to both of the appeals in a letter dated 5 November 2021. It did not do so and in persisting with its baseless opposition to them has caused Mr Harborne to incur the costs of the Inquiry unnecessarily.
 - The Council's late concession in relation to the aerial photographs and the compost toilets A and B was unreasonable as it should have withdrawn its opposition to them prior to the Inquiry opening.
 - The Council only clarified during the Inquiry that it was not opposing the continuous nature of the residential use of the barn.
 - The Council's reliance on inconsistencies within the appellant's evidence melted away during the Inquiry.
4. Alternatively, a partial award is sought because:
- The second application for a certificate of lawful development (LDC) should have been approved and as such the Inquiry time relating to Appeal A would not have been necessary. The Council failed to carry out the balance of probabilities test.
 - Mrs Salter's Proof of Evidence contained the whole enforcement history relating to the site with no filtration of what was relevant to the appeals. The substantial amount of documentation was not disclosed prior to the submission of the proof.
 - The Council cited reference to aerial photographs in its response to the appellant's Statement of Case. Those photographs were not submitted until 8 November 2021.

The response by Somerset West and Taunton Council

5. The response was made orally, and the substance of that response is as follows:
- In relation to the letter dated 5 November 2021 the aerial photographs had not been produced at that point. The evidence now before the Inquiry in relation to the residential use of the barn is much smaller than previously produced by Batten's. That evidence is not conclusive in relation to that residential use. The Council was not unreasonable in continuing its opposition to the appeals.
 - The Council's concession in relation to the aerial photographs and its opposition to the compost toilets appeal was a timely concession. The concession was made after all the evidence had been heard including that obtained through cross examination.
 - The inconsistencies referred to by Mrs Galliot, concerning the residential use, related to the evidence as originally put together by Batten's. The Council considered that there were inconsistencies between the statutory declarations

from the 3 third parties and that they were removed to focus the evidence and remove any contradictions. The Council consider that there was some confusion over the evidence provided in relation to the compost toilets and this was explored through cross examination. At that point the full picture emerged.

- The second LDC application was submitted after the appeal against EN1 had been submitted. The Council could have refused to consider that application, but it gave Mr Harborne the chance to provide the evidence in support of his case. The refusal of that application was a reasonable and proportionate response to the evidence that was submitted for the Council's consideration.
- Mrs Salter's evidence was provided with a degree of transparency. The details provide context and some are directly relevant to the appeals.
- The Council contests that there was any meaningful delay and any delays did not lead to any unnecessary costs.

Reasons

6. The Planning Practice Guidance (PPG) advises that parties in planning appeals should normally meet their own expenses. However, costs may be awarded where a party has behaved unreasonably and that behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
7. The PPG advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the substance of the matter under appeal. It makes it clear that a local planning authority is required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour for both⁶.
8. The applicant's agent wrote to the Council on 5 November 2021 stating, amongst other things, that *'we are of the view that your opposition to the above appeals is highly unlikely to prevail and has no reasonable prospects of success...he is prepared to provide you with the opportunity to withdraw your opposition to the current appeals, in return for which he will not seek an award of costs against you'*. The Council at that stage did not withdraw its opposition to either appeal.
9. The letter refers to the dated photographs that were submitted by Mr Harborne in support of both appeals. However, the Council maintained throughout the Inquiry that the photographs submitted in support of the appeal against EN1 are not indicative of a residential use of the barn. It also considers that the collation of the submitted documentary evidence was insufficiently precise and unambiguous as to when the material change of use of the barn took place. Furthermore, Mr Pinney highlighted that the second LDC application and the appeal against EN1 originally contained statutory declarations from third parties. Those statutory declarations were not relied on by the appellant after August 2021. In relation to the appeal against EN2 the Council considered in October/November 2021 that the aerial photographs it had obtained indicated that the compost toilets A and B were not immune from enforcement action at the time EN2 was issued. It also considered that there were inconsistencies in the evidence relating to the compost toilets.
10. I have found in my substantive decision, relating to the appeal against EN1, that when viewed in totality, as a matter of fact and degree the evidence presented indicates that

⁶ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

on the balance of probabilities that Mr Harborne has lived in the barn for a period of more than four years without significant breaks in occupation. Nevertheless, this followed a detailed analysis of all the documentary and oral evidence that is before me. I have also found in favour of Mr Harborne in my substantive decision relating to the appeal against EN2. However, the grounds of appeal relating to the 2 appeals involve judgments in relation to matters of fact and degree that are relatively complex. It was therefore not unreasonable for the Council to contest and resist the appeals in November 2021.

11. Concessions were made during the Inquiry, by the Council, in relation to the continuous residential use of the barn, the aerial photographs and, in closing submissions, its opposition to the compost toilets. However, I do not consider that the concession in relation to the residential use would have led to the Council withdrawing EN1. This is because it maintained its view that the evidence was insufficiently precise regarding when the material change of use had taken place. Consequently, it was not unreasonable for the Council to continue to contest and resist that appeal.
12. Mrs Galliot revealed during her Evidence in Chief that the Council would not be relying on the aerial photographs it had obtained due to the proximity of vegetation to the compost toilets and the quality of the images. Mr Harborne's Proof of Evidence addressed why the toilets were not visible on the aerial photographs and Mrs Salter had seen the toilet structures on her site visit in 2018. Therefore, whether the structures were close to vegetation and screened by it could potentially have been assessed prior to the Inquiry opening. However, the Council's review and withdrawal of its reliance on the aerial photographs during the Inquiry invariably saved Inquiry time.
13. Furthermore, the Council continued to oppose the ground of appeal due to discrepancies and confusion regarding the evidence within the PCN response, the Slade Parry Report and other parts of the evidence in relation to the dates the compost toilet structures were constructed. The evidence obtained through the cross examination of witnesses highlighted that the discrepancies/inconsistencies could have a rational explanation to them. As a result, the Council's concessions concerning the compost toilets were made in a timely manner, in my judgement, and cannot be treated as amounting to unreasonable behaviour that resulted in unnecessary or wasted expense.
14. Mrs Galliot stated at the Inquiry that the inconsistencies cited at paragraph 3.10 of her Proof of Evidence related to the 3 statements of truth/statutory declarations that the appellant was no longer relying upon. Even though those inconsistencies, therefore, had been removed the Council maintained its view throughout the Inquiry that the evidence was insufficiently precise regarding when the material change of use had taken place. The ground of appeal, as stated previously, involves judgments in relation to matters of fact and degree that are relatively complex. Even though, I have found in favour of Mr Harborne in my substantive decision it seems to me that the Council were reasonably entitled to maintain its opposition to the appeal.
15. An appeal against the Council's refusal of the second LDC has not been made. Consequently, it is not within my jurisdiction to determine whether the Council's refusal of that LDC was well-founded. The applicant considers that the Council's objectivity with which it considered the second LDC must be seriously in doubt given that the Council had already issued EN1. He also considers that the dismissive approach of his evidence in the Officer's Report is evident.

16. The Council was entitled to refuse to determine the second LDC application as EN1 had been issued at that stage. Nevertheless, it stated in correspondence with the Planning Inspectorate that EN1 would be withdrawn if there was sufficient evidence to grant the LDC. The claim that the Council was not objective and treated evidence dismissively is a potentially serious matter that also calls the professional integrity of a Council officer into question. And, contrary to the applicant's view, I consider the report relating to the second LDC sets out a cogent case for supporting the Council's stance. The refusal may not have been to his liking, and I have found in his favour, but I am not satisfied that there was any unreasonableness on the Council's part in this respect.
17. The Procedural Guide to Enforcement notice appeals – England indicates that a Statement of Case, amongst other things, should describe the evidence. The Council submitted its Statement of Case in relation to the appeal associated with EN1 in April 2021. That document made a reference to the long history of enforcement complaints on the site within the background section. However, no specific description of that enforcement history was given or whether any of it would form part of the Council's evidence. Furthermore, the Council submitted a joint Statement of Case for the 2 appeals in October 2021 and only specific parts of the enforcement history was mentioned in that document. The Council confirmed to the Planning Inspectorate on the 8 November 2021 that the October Statement of Case was intended to cover both appeals.
18. Mrs Salter's Proof of Evidence included numerous appendices relating to the enforcement history of the site from 2004 to 2021. Those appendices comprised, amongst other things, photographs, correspondence and officer's notes of site visits. Prior to the Inquiry I determined that the enforcement history was likely to be directly relevant and necessary for my decision. As such the evidence was admissible to the Inquiry and would also be able to be tested at the Inquiry. The applicant was given the opportunity, prior to the opening of the Inquiry, of preparing a rebuttal document in response to several of the appendices of Mrs Salter's proof.
19. Had the Council cited the full enforcement history in its statement of case it would still have been necessary for the applicant to incur the expense of professional fees responding to that history. Moreover, given that Mrs Salter was the Council Officer who was directly involved in the investigation and enforcement of the breaches of planning control I consider that it is entirely reasonable that she appeared as a witness for the Council. Furthermore, whilst parts of the enforcement history are not directly relevant to the appeals before me they provide context and background to those appeals. As a result, I do not consider that the Council was unreasonable in providing the enforcement history of the site from 2004 to 2021 or the appearance of Mrs Salter as a witness.
20. The Council did not cite the aerial photographs until its final comments were submitted and they were not submitted until 8 November 2021. There does not appear to have been exceptional circumstances as to why the aerial photographs could not have been cited within the Council's Statement of Case. Nevertheless, even if they had been submitted in good time, it would still have been necessary for the applicant and/or his professional representative to respond to them. As such, I am not satisfied that the delay in the citation and provision of the aerial photographs has led to unnecessary expenditure having been incurred.

Conclusion

21. I therefore find that, in all instances, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

D. Boffin

INSPECTOR

Site: 1 HEATHFIELD FARMHOUSE, CREECH HEATHFIELD ROAD, CREECH HEATHFIELD, TAUNTON, TA3 5ER

Proposal: Replacement of porch to the front of 1 Heathfield Farmhouse, Creech Heathfield Road, Creech Heathfield

Application number: 14/20/0047/LBC

Reason for refusal: Refused

Original Decision: Chair



Appeal Decision

Site visit made on 21 February 2022 **by Neil Pope BA(HONS) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th March 2022

Appeal Ref: APP/W3330/Y/21/3280627

1 Heathfield Farmhouse, Creech Heathfield Road, Creech Heathfield, Taunton, Somerset, TA3 5ER.

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr & Mrs Jon West against the decision of Somerset West and Taunton Council.
- The application ref.14/20/0047/LBC, dated 5/11/20, was refused by notice dated 7/6/21.
- The works proposed are the erection of a front entrance porch.

Decision

1. The appeal is dismissed.

Background Matters

2. Heathfield Farmhouse is a Grade II listed building that is now in use as two separate dwellings¹. Amongst other things, the list description identifies a 19th century hipped slate roof² porch set on concrete piers. Replacements, repairs and alterations were undertaken to the porch during the early 1990's (ref. 14/91/0029/LB). It would appear that sometime, possibly during the first decade of the 21st century, unauthorised works were undertaken to the porch.
3. In 2015, an appeal against the refusal of consent for a replacement porch³ was dismissed (ref. APP/D3315/Y/15/3005014). This replacement porch remains in situ and is very different to the one shown in the photograph (dated 2009) that forms part of the Council's Statement. The scheme before me is for a porch of a different design⁴ to the one that was considered in 2015.

Main Issue

4. The main issue is whether the proposal would preserve Heathfield Farmhouse or its features of special architectural or historic interest.

Reasons

5. The significance of the late 18th century, two storey Heathfield Farmhouse is primarily derived from its special architectural and historic qualities. These include its 'T' shaped plan, roughcast rendered walls, brick stacks, coped verges, string course, sash windows, forecourt walls, gate piers and gate, as well its surviving 18th century fabric and past associations with agricultural activities in this part of Somerset.

¹ No.1 includes the front (south) elevation of the listed building.

² The list description refers to the farmhouse having a slate and tiled roof. The roof on the south elevation is tiled. ³ The replacement porch had already been constructed. The size and design is different to the porch that was in place during the first decade of the 21st century.

⁴ The changes include a single opening door flanked on either side by arched pane windows with glazing bars, matching side windows and a rendered gable end with 'Victorian style' decorative bargeboards.

6. There have been many changes to Heathfield Farmhouse and its setting over the years. These include the construction of the adjacent M5 Motorway. Nevertheless, the building⁷ remains a pleasing example of a late 18th century vernacular farmhouse with an attractive and well-proportioned south elevation.
7. The existing porch is of a very different size and design to the very small, hipped roof porch that was in existence in 2009. I note from the 2015 appeal decision that this replacement porch was found to be harmful to the character, appearance and significance of the listed building. In dismissing that appeal, I also note that the Inspector found that the increase in 'footprint' of the porch was not overly dominant in relationship to the existing building.
8. The 'footprint' of the porch that is the subject of the appeal before me would be the same size as the one that was considered in 2015. The eaves height and ridge height would also be same as in the previous appeal. I have noted above the principal changes to the proposed design. I recognise that these have been proposed in response to the concerns identified by the previous Inspector not least, his finding that *"the porch has a more contemporary and featureless appearance demonstrating little architectural merit and does not compare favourably with the character and appearance of the old porch"*.
9. When compared to the design of the porch that was dismissed on appeal in 2015, the proposal before me includes more architectural detailing. Whilst I share the Council's concerns regarding the width and depth of the replacement porch, given the findings of the previous Inspector in respect of the increase in 'footprint', it would be difficult to justify withholding consent on the basis of these concerns. However, there is greater strength in the Council's argument regarding the design and architectural detailing of the proposed works.
10. The proposal would be a modern-day addition to the house. Contemporary structures (including 'Modern' additions) that are designed to a high quality can be successfully added to historic buildings without detracting from their significance. Unfortunately, this is not the situation in this appeal.

⁷ Excluding the existing porch on the south elevation.

11. The proposal appears to be a reworking of the existing porch, which has been found to be inappropriate, and an attempt to mimic aspects of Victorian architecture. However, unlike the former covered entrance with its hipped roof, narrow windows and ornate upper frieze, the proposal with its somewhat bulky gable roof and double glass panels either side of the door would comprise an awkward and inappropriate design. It also still lacks an appropriate level of architectural detailing to amount to a suitable pastiche of a 19th century porch.
12. I agree with the Council that the proposal would disrupt the appearance of the south elevation of the listed farmhouse and harm the significance of this important building. It would be at odds with the objectives of national⁸ and local⁹ planning policies for protecting the historic environment. There are no compelling reasons to justify setting aside this harm.
13. I conclude that the proposal would fail to preserve Heathfield Farmhouse or its features of special architectural or historic interest. The appeal therefore fails.

Neil Pope

Inspector

⁸ The National Planning Policy Framework.

⁹ Policy CP8 of the Taunton Deane Core Strategy.

Link to Corporate Strategy	Full definition	Target 2021/22	Quarter 2	Quarter 3	Direction of Travel since Q2	Denominator	Year to date	Numerator	Year to date
Environment & Economy	% of reported fly tipping incidents responded to within 5 working days	80%	81%	82%	↑	Number of fly tipping incidents	640	Number of fly tipping incidents responded to within 5 days	525
	% of service requests for street cleansing actioned within 5 working days	85%	91%	89%	↓	Number of service requests for street cleansing	938	Number of service requests actioned within 5 working days	838
	% of major planning applications determined within 13 weeks or within agreed extension of time	75%	100%	100%	↔	Total number of major planning applications received	12	Total number of major planning applications determined within 13 weeks or agreed extension	12
	% of minor planning applications determined within 8 weeks or agreed extension of time	65%	81%	80%	↓	Total number of minor planning applications received	232	Total number of minor planning applications determined within 8 weeks	185
	% of other planning applications determined within 8 weeks or an agreed extension of time	80%	88%	86%	↓	Total number of other planning applications received	712	Total number of other planning applications determined within 8 weeks or an agreed extension	611
	% of planning appeals that have had the decision overturned	33%	33%	33%	↔	Number of appeals received	51	Number of appeals where the decision is overturned	17

