

SWT Planning Committee

Thursday, 2nd February, 2023,
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, Ed Firmin, Steve Griffiths, Roger Habgood, John Hassall, Mark Lithgow, Craig Palmer, Vivienne Stock-Williams, Ray Tully, Brenda Weston, Keith Wheatley, Loretta Whetlor and Gwil Wren

Agenda

1. Apologies

To receive any apologies for absence.

2. Minutes of the previous meeting of the Planning Committee - to follow

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

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

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5. **3/39/22/007 Installation of a battery energy storage facility, substation, underground cabling, access, landscaping, biodiversity enhancements and ancillary infrastructure and equipment to include acoustic fence, security fence, CCTV and gates. Land adjacent to Gas Substation, Smithyard Lane, Williton** (Pages 5 - 40)
6. **19/22/0021 Erection of 1 No. self build, sustainable, carbon neutral dwelling with associated works on land adjacent to The Meadows, Hatch Green, Hatch Beauchamp** (Pages 41 - 54)
7. **3/21/22/119 Erection of a detached garage, widening of vehicle access and repairs to boundary wall (retention of part works already undertaken) Barn Cottage, Combeland Road, Alcombe, Minehead, TA24 6BS** (Pages 55 - 66)
8. **Report on Somerset Council Statement of Community Involvement** (Pages 67 - 98)
9. **Appeals Decided** (Pages 99 - 108)
10. **Next Committee Date**
The next Committee date is Thursday 2 February



ANDREW PRITCHARD
CHIEF EXECUTIVE

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Application Details	
Application Reference Number:	3/39/22/007
Application Type:	Full Planning Permission
Earliest decision date:	04 October 2022
Expiry Date	20 April 2022
Extension of Time Date	10 February 2023
Decision Level	Planning Committee
Description:	Installation of a battery energy storage facility, substation, underground cabling, access, landscaping, biodiversity enhancements and ancillary infrastructure and equipment to include acoustic fence, security fence, CCTV and gates
Site Address:	Land adjacent to Gas Substation, Smithyard Lane, Williton
Parish:	Williton
Conservation Area:	N/A
Somerset Levels and Moors RAMSAR Catchment Area:	N/A
AONB:	N/A
Case Officer:	Kieran Reeves
Agent:	Mr N Leaney
Applicant:	Mr G Hall
Committee Date:	02 February 2023
Reason for reporting application to Committee	The Parish Council and numerous members of the public have expressed a view that is contrary to the recommendation of Officers

1. Recommendation

That planning permission be GRANTED subject to conditions set out in the report to Planning Committee dated 8 December 2022.

2. Introduction

The Planning Committee held on 8 December 2022 resolved to defer this application so that clarification on the following three matters could be sought:

1. Why this location has been chosen for this development
2. Whether there is a need for this size of the amenity cabin
3. Whether the amenity cabin be brought on to the site

The previous report to the Committee is appended to this report.

3. Additional Information

3.1 Justification for Proposed Location

3.1.1 On the matter of the principle of constructing this type of development at this particular location, it is important to note that the provision of renewable energy schemes has been largely driven by the private sector and it is therefore likely to be the case that such schemes will be proposed and potentially delivered where a land owner is interested in delivering renewable energy development on their land. It is also important to note that not all land is suitable for such development for various reasons, including protected landscapes such as Exmoor National Park and the Quantock Hills AONB, and there are other site constraints such as the need to be near a road.

It also needs to be factored in that renewable energy development, particularly battery storage facilities, which are an important part of the future national energy infrastructure due to the intermittency of renewable energy, needs to be located near to the power lines that can connect them to the national grid. This is a particularly important factor for battery storage facilities and as set out at Paragraph 10.1.13 of the December report, the applicant has previously provided a plan showing the 33kv overhead lines in the local area where this type of development can be connected to the national grid. All these factors will naturally limit where renewable energy development can be delivered and they have all played a part in how the applicant has reached the conclusion to site the proposed development at this particular location within the West Somerset area.

3.1.2 If the question is why West Somerset in the first place, then it needs to be taken into account that transmission loss may occur if all the battery storage facilities in the country and the renewable energy generating development itself are located away from where homes and businesses are located. As such, renewable energy development is being delivered regionally in an organic manner, but Officers have not been able to confirm whether there is a national body that is strategically overseeing the rollout of a national renewable energy network. It currently appears that it is being delivered in a piecemeal manner over many years when private individuals come forward with their individual applications. The applicant has been asked if they are aware of such a national body as they have been involved previously with renewable energy development, particularly battery storage facilities, and they are not aware of a national body either.

3.1.3 The applicant has also drawn Officers' attention to Paragraph 158 of the National Planning Policy Framework, which states that *when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions, and approve the application if its impacts are (or can be made) acceptable.* It is considered that this paragraph does somewhat limit the ability of the Local Planning Authority to question the location for the proposed development if it is felt that such development should not be delivered in West Somerset. If it is a question over where in West Somerset, then the above

discussion on this topic is considered to help set out how the currently proposed site has been arrived at.

3.1.4 Overall, Officers consider that despite Paragraph 158 limiting the ability to question the principle of locating the proposed development at this particular site, the applicant has demonstrated that the location is acceptable and it would be difficult to locate it elsewhere in the local area. The applicant has carried out an alternative site assessment of the immediate local area to the site, and it does show limitations on relocating the development to another site in this particular area of the district. Officers consider that it would be difficult to justify a refusal on these grounds.

3.2 Need for Amenity Cabin

3.2.1 Officers have also discussed the need for the amenity cabin with the applicant and it has been explained to Officers that the amenity cabin is split into three areas, which are a communications room, a welfare area and a storage area. The applicant has clarified that the comms area is required to allow staff to operate remotely from the site, the welfare area is required to provide welfare facilities for staff when visiting the site as required by the Health and Safety Executive and the storage area is required to provide sufficient storage space for tools, parts and site maintenance items. Officers are satisfied that each of these areas of the amenity cabin are required to allow sufficient ongoing running and maintenance of the proposed battery storage facility and therefore its size is justified.

3.3 Highway Safety Concerns

3.3.1 In terms of the final matter regarding the highway safety concerns raised by Members in relation to large vehicles turning into Smithyard Lane at either end and turning into the site itself, it is noted that there was a particular concern regarding the bringing of the amenity cabin on to site given its overall length. The submitted plans show that the cabin would have a total length of 12.2 metres. Officers acknowledge that the applicant has confirmed previously that the trailers bringing the infrastructure to the site would be a maximum of 10 metres long and this does raise the valid question as to how a 12.2 metres long structure would be brought on to the site. This has been raised with the applicant and they have confirmed that the amenity cabin, which is the only structure over 10 metres in length would be brought to site in two parts and joined together on site. As such, in its two separate parts it would fit on to the 10 metres long rigid HGVs referenced by the applicant in their application papers.

3.3.2 Officers also note that Members questioned whether the turning into Smithyard Lane and the site itself would be achievable in 10 metres long rigid HGVs. Members' attention is drawn to the initial comments of the Highway Authority as set out in the December report appended to this report. The Highway Authority acknowledged the narrowness of Smithyard Lane and they considered that vehicles associated with the ongoing maintenance of the site once operational would not be a cause for concern. They also had no concerns with the movement of vehicles to and from the site used by construction workers. However, they did specifically request swept path analysis to demonstrate that HGV delivery vehicles will be able to safely negotiate the junctions at either end of Smithyard Lane. Details on the number of HGV movements

was also requested.

3.3.3 The applicant subsequently provided the requested details on HGV movements, together with swept path analysis of the junctions at either end of Smithyard Lane and into the site itself. At Paragraph 10.3.5 of the December report, it is set out that the applicant confirmed that there could be up to five HGV movements (two-way) in a day during the busiest periods of the construction phase. The swept path analysis is on the Council's website, but Officers acknowledge that these details were not included in the presentation to Members at the December Committee meeting. These details will be provided at the February meeting for clarity. The swept path analysis shows a 10 metres long rigid HGV entering and leaving Smithyard Lane in both directions along the A39 and in both directions along the B3190. The analysis also shows the same vehicle entering the site from Smithyard Lane, leaving the site on to Smithyard Lane and turning within the site itself.

3.3.4 The Highway Authority were reconsulted with the additional information and as set out in the December report, they made the following comments on the additional information:

The applicant has provided a revised Construction Traffic Management Plan (Rev B) to address these matters. The CTMP notes that the number of HGV movements will vary through the different construction phases and that during the busiest periods it is anticipated there could be up to 5 HGV movements (two-way) in a day. Such numbers will not have a severe impact on the local highway network. Swept path drawings have also been provided for the two junctions at either end of Smithyard Lane, which demonstrate that a 10 metre long rigid HGV is capable of negotiating these junctions.

Based on this additional information, the Highway Authority has no objection to the proposed development. Should the LPA be minded to approve the application then the recommended conditions should be attached.

3.3.5 Given that the Highway Authority were previously provided with details specifically relating to the movement of a 10 metres long rigid HGV into and out of Smithyard Land and the site itself, and they provided a consultation response that took into account these details and confirmed that the number of HGV movements would not have severe impact on the local highway network and that a 10 metres long rigid HGV is capable of negotiating the junctions, Officers have not reconsulted the Highway Authority following the deferment as there is no additional information to reconsult them with and they would only be able confirm their previous comments still apply based on the sufficient level of information that the applicant previously provided.

3.3.6 Officers note that the Highway Authority have no objections to the proposal and it is considered that with the attachment of the conditions recommended by them, which are included in the list of conditions set out at Appendix 1 to this report, the impact on highway safety would not be materially harmful and the impact on the local road network would not be severe. As such, the application is not refusible under Paragraph 111 of the National Planning Policy Framework.

4. Conclusion

The Committee is referred to the report contained within the agenda for the meeting held on 8 December 2022, attached to this report. Having regard to the above analysis set out in this report, it is concluded that the application could not be refused on the grounds of the principle of the location of the proposed development, the need for the amenity cabin at the size proposed or highway safety grounds. The proposed development is considered to be compliant with national and local planning policies, including the West Somerset Local Plan to 2032, and it is therefore recommended that the application be approved, subject to the attachment of the conditions as set out in the report to the 8 December 2022 Planning Committee.

Application Details	
Application Reference Number:	3/39/22/007
Application Type:	Full Planning Permission
Earliest decision date:	04 October 2022
Expiry Date	20 April 2022
Extension of Time Date	16 December 2022
Decision Level	Planning Committee
Description:	Installation of a battery energy storage facility, substation, underground cabling, access, landscaping, biodiversity enhancements and ancillary infrastructure and equipment to include acoustic fence, security fence, CCTV and gates
Site Address:	Land adjacent to Gas Substation, Smithyard Lane, Williton
Parish:	Williton
Conservation Area:	N/A
Somerset Levels and Moors RAMSAR Catchment Area:	N/A
AONB:	N/A
Case Officer:	Kieran Reeves
Agent:	Mr N Leaney
Applicant:	Mr G Hall
Committee Date:	08 December 2022
Reason for reporting application to Committee	The Parish Council and numerous members of the public have expressed a view that is contrary to the recommendation of Officers

1. Recommendation

1.1 That permission be GRANTED subject to conditions

2. Executive Summary of key reasons for recommendation

2.1 The proposal is for installation of a battery energy storage facility, substation, underground cabling, access, landscaping, biodiversity enhancements and ancillary infrastructure and equipment to include acoustic fence, security fence, CCTV and gates.

2.2 The principle of development is considered to be supported under local and national planning policies. The impact on the character and appearance of the landscape and the setting of the Scheduled Monument on the edge of Williton is not considered to be materially harmful when having regard to the proposed planting mitigation. The impact on neighbouring residential amenity and biodiversity would also not be materially harmful with the attachment of conditions securing mitigation measures. The Highway Authority are satisfied that the impact on highway safety would not be materially harmful and the impact on the local road network would not be severe, subject to the attachment of conditions they have recommended. The

safety of the adjacent gas substation is another factor that can be mitigated through planning condition.

3. Planning Obligations and conditions and informatives

3.1 Conditions

3.1.1 Standard time condition – 3 years

3.1.2 Standard plans condition

3.1.3 Nesting birds condition

3.1.4 Battery Safety Management Plan (BSMP) to be approved

3.1.5 Tree and Hedge Protection Plan (THPP) to be approved

3.1.6 Surface water drainage strategy to be approved

3.1.7 No obstruction on the visibility splays

3.1.8 Access to be constructed in accordance with agree details

3.1.9 Access to be consolidated and surface on first 10 metres

3.1.10 Surface water to be prevented from entering highway

3.1.11 Development to be carried out in accordance with ecological mitigation measures

3.1.12 Development to be carried out in accordance with Construction Traffic Management Plan

3.1.13 Entrance gates condition

3.1.14 Surface of the access track to be approved

3.1.15 External colour of structures to be approved

3.1.16 External lighting scheme to be approved

3.1.17 Ecological enhancement measures to be approved

3.1.18 Landscaping of site to be carried out in accordance with approved plans

3.1.19 Condition relating to construction of new hedgebank

3.1.20 Noise mitigation condition

3.1.21 Development to be removed after 40 years

3.1.22 PD rights removed for means of enclosure

3.2 Informatives

3.2.1 Proactive statement

3.3 Obligations

3.1.1 No legal obligations secured

4. Proposed development, site and surroundings

4.1 Details of proposal

4.1.1 Planning permission is sought for the change of use of part of an agricultural field to a site for a battery energy storage system. The compound would be formed on the eastern side of the site, and it would involve siting of containerised batteries and inverters with ancillary structures that would be used to manage and maintain the site. The containers for the batteries and inverters would measure 6.1 metres by 2.4 metres, with a height of 2.9 metres. The largest structure would be the amenity cabin, which would measure 12.2 metres by 2.4 metres, and the tallest structure would be CCTV column with a height of four metres. The compound would be surrounded by acoustic fencing and security fencing, the former would be three metres high and the latter would be 2.4 metres high. An access track would be formed to connect the compound to Smithyard Lane. Mitigation planting around the compound is also proposed as part of the application.

4.2 Sites and surroundings

4.2.1 The application site is located in open countryside to the west of Williton and to the south west of Watchet. It is located adjacent to an existing gas substation that is accessed off Smithyard Lane. The access into the application is also off Smithyard Lane, which connects the A39 to the south and the B3190 to the north. The site is currently undeveloped and flat land that is used for arable farming. It is bordered by woodland on its eastern boundary. The nearest residential property to the site is Smithyard Cottage, which is approximately 250 metres to the north west of the site. The site is outside an Area of Outstanding Natural Beauty. A Scheduled Monument, Battlegore Burial Chamber, is located approximately 1km to the east of the site.

5. Planning (and enforcement) history

5.1 No planning history relevant to this planning application.

6. Environmental Impact Assessment

6.1 No Environmental Impact Assessment submitted in relation to this application as the proposal does not fall within criteria that requires an EIA.

7. Habitats Regulations Assessment

7.1 The site is not within the catchment area for the Somerset Moors & Levels Ramsar site.

8. Consultation and Representations

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

8.1 Date of consultation: 20 September 2022

8.2 Date of revised consultation (if applicable): N/A

8.3 Press Date: N/A

8.4 Site Notice Date: 16 March 2022

8.5 Statutory Consultees

Consultee	Comment	Officer Comment
Williton Parish Council	Object to the application as the land should be left as agricultural land.	Discussed at Section 10.1 of the report
Highways Development Control	<p><u>Initial response:</u> The Highway Authority has no objection to the principle of the proposed development however further information is required before we can offer a recommendation.</p> <p>Access to the site is via Smithyard Lane, which is a very narrow, single track lane, which egresses on to the A39 to the south and the B3190 to the north.</p> <p>According to the supporting Construction Traffic Management Plan (CTMP), once operational the development will generate very little traffic, just the occasional maintenance van, which raises no concerns.</p> <p>The construction phase however, which is anticipated to last approximately 16 weeks, is likely to generate significant traffic including HGV vehicles. The number of full-time construction staff working on the site on a daily</p>	Discussed at Section 10.3 of the report

	<p>basis has been put at 10 and which given the limited construction period raises no particular concerns from a traffic management perspective. The number of HGV movements however has not been indicated.</p> <p>The CTMP states that the majority of the equipment will be brought on site in containers and that the longest HGV used will be 10m long. Swept path drawings have also been provided demonstrate how such vehicles will be able to enter, turn and leave the site in forward gear. No swept path analysis has been provided however for the junctions at either end of Smithyard Lane where it joins the A39 and the A3190, both of which are constrained. There is also no indication of the number of HGV movements and how this might break down into daily movements over the construction period.</p> <p>Further to the above comments, the HA requests that an updated CTMP be provided to include the following information:</p> <ul style="list-style-type: none"> • Swept path analysis to demonstrate that HGV delivery vehicles will be able to safely negotiate the junctions at either end of Smithyard Lane. • Information on the number of HGV movements to include a breakdown of the daily movements over the construction period. <p><u>Reconsultation response:</u> The applicant has provided a revised Construction Traffic Management Plan (Rev B) to address these matters. The CTMP notes that the number of HGV movements will vary through the different</p>	
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	<p>construction phases and that during the busiest periods it is anticipated there could be up to 5 HGV movements (two-way) in a day. Such numbers will not have a severe impact on the local highway network. Swept path drawings have also been provided for the two junctions at either end of Smithyard Lane, which demonstrate that a 10 metre long rigid HGV is capable of negotiating these junctions.</p> <p>Based on this additional information, the Highway Authority has no objection to the proposed development. Should the LPA be minded to approve the application then the recommended conditions should be attached.</p>	
SCC - Ecologist	No response received	N/A
Rights of Way Protection Officer	No response received	N/A
Environment Agency	No response received	N/A
Health and Safety Executive	<p>Battery energy storage facilities are not usually a relevant development in relation to land use planning in the vicinity of major hazard sites and major accident hazard pipelines.</p> <p>This is because they do not, in themselves, involve the introduction of people into the area. HSE's land use planning advice is mainly concerned with the potential risks posed by major hazard sites and major accident hazard pipelines to the population at a new development.</p> <p>However, if the proposed development is located within a safeguarding zone for a HSE licensed explosives site then please contact HSE's Explosives Inspectorate. Their contact email is Explosives.planning@hse.gov.uk.</p>	Discussed at Section 10.6 of the report

	<p>The HSE Land Use Planning Web App can be used to find out if a site is within an explosives site zone (as well as in zones for major hazard sites and major accident hazard pipelines). If you require access to the HSE Web App, then please contact the Land Use Planning Team (lupenquiries@hse.gov.uk)</p> <p>If the development is over a major accident hazard pipeline or in the easement around a major accident hazard pipeline, please consult the pipeline operator.</p> <p>If the development involves a new substation or the storage of electrical energy such as in a large battery storage unit and the development is proposed adjacent to a COMAH (Control of Major Accident Hazards) establishment then please consult the operator of the COMAH establishment.</p> <p>If the development involves a substation or the storage of electrical energy such as in a large battery storage unit and is proposed in the vicinity of a nuclear site, the Office for Nuclear Regulation (ONR) does wish to be consulted over such proposals. They can be contacted on ONR-Land.Use-Planning@onr.gov.uk</p>	
<p>Crime Prevention Design Advisor</p>	<p><u>Perimeter Security</u></p> <p>o Perimeter fencing should comprise a proven security fence. I recommend the installation of fencing which has been tested and approved to LPS 1175 SR 1- 3 standard, this being the most appropriate. The DAS indicates palisade fencing, 2.4 metres in height with inner acoustic fencing 3 metres in height. Fencing which</p>	<p>Matters have been raised would potentially be dealt with at the Building Regulations stage of the project, and some of the matters raised are not planning considerations. In any event, the applicant has been</p>

	<p>is not of a specialist security type is likely to offer at best only token resistance to intruders. The inner acoustic fence will also restrict passing surveillance of the inner compound, however, this should be compensated for by the installation of cctv.</p> <ul style="list-style-type: none"> o The DAS also indicates the site entrance security gate to be of similar construction to the fencing so the above comment also applies to the site entrance gate, which should be of the same security standard as the fence. <p><u>Vehicular Access</u></p> <ul style="list-style-type: none"> o One vehicular access point to the site is proposed, which is recommended. However, any potential criminal would probably use a vehicle and, bearing in mind the 90 degree bend in the access track which further limits surveillance, a secondary gate or rising bollards at the track entrance in Smithyard Lane would further enhance security. o The wider issues of access around the site should also be considered. If for instance the land surrounding the site is under the same ownership can this be made more secure by improving other fencing, gates, hedges, using bunds, ditches etc. to provide layers of difficulty for the criminal to overcome in trying to access the site. <p><u>Landscaping/Planting</u></p> <ul style="list-style-type: none"> o Landscaping and planting is proposed for all boundaries outside the compound which will also affect external natural surveillance. The use of defensive planting i.e. thorny shrubs and trees at these locations is 	<p>made aware of these comments and it has been suggested to them that they may wish to incorporate the recommended measures into the scheme.</p>
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	<p>recommended to further deter unauthorised access onto the site.</p> <p><u>Security Lighting</u></p> <p>o No security floodlighting is proposed.</p> <p><u>Electronic Security Measures</u></p> <p>o The DAS indicates that, four cctv cameras will be installed in each corner of the compound. It does not indicate whether the cameras will be remotely monitored or whether they will have motion-activated Passive Infra-Red (PIR) capability. This is important bearing in mind the lack of any lighting. I recommend the installation of such a system but the DAS does not indicate who, in the event of an activation, will respond which I consider important.</p> <p>o The applicant should also consider the installation of a Perimeter Intruder Detection System (PIDS) which would alert the operator to any unauthorised intrusion.</p> <p>o The facility includes a number of Battery Storage Units, Inverters and a Control Building, all of which contain potential targets and should be secure and electronically protected by intruder alarms.</p> <p><u>Security Personnel/Staff</u></p> <p>o I assume that the site will be remotely monitored and not permanently staffed with periodic visits by employees only for maintenance. This obviously increases the potential vulnerability of the site and equipment contained within it, particularly during the hours of</p>	
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	<p>darkness.</p> <ul style="list-style-type: none"> o The presence of site security personnel or patrols in some capacity should be considered including in terms of response to site cctv and alarm activations. <p><u>Property Marking</u></p> <ul style="list-style-type: none"> o Consideration should also be given to overtly marking all tools and any other easily portable equipment on site with unique reference numbers to assist identification if stolen 	
<p>Devon & Somerset Fire & Rescue Service</p>	<p><u>Access and Facilities for the Fire & Rescue Service</u></p> <p>Access and facilities, which should include where necessary the provision of private fire hydrants for Fire & Rescue Service appliances, should comply with provisions contained within ADB, Part 5 of the Building Regulations 2000.</p> <p>Whilst Devon and Somerset Fire and Rescue Service (DSFRS) are not a statutory consultee in relation to this project we will work and engage with the developer as this project develops to ensure it complies with the statutory responsibilities that DSFRS enforce.</p> <p>The developer should produce a risk reduction strategy for the scheme. We would also expect that safety measures and risk mitigation is developed (where appropriate) in collaboration with the Service. The strategy should cover the construction, operational and decommissioning phases of the project.</p> <p>DSFRS recognises the use of batteries (including lithium-ion) as Energy Storage Systems (ESS) is</p>	<p>Discussed at Section 10.6 of the report</p>

	a new and emerging practice in the global renewable energy sector. As with all new and emerging practices within UK industry the Service would like to work with the developers to better understand any risks that may be posed and develop strategies and procedures to mitigate these risks.	
Wales & West Utilities	<p>Our Asset Department have reviewed the proposed development and have requested that, in the event the application is approved, the applicant will need to contact WWU to discuss and agree mitigation of additional risks their new installation may pose to ours.</p> <p>We do not wish to raise an objection but will require commitment from the applicant that they work with us over health and safety considerations.</p>	Discussed at Section 10.6 of the report

8.6 Internal Consultees

Consultee	Comment	Officer Comment
Landscape Officer	<p><u>Initial response:</u> The proposed mitigation will, in the long term, adequately screen the development from the immediate and wider landscape, however the form of the development does not work with the field pattern and results in: a nibbled at, left over field which has an irregular form; right angled and acutely angled field corners that are more difficult to farm; and in the case of the access road, a tightly curved boundary that is difficult to fence off with post and wire fencing which prefers straightish runs. The layout shows a lack of regard to the patterns of the context and so does not reflect good design and conflicts with local and national plan policies.</p>	Discussed at Section 10.2 of the report

	<p>To address these concerns, it is recommended that the layout of the batteries / other facilities is amended to have a more triangular form to suit the site, rather than the site modified to suit a standard rectangular layout, and for the boundary to be simpler, and the remaining field more regular simpler shape, in the manner shown below which shows optional boundary positions to suit the area of development required.</p> <p><u>Reconsultation response:</u> The revised layout has addressed the earlier landscape concerns. Consequently, no objection.</p>	
Environmental Health Team	<p>We have reviewed the Noise Report undertaken by Inacoustic in support of the application which states that the Inverter units require that the sound levels presented in Table 6 are reduced by at least 9 dB so as to be below the background noise level.</p> <p>Within Section 5.1.4 there are a suite of measures proposed and provided that the plant is constructed and operated in accordance with this section including low noise plant and an acoustic enclosure built to the specification and location identified and contained within this report, then we have no objection to these proposals.</p>	Discussed at Section 10.4 of the report

8.7 Local Representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

Thirteen objectors (including the tenant farmer) have made representations on the application with the following comments (summarised):

- Material harm to the landscape would occur as a result of the proposed development;
- Material harm to the setting of a Scheduled Monument would occur as a result of

- the proposed development;
- The harm to the landscape would in turn have an adverse impact on tourism as people visit the area for its landscape beauty;
- The proposed development would result in loss of important and productive arable land;
- It will impact negatively on the local wildlife from Outmoor Wood;
- Siting the battery storage units on a site adjacent to an existing gas substation would be unsafe due to the risk of an outbreak of fire at the proposed site; and
- The proposed development would provide no local employment and would take land away from tenant farmers and their agricultural contractors.

There have been many comments suggesting that the proposed development is related to the proposed solar farm to the east of the site. However, the applicant has confirmed that this is an unrelated application and the solar farm is proposed with its own battery energy storage system.

9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications 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 West Somerset area. The Development Plan comprises the Adopted West Somerset Local Plan to 2032, Somerset Mineral Local Plan (2015), and Somerset Waste Core Strategy (2013).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a local plan within 5 years of vesting day.

Relevant policies of the development plan in the assessment of this application are listed below:

West Somerset Local Plan to 2032

- SD1 - Presumption in favour of sustainable development
- OC1 - Open countryside development
- CC1 - Carbon reduction: non-wind energy generating schemes
- NH1 - Historic environment
- NH2 - Management of heritage assets
- NH5 - Landscape character protection
- NH6 - Nature conservation and the protection and enhancement of biodiversity

NH8 - Protection of best and most versatile agricultural land
NH9 - Pollution, contaminated land and land instability
NH13 - Securing high standards of design

Neighbourhood Plans:

No neighbourhood plans in force in this area

Supplementary Planning Documents:

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 (March 2022)

National Planning Policy Framework

10. Material Planning Considerations

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

10.1 The principle of development

10.1.1 The proposal is for the erection of a Battery Energy Storage System (BESS) on land to the west of Williton and to the south west of Watchet. The site is outside any defined settlement and is therefore in the open countryside. Policy OC1 of the adopted Local Plan relates to open countryside development, but it does not specifically apply to energy development, which is typically located in the open countryside. Policy CC1, which relates to renewable energy generation, also does not appear to be applicable to the proposed development as it does not generate energy. The sustainability of energy use by the proposed facility is dependent on wider infrastructure.

10.1.2 The proposed BESS is proposed infrastructure to support the national grid. The Overarching National Policy Statement for Energy (EN-1) was published in 2011 and it highlights the UK's commitment to cut greenhouse gas emissions by at least 80% by 2050 (compared to 1990 levels) and outlines the challenge which the transition to a low carbon system holds. There is a national drive towards renewable energy, but this would impact on the national grid as a result of the frequency volatility caused by such schemes. Historically, it has been proposed to manage this through the introduction of more nuclear power plants, but increasingly grid battery storage, such as the proposal, are being utilised for this purpose. Paragraph 2.2.4 of EN-1 states that the role of the planning system is to provide a framework which allows for the development of the types of essential infrastructure in areas of need where it is acceptable in planning terms, including the principles of sustainable development.

10.1.3 The Revised (Draft) National Policy Statement for Energy, which still remains in draft form, does not propose to alter this direction on a national renewable energy network. However, it should be noted that last year the Government confirmed that it wants to reduce the country's carbon emissions by 78% by 2035, and be net zero by 2050, which effectively puts greater pressure on finding an alternative energy network sooner.

10.1.4 EN-1 also confirms that that National Policy Statements (NPS) are capable of being important and relevant considerations in the planning decision-making process and that NPS's can also be material considerations in the determination of applications under the Town and Country Planning Act 1990.

10.1.5 In August 2022, the Government released its response on the topic of facilitating the deployment of large-scale and long duration electricity storage. The document states that *a smart and flexible energy system is essential for integrating high volumes of low carbon power, heat, and transport. The importance of flexibility for our energy security to ensure that we can efficiently match supply and demand and minimise waste was recognised in the British Energy Security Strategy. We anticipate that at least 30GW of low carbon flexible assets, which includes electricity storage, may be needed by 2030 to maintain energy security and cost-effectively integrate high levels of renewable generation.*

10.1.6 The document concludes that schemes such as this one before the Local Planning Authority have an important role to play in achieving net zero, helping to integrate renewables, maximising their use, contributing to security of supply, and helping manage constraints in certain areas. The document further concludes that BESS's would provide low carbon flexibility, replacing some unabated gas generation and diversifies the country's technology mix and provides optionality for meeting our ambitious 2035 power sector decarbonisation targets.

10.1.5 There is a clear national drive led by the Government to move the country from a fossil fuel based energy network to a net zero renewable energy network, and nuclear power plants and BESS's will play an important part in reducing carbon emissions, providing energy security and ensuring energy affordability by mitigating the frequency volatility created by a renewable energy network. Without these mitigating systems, the energy network that the country is moving towards would be subject to notable energy fluctuations.

10.1.7 Paragraph 152 of the National Planning Policy Framework (NPPF) states that the planning system should support the transition to a low carbon future in a changing climate and it should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience and support renewable and low carbon energy and associated infrastructure. Paragraph 158 states that when determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable.

10.1.8 In terms of sustainable development, EN-1 set out that the Government's wider objectives for energy infrastructure include contributing to sustainable development and ensuring that the country's energy infrastructure is safe. Sustainable development is relevant not just in terms of addressing climate change, but because the way energy infrastructure is deployed affects the well-being of society and the economy, for both current and future generations. EN-1 further states that the planning framework set out in this NPS and the suite of energy NPSs takes full account of the objective of contributing to the achievement of sustainable development and this has been tested through the Appraisal of Sustainability (AoS). The AoS has examined whether the NPS framework for the development of new energy infrastructure projects is consistent with the objectives for sustainable development, including consideration of other government policies such as those for the environment, economic development, health and transport.

10.1.9 Officers also note that the move to a low carbon economy meets the environmental objective of sustainable development as set out under Paragraph 8 of the NPPF. Having regard to this and EN-1, it can be concluded that the provision of BESS's to support a shift towards a renewable energy network contribute towards sustainable development and this in turns means that the scheme before the Local Planning Authority is compliant in principle with Policy SD1 of the adopted Local Plan. The scheme is considered to be supported in principle by the Local Plan when taken as a whole, particularly as the Local Plan supports a drive towards renewable energy.

10.1.10 It is acknowledged that the national mapping indicates that the site falls into Agricultural Land Classification Grade 2, which is very good soil for arable farming. The applicant has commissioned Askew Land and Soil Ltd to carry out an assessment of the soil in accordance with the Agricultural Land Classification (ALC) system for England and Wales. The report compiled by Askew Land and Soil Ltd confirms that a survey of the site has determined that agricultural land at the site is limited by soil wetness to Subgrade 3a (i.e., 0.45ha or 100% of the Site). The report acknowledges that a MAFF Post-1988 ALC survey has determined Grade 2 and Subgrade 3a to the south east of the site. Officers have no reason to question the results of the survey.

10.1.11 Policy NH8 of the adopted Local Plan states that the *best and most versatile agricultural land (Grades 1, 2 and 3a) will be protected from significant development proposals. Planning permission for development affecting such land will only be granted exceptionally if the presumption in favour of sustainable development outweighs the need to protect it and either:*

- *Sufficient land of a lower grade (Grades 3b, 4 and 5) is unavailable in an appropriate location to provide sustainable development; or*
- *Available lower grade land has an environmental value recognised by a statutory or non-statutory wildlife, historic or archaeological designation which outweighs the agricultural considerations.*

If best and most versatile land needs to be developed and there is a choice between sites in different grades, land of the lowest grade available should be used.

10.1.12 In terms of the overall area given over to the proposed development and the associated area of planting, and comparing this with the amount of best and most versatile land in the local area (Grade 1, 2 and 3a), the proposed development is not considered to be significant. As such, it does not fail the restrictive first part to Policy NH8. Turning to the second part of the policy, it is acknowledged that development on this type of agricultural land will be on an exceptions basis if the presumption in favour of sustainable development outweighs the need to protect it. Officers acknowledge that there is an ever increasing need for food security in this country, particularly in terms of grain and the ongoing impact on worldwide supply of grain caused by the war in Ukraine. However, there is also a need for energy security in this country and there is a clear drive for the country to move towards a renewable energy network and BESS's play an important part in that network. There is therefore a balance to be struck between the existing and proposed uses of the site, and it needs to be taken into account that the proposed use contributes towards sustainable development and is supported by the NPPF and the adopted Local Plan when taken as a whole.

10.1.13 The applicant has confirmed that they have a connection offer to connect the proposed development to the national grid. The offer letter restricts the connection to the national grid by a three pole tee onto the 33kV overhead line between Bowhays Cross BSP (1L5) and the former Watchet Paper Mill substation and laying a new 33kV cable to the site where the connection will be metered via a new 33kV metering substation. The applicant has also provided a plan showing the nearest 33kV overhead lines where this type of development may be able to connect to the national grid if the proposed location is not acceptable. All the lines in the local area are on best and most versatile land. In fact, almost the entire district of West Somerset, other than settlements and protected areas such as Exmoor National Park and the Quantock Hills AONB, is best and most versatile land. It is therefore difficult to see where the development can be located where it would not result in a loss of Grade 1, 2 or 3a agricultural land.

10.1.14 The proposed development is considered to contribute towards sustainable development and it is a type of development that is nationally supported through EN-1 and the NPPF. It is also supported by the adopted Local Plan when taken as a whole. Officers are satisfied that the development cannot be relocated to another part of the local area where it would not result in loss of best and most versatile land. The benefits towards a net-zero carbon future, which is the aim of the Government by 2050, must be given substantial weight, as must its contribution towards sustainable development due to it meeting the environmental role of sustainable development. Whilst it acknowledged that the loss of best and most versatile land will have an impact on the country's food security, the small area being lost as a comparison to the remaining high grade agricultural land in the local area reduces the negative impact. The proposed development would provide greater benefits than disbenefits and therefore the loss of best and most versatile land is not considered to form a reason for refusal under Policy NH8 of the adopted Local Plan.

10.2 Design of the proposal & the impact on the character and appearance of the landscape and designated heritage assets

10.2.1 The proposed BESS would have a utilitarian appearance as this type of

development is designed for a functional purpose rather than delivering aesthetically pleasing development. Other than choosing a suitable colour for the structures, which can be secured through a planning condition, there is little scope to alter the form and finish of containers. The siting of the BESS on a site adjacent to the gas substation would ensure that it would be seen in the context of the existing built form and it would take a similar appearance and character to it. This would help it to not appear as overtly isolated development in the open countryside. However, it would increase the amount of functional, not aesthetically pleasing, built form in the open countryside and therefore mitigation needs to be secured to reduce the cumulative landscape impact resulting from the existing gas substation and the proposed BESS.

10.2.2 The Landscape Officer initially objected to the proposed development. The Officer is satisfied that the proposed planting mitigation around the proposed compound would over time adequately screen the development from the immediate and wider landscape. However, the Officer raised concerns over the shape and form of the proposed compound area and the surrounding planting mitigation as the originally layout of the scheme represented a lack of regard to the patterns of the surrounding context of fields and therefore would not reflect good design and conflicts with the national and local planning policies.

10.2.3 The applicant took the comments of the Landscape Officer into account and subsequently amended the scheme. The position and shape of the proposed compound remains as originally proposed, but a new hedgebank boundary is now proposed along the southern side of the site connecting the eastern and western boundaries of the field. This has increased the area of planting and the result would be a larger wooded area to continue, and be in keeping with, the existing wooded area that borders the eastern side of the application site. The hedgebank would provide a strong boundary along the southern side of the site and it would result in a boundary feature that is seen across the local agricultural landscape. The planting on the hedgebank would offer further screening of the development.

10.2.4 The amendment made to the proposed development has result in a more natural subdivision of the field that retains the field patterns around the site. The Landscape Officer has confirmed that the revised layout has addressed the earlier landscape concerns. Consequently, the Landscape Officer has removed their objection and now has no objections to the proposed development.

10.2.5 Officers conclude that a condition should be attached to require the applicant to agree a colour for the exterior of the proposed structures with the Local Planning Authority and a condition should also be attached that requires approval from the Local Planning Authority to be sought by the applicant for the surface of the new access track. With the attachment of this condition and acknowledging that the development is function led and designed to meet a certain functional requirement, the application is not considered to represent a conflict with Policy NH13 where the application should be refused. The Landscape Officer's confirmation that there are now no landscape objections to the proposed development, the revised scheme is considered to comply with Policy NH5 of the adopted Local Plan.

10.2.6 Officers also note that reference has been made by an objector to potential harm being caused to the setting of a Scheduled Monument, Battlegore Burial

Chamber, which is a Bronze Age burial chamber located on the edge Williton, Somerset. It is composed of three round barrows and possibly a long, chambered barrow. The objector states that it is 400 metres to the east of the site but having measured the distance on the Council's mapping and on Google maps, the distance is nearly 1km. In between Battlegore and the application site is Outmoor Wood, which provides a significant level of screening of the site from the Scheduled Monument. The site is also not raised on higher ground than the Scheduled Monument or vice versa. As such, the site is not overtly visible from the Scheduled Monument, particularly when taking into account the distance and the presence of Outmoor Wood between the two. Therefore, the proposal would not conflict with Policies NH1 and NH2 of the adopted Local Plan or Section 16 of the National Planning Policy Framework.

10.3 Access, highway safety and parking provision

10.3.1 Access to the site would be via Smithyard Lane, which is a very narrow, single track lane, which egresses on to the A39 to the south and the B3190 to the north. The submitted plans show that the existing field access would be moved in a southward direction along Smithyard Lane. A new access track would be constructed from the vehicular entrance to the proposed compound. There would be a parking and turning area within the compound.

10.3.2 The Highway Authority initially objected to the proposed development as more information was required. They confirmed that their objection was not in relation to the principle of the development, however, they required further information before they could provide a recommendation. The application submission has included a Construction Traffic Management Plan (CTMP) that confirmed that once the development is operational there would be limited vehicle movements to and from the site as a maintenance van would travel to the site occasionally. This poses no concern for the Highway Authority. Their concern related to the construction phase of the development.

10.3.3 It is anticipated that the construction phase of the development would last approximately 16 weeks and generate significant vehicle movements to and from the site involving HGVs. The application papers confirm that there would be 10 construction workers on site on a daily basis and the Highway Authority have advised that due to the limited construction period there is no particular concern from a traffic management perspective. However, the number of HGV movements had not been indicated and how this might break down into daily movements over the construction period.

10.3.4 The submitted CTMP confirms that the majority of the equipment would take the form of containers and HGVs up to 10 meters in length would be used to transport these to the site. The Highway Authority noted that the swept path drawings have been provided demonstrating how vehicles of this size would enter, turn and leave the site in forward gear. However, no swept path analysis had been provided for the junctions at either end of Smithyard Lane, both of which are constrained. As mentioned above, the Highway Authority initially objected to the application and requested that swept path analysis for the junctions at both ends of Smithyard Lane and details on the number of HGV movements, including a

breakdown of the daily movements over the construction period, were provided.

10.3.5 The applicant had the CTMP revised to include the requested swept path analysis and the details on HGV movements. The Highway Authority have considered the revised CTMP and advised that the swept path drawings that have been provided for the two junctions at either end of Smithyard Lane demonstrate that 10 metres long HGV would be capable of negotiating the junctions. It is also noted that the CTMP confirms that there could be up to five HGV movements (two-way) in a day during the busiest periods of the construction phase. The Highway Authority advises that these numbers will not have a severe impact on the local highway network.

10.3.6 The Highway Authority now have no objection to the proposed development, subject to the attachment of a list of recommended conditions. Officers consider that with the attachment of these conditions, which are included in the list of conditions set out at Appendix 1 to this report, the impact on highway safety would not be materially harmful and the impact on the local road network would not be severe. As such, the application is not refusible under Paragraph 111 of the National Planning Policy Framework.

10.4 The impact on neighbouring residential amenity

10.4.1 The nearest residential property to the application site is Smithyard Cottage, which is approximately 250 metres to the north west of the site. The proposed development would be sited sufficiently far from the residential property to not cause material harm to residential amenity as a result of it being overbearing or loss of light.

10.4.2 The noise impact has been assessed as part of the application submission. The applicant has submitted a Noise Impact Assessment that was carried out by inacoustic earlier this year. The report sets out mitigation measures to ensure that there would not be an adverse impact on residential amenity. The recommendation is that the inverters are low-noise plant in order to reduce their sound level by at least 9dB. It is also recommended that the containers for the batteries and inverters are sound insulated and fitted with attenuated louvres. The containers should then be orientated such that the louvred side of the container is facing away from the nearest noise sensitive receptor. The report also recommends the installation of an acoustic barrier around the perimeter of the site that is solid, continuous and sealed. The acoustic fence is shown on the submitted plans and it shall be conditioned that it shall be constructed in accordance with the details shown on the plans and retained for the life of the development. A further condition shall also be attached that requires the mitigation measures set out in the assessment report to be carried out as part of the implementation of the development and retained as well in accordance with the mitigation measures for the life of the development.

10.4.3 Environmental Health have noted that within Section 5.1.4 of the report there are a suite of measures proposed and they have advised that provided that the plant is constructed and operated in accordance with this section, including low noise plant and an acoustic enclosure built to the specification and location identified and contained within the report, then they have no objection to the application. With the

attachment of the conditions set out above, the material harm to neighbouring residential would be mitigated and therefore the application would not conflict with the adopted development plan in terms of its impact on residential amenity.

10.5 The impact on ecology and biodiversity

10.5.1 The application has been accompanied by a preliminary ecological survey report. The report advises that in terms of bats, which are a protected species, the arable habitat of the application site is unlikely to support insects in sufficient numbers to be of importance for foraging bats, and loss of arable to the footprint of the application site would not impact foraging bats. However, it is also advised that it is likely that a variety of bats including light-averse species (such as Long-eared, Horseshoes and Myotis) are active around the boundaries of the application site. As such, mitigation would be required in relation to external lighting. It is therefore considered appropriate to attach a condition that requires the developer to agree a bat friendly lighting scheme prior to first use of the proposed development.

10.5.2 The ecology report goes on to advise on the impact on nesting birds and it states that it is likely that the hedgerows around the site provide potential habitat for birds to nest. Works to and around the hedgerows has the potential to impact negatively on nesting birds. As such, it is considered appropriate to attach a condition that prevents works during the bird nesting season unless an ecologist has surveyed the site prior to works commencing and confirmed that there are no nesting birds present. This condition is considered to provide the level of mitigation to prevent harm to nesting birds.

10.5.3 The report confirms that there is a small badger sett near to the application site. Siting of the proposed development has taken this into account such that no active entrance is within 30 metres of the footprint of the proposed compound and the access to the compound. The report advises that the separation from the compound and its access would result in a negligible potential to impact badgers and their setts in a way that could be considered an offence. However, there is potential for badgers to get trapped within the application site during the construction phases and mitigation is therefore recommended. The mitigation measures for badgers is set out under Section 5 of the report and a condition shall be attached to ensure that the developer complies with these measures when carrying out the development.

10.5.4 There is the potential for common dormice to be present within woodland and scrub with some potential in hedgerows. The report suggests that the proposed development does not impact on hedgerows and therefore the potential impacts in relation to dormice are considered to be negligible. However, the plans show that the existing field entrance would be moved southwards along the lane. As such, there would be an impact on hedgerows and therefore the mitigation measures for protecting dormice from such works, which are set out under Section 5 of the report, should be secured. These measures can also be secured through a condition.

10.5.5 With the attachment of the conditions set out above, the impact on wildlife interests on site would not be materially harmful and the application would comply with Policy NH6 of the adopted Local Plan. In order to comply with Paragraph 174(d) of the National Planning Policy Framework, a further condition should be attached

that secures ecological enhancement measures as part of the proposed development. The condition would require the developer to agree such measures with the Local Planning Authority and implement the measures prior to first use of the proposed development.

10.6 Other matters

10.6.1 Concerns have been raised locally regarding the potential safety issues that may arise from siting development that has the potential to catch fire on a site adjacent to a gas substation. These concerns are understandable given the September 2020 BESS fire in Merseyside. Officers have spent a considerable amount of time looking into this matter and seeking comments from three key consultees - the Health and Safety Executive (HSE), Avon and Somerset Fire Service and the operators of the adjacent gas substation, Wales and West Utilities.

10.6.2 The HSE advises that BESS proposals are typically not a relevant development in relation to land use planning in the vicinity of major hazard sites and major accident hazard pipelines. This is due to them not introducing people into the area. In the case of this particular BESS proposal, the applicant has confirmed that the proposed development would not provide a permanent place of work for someone. People would visit the site occasionally to carry out certain activities. It is confirmed that the HSE's land use planning advice is mainly concerned with the potential risks posed by major hazard sites and major accident hazard pipelines to the population at a new development.

10.6.3 The HSE's advice also steers the Local Planning Authority towards consulting HSE's Explosives Inspectorate if the site is within a safeguarding zone for a HSE licensed explosives site and consulting the Office for Nuclear Regulation (ONR) if the site is in the vicinity of a nuclear site. Officers can confirm that the site is not within an explosives safeguarding zone or the vicinity of a nuclear site. Hinkley Points A and B, and the construction site of Hinkley Point C, are approximately 14km from the application site. The HSE's advice also recommends contacting the operator if the site is over a major accident hazard pipeline or in the easement around a major accident hazard pipeline, or the site is adjacent to a Control of Major Accident Hazards (COMAH) establishment.

10.6.4 As acknowledged above, the site is adjacent to a gas substation. As such, Officers have sought the views of Wales and West Utilities, who have confirmed that should the application be approved then the applicant will need to contact WWU to discuss and agree mitigation of additional risks the new BESS installation may pose to their gas substation site. Wales and West do not wish to raise an objection, but they have made it clear that they require commitment from the applicant that they work with Wales and West over health and safety considerations.

10.6.5 Avon and Somerset Fire Service have also been consulted and their consultation response advises that the access and facilities proposed through this planning application, which should include where necessary the provision of private fire hydrants for Fire & Rescue Service appliances, should comply with the provisions contained within Fire Safety: Approved Document B (ADB), Part 5 of the Building Regulations 2000. They confirm that the expectation is that the developer

should produce a risk reduction strategy for the scheme. They also expect that safety measures and risk mitigation is developed in collaboration with the Fire Service. The strategy should cover the construction, operational and decommissioning phases of the project.

10.6.6 Taking the above comments into account, it is considered that there is potential for a fire safety risk to occur, particularly when having regards to the presence of the adjacent gas substation. However, Officers are confident that the risk can be mitigated through a planning condition that requires the developer to agree a Battery Safety Management Plan (BSMP) with the Local Planning Authority prior to works commencing. The BSMP would need to include safety measures and risk mitigation and it shall cover the construction, operational and decommissioning phases of the development. Officers have persuaded the applicant to agree to a prior to commencement condition rather than a prior to first use condition as it is important to establish whether a suitable and sufficient BSMP can be agreed before any of the works commence as should it not be possible to agree on a BSMP, abortive work would not be carried out and the site left as a construction site with the resulting harm to the landscape.

10.6.7 The Local Planning Authority will involve the HSE, Wales and West Utilities and Avon and Somerset Fire Service as part of the consideration of the BSMP to ensure that there is consensus that risk to the adjacent gas substation and wider risk are mitigated against through the BSMP. These consultees' views will ensure due process has been followed and that the condition is sufficient to ensure that the application does not conflict with the adopted development plan or the NPPF, in particular, Paragraph 130(f).

11 Local Finance Considerations

11.1 Community Infrastructure Levy - N/A

12 Planning balance and conclusion

12.1 The principle of development is considered to be compliant with Policy SD1, the overarching policy in the Local Plan, and it complies with the Local Plan when taken as whole given that the development plan supports a move towards renewable energy. The scheme is also supported national planning and energy policies. It is noted that the proposal would lead to a loss of an area of best and most versatile agricultural land, but the report sets out the reasons why it is considered that, on balance, this particular proposal cannot be refused under Policy NH8 of the Local Plan.

12.2 Through mitigation, it is concluded that there would not be material harm to the character and appearance of the landscape or the setting of heritage assets. The attachment of conditions ensuring that appropriate measures are put in place to reduce noise levels emanating from the site, the impact on neighbouring residential amenity would not be materially harmful either.

12.3 The Highway Authority have advised that they have no objections to the proposed development, subject to a list of recommended conditions being applied to

the planning permission. These conditions are considered to mitigate against a negative impact on highway safety and a severe impact on the local road network. Conditions are also considered necessary to ensure that harm to biodiversity would not occur and to secure ecological enhancements in line with the NPPF.

12.4 The proximity of a gas substation to the proposed battery storage site and the potential safety implications of this have been given due consideration. Relevant consultees have been consulted in relation to this matter and they have not raised objections to the proposal. However, it is clear that some form of safety management plan for the site is required and with this in mind, a condition requiring a Battery Safety Management Plan to be agreed with the Local Planning Authority and other relevant parties should be attached to the permission to ensure that the potential safety issues are mitigated against.

12.5 For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted subject to conditions.

In preparing this report the planning 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

Recommended Conditions

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

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

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

(A3) DrNo 22016-LP-002 Rev B Location Plan
(A1) DrNo 22016-PP-003 Rev F Proposed Plan 1-500
(A1) DrNo 22016-PP-004 Rev F Proposed Plan 1-250
(A1) DrNo SPP07 Rev C Mitigation Plan
(A3) DrNo CEL-STD-AMENL-540 40ft Large Amenity Cabin
(A3) DrNo CEL-STD-AF-731 Timber Acoustic Fence

- (A3) DrNo CEL-STD-BATT-CK-385 Control Kiosk
- (A3) DrNo CEL-STD-BATT-INV-380 Containerised Inverter
- (A3) DrNo CEL-STD-BATT-RSU-381 Containerised Battery
- (A3) DrNo CEL-STD-CCTV-800 CCTV Column
- (A3) DrNo CEL-STD-PF-G-700 Metal Palisade Security Fence
- (A3) DrNo CEL-STD-WPD-205 GRP Substation
- (A3) DrNo CEL-STD-SW-100 Switch Room
- (A3) DrNo CEL-STD-TX-165 Auxiliary Transformer
- (A3) DrNo CEL-STD-CSF-720 Cattle Stock Fence

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

- 3 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 building structures commences. Should any active nests be found then works in the immediate area shall cease until the ecologist has confirmed to the Local Planning Authority in writing that the nests are empty. In no circumstances shall netting be used to exclude nesting birds.

Reason: In the interests of nesting wild birds and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

- 4 Prior to the commencement of the development hereby permitted, a detailed Battery Safety Management Plan (BSMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The BSMP shall include safety measures and risk mitigation and it shall cover the construction, operational and decommissioning phases of the development. Thereafter the batteries shall be installed and maintained for the duration of the permission in accordance with the approved BSMP.

Reason: In the interests of safeguarding the water environment and preventing a pollution incident or danger to the adjacent gas substation.

- 5 Prior to the commencement of the development hereby permitted, a Tree and Hedge Protection Plan (THPP) shall be submitted to, and approved in writing by, the Local Planning Authority. Once approved, such measures shall be fully implemented and maintained for the duration of the construction period of the development hereby permitted.

Reason: In order to protect existing vegetation from damage during the construction process.

- 6 Prior to the commencement of the development hereby permitted, a surface water drainage strategy shall be submitted to, and approved in writing by, the Local Planning Authority. Such strategy shall include measures to minimise the risk of a potential pollution incident. Once approved, the strategy shall be fully implemented as part of the development and retained in good working order for the duration of the permission.

Reason: In the interests of preventing a pollution incident and to ensure that surface water run-off is sufficiently managed within the site.

- 7 There shall be no obstruction to visibility greater than 600 millimetres above adjoining road level forward of a line drawn 2.4 metres back and parallel to the nearside carriageway edge over the entire site frontage. Such visibility shall be fully provided before works commence on the development hereby permitted and shall thereafter be maintained at all times.

Reason: In the interests of highway safety.

- 8 The proposed access shall be constructed in accordance with details shown on the submitted plan, drawing number 22016-PP-003 Rev D and shall be available for use prior to commencement of development. Once constructed the access shall be maintained thereafter in that condition at all times.

Reason: In the interests of highway safety.

- 9 Prior to commencement of the development hereby permitted the proposed access over at least the first 10.0 metres of its length, as measured from the edge of the adjoining carriageway, shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Once constructed the access shall thereafter be maintained in that condition at all times.

Reason: In the interests of highway safety.

- 10 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 before first use of the permitted development and thereafter maintained at all times.

Reason: In the interests of highway safety.

- 11 The development hereby permitted shall be carried out in strict accordance with the mitigation measures set out under Paragraph 5.2 of the Preliminary Ecological Appraisal by Western Ecology and dated October 2021.

Reason: In the interests of protecting wildlife interests on site and to ensure compliance with Policy NH6 of the West Somerset Local Plan to 2032.

- 12 The construction phase of the development hereby permitted shall be carried out in accordance with the details set out within the submitted Construction Traffic Management Plan Rev B.

Reason: In the interests of highway safety.

- 13 Entrance gates in the access off the public highway shall be agricultural five bar

gates with a maximum height of 1.2 metres above ground level, and they shall be hung to open inwards and set back a minimum distance of 6.0 metres from the carriageway edge. The gates shall thereafter be maintained in that condition at all times.

Reason: In the interests of highway safety.

- 14 Prior to its installation, details of the surface for the access track shall be submitted to, and approved in writing by, the Local Planning Authority. The track shall then be installed in accordance with the approved details and retained as such thereafter.

Reason: In the interests of visual amenity and the satisfactory appearance of the development upon completion.

- 15 Notwithstanding the details on the approved plans, prior to first use of the development hereby permitted, details of the colour for the exterior of the amenity cabin, control kiosk, substation, switch room, the containerised batters and the containerised inverters shall be submitted to, and approved in writing by, the Local Planning Authority. The aforementioned structures shall then be coloured in accordance with the approved details prior to first use of the development and they shall be retained in that colour thereafter.

Reason: In the interests of visual amenity and the satisfactory appearance of the development upon completion.

- 16 Prior to first use of the development hereby permitted, 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 design, and these shall be maintained thereafter in accordance with the design. Under no circumstances shall any other external lighting be installed without prior consent from the Local Planning Authority.

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

- 17 Prior to first use of the development hereby permitted, a scheme for ecological enhancement measures shall be submitted to, and approved in writing by, the Local Planning Authority. The ecological enhancement measures shall then be installed in accordance with the approved scheme and retained as such thereafter.

Reason: In the interests of securing ecological enhancement in accordance with

Paragraph 174(d) of the National Planning Policy Framework.

- 18 The landscaping of the site shall be carried out in accordance with the planting details and plant schedule shown on drawing number SPP07 Rev C within the first planting season following commencement of development, or within such other time as may be approved with the Local Planning Authority in writing beforehand. The landscaped areas shall be maintained to ensure establishment of the approved scheme, including watering, weeding and the replacement of any plants which fail within a period up to five years from the completion of the development. The landscaped areas shall then be maintained in accordance with the maintenance schedule shown on drawing number SPP07 Rev C. The landscaped areas shall be retained in accordance with the requirements of this condition for the lifetime of the development hereby permitted.

Reason: In the interests of visual amenity and the satisfactory appearance of the development upon completion.

- 19 Prior to first use of the development hereby permitted, the hedgebank shown on drawing number SPP07 Rev C shall be constructed as a battered bank that is 1.5 metres high and 1.5 metres wide at the base. The bank shall be faced with turf on both sides and topped with planting in accordance with the hedge planting details shown on drawing number SPP07 Rev C in a double staggered row at five plants per linear metre and the rows 0.5 metres apart. The planting on the hedgebank shall be maintained to ensure establishment of the approved scheme, including watering, weeding and the replacement of any plants which fail within a period up to twenty years from the completion of the development. The hedgebank and the planting on the bank shall then be retained and maintained thereafter at a minimum height of three metres for the lifetime of the development hereby permitted.

Reason: In the interests of visual amenity and the satisfactory appearance of the development upon completion.

- 20 Prior to first use of the development hereby permitted, the plant shall be installed in accordance with the mitigation measures set out under Paragraph 5.1.4 of the Noise Impact Assessment report by inacoustic and dated 11th January 2022. As part of this, a scheme for noise insulating the inverter and battery containers and fixing attenuated louvres on the containers shall be submitted to, and approved in writing by, the Local Planning Authority, and the scheme shall be implemented in accordance with the approved scheme prior to their first use. In addition, the acoustic fence shown on drawing number CEL-STD-AF-731 shall be constructed around the compound in the position shown on drawing number SPP07 Rev C prior to first use of the permitted development. The development shall be retained in accordance with the mitigation measures detailed above, and the acoustic fence shall be retained in situ, for the lifetime of the development hereby permitted.

Reason: To safeguard local residents from noise and disturbance.

- 21 The development hereby permitted shall be for a maximum temporary period of

40 years from the date of this permission. Thereafter, the site shall be decommissioned and returned to its former state in accordance with details that have been submitted to, and agreed in writing by, the Local Planning Authority. Such details shall include a timescale of the decommissioning works.

Reason: To determine the scope of this permission and in the interests of visual amenity.

- 22 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, (or any order revoking and re-enacting that Order), no fencing, walls or other means of enclosure (other than the fencing permitted as part of this approval) shall be installed within the application site without the granting of planning permission by the Local Planning Authority for such development.

Reason: In the interests of the conserving the development and the locality.

Recommended Informative

- 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.

Application Details	
Application Reference Number:	19/22/0021
Application Type:	Full Planning Permission
Earliest decision date:	30 September 2022
Expiry Date	31 October 2022
Extension of time	
Decision Level	Committee
Description:	Erection of 1 No. self-build, sustainable, carbon neutral dwelling with associated works on land adjacent to The Meadows, Hatch Green, Hatch Beauchamp
Site Address:	LAND ADJACENT TO THE MEADOWS, HATCH GREEN, HATCH BEAUCHAMP, TA3 6TL
Parish:	19
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment Area:	Yes
AONB:	No
Case Officer:	Mr G Clifford
Agent:	
Applicant:	MR J MARKS
Committee Date:	
Reason for reporting application to Committee	Meets the delegation trigger for numbers of comments contrary to officer recommendation

1. Recommendation

1.1 That permission be REFUSED.

2. Executive Summary of key reasons for recommendation

2.1 The site lies outside of settlement limits in a rural location away from services and while the property is designed to be carbon neutral and claimed as a self-build, it is not considered that these matters outweigh the unsustainable location and landscape harm.

3. Planning Obligations and conditions and informatives

3.1 Conditions (full text in appendix 1)

Refusal

3.2 Informatives (bullet point only)

3.2.1 Proactive Statement

3.3 Obligations

None

4. Proposed development, site and surroundings

4.1 Details of proposal

The proposal is for a single detached two storey dwelling with a large double garage. The accommodation includes a kitchen/dining area on the ground floor together with a utility, pantry, study, plant room, toilet, play room and living room while upstairs there are 5 double bedrooms, 3 ensuites, a family bathroom, hall and porch as the site is split level and partly set into the ground.

4.2 Sites and surroundings

The site is currently an agricultural field set to grass bounded by native hedges and slopes gently south towards a stream. The site is located on land outside of the settlement limit south of the village centre around 400m from the edge of the village.

5. Planning (and enforcement) history

Reference	Description	Decision	Date
19/20/0008	Application for Outline Planning with all matters reserved for the erection of 1 No. dwelling on land to the south of Mill Lane, Hatch Beauchamp	Refused	22/3/21

6. Environmental Impact Assessment

Not required

7. Habitats Regulations Assessment

The site lies within the catchment area of the Somerset Levels and Moors and the development will result in the erection of a dwelling which has the potential to have an additional phosphate impact. The applicant has submitted a nutrient neutrality assessment and a mitigation strategy and proposes the use of a package treatment plant and tree planting. If the solution were considered acceptable the development would require a legal agreement to secure the maintenance of the treatment plant and the proposed planting in perpetuity.

8. Consultation and Representations

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

8.1 Date of consultation: 06 September 2022

8.2 Date of revised consultation (if applicable):

8.3 Press Date:

8.4 Site Notice Date: 20 September 2022

8.5 **Statutory Consultees** the following were consulted:

Consultee	Comment	Officer Comment
HATCH BEAU CHAMP PARISH COUNCIL	A narrow majority were sympathetic to this application.	
SCC - ECOLOGY	Recommend conditions re bird protection, bat lighting, reptile protection, biodiversity enhancement and badger informative.	See paragraph 10.1.8
SCC - TRANSPORT DEVELOPMENT GROUP	Refer to Standing advice	Paragraph 10.1.4
WESSEX WATER	There are no recorded public sewers or water mains within the red line boundary. The Planning Authority will have to be satisfied with your package treatment plant arrangements that will be subject to Building Regulations.	Paragraph 10.1.10
LANDSCAPE	Object as permitting would erode the rural character and undeveloped quality of the landscape and so conflict with policy CP8.	Paragraph 10.1.7
ENVIRONMENT AGENCY	No comments received.	Paragraph 10.1.10
PLANNING POLICY	While custom and self-build housing are an important part of the housing mix matter on housing development should be considered in the wider context of sustainable development and against development plan policies.	Paragraph 10.1.11

	<p>Since monitoring began the LPA has granted more permissions than the need indicated by the Register. Hatch Green is not a sustainable location under policy SP1 because of remoteness from services and facilities. It does not meet policy DM2 as it is not affordable housing where it can be demonstrated that this cannot be accommodated within the nearest rural centre.</p> <p>There is limited public transport in the vicinity, and it would be unlikely to comply with criteria one of accessing services and facilities by public transport in adopted policy A5. Occupants of the development would therefore be reliant on the private car to access employment, services and facilities.</p> <p>Development on unallocated greenfield land outside settlement boundaries is strictly controlled to conserve the environmental assets and open character of the area. Criteria in Policy CP8 Environment of the adopted Taunton Deane Core Strategy conserves and enhances the natural and historic environment, it sets out circumstances where development may be permitted outside settlement limits.</p>	<p>Paragraph 10.1.1</p>
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8.6 **Internal Consultees** the following were consulted:

Consultee	Comment	Officer comment

8.7 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

9 letters have been received making the following comments (summarised):

Material Planning Considerations	
4 Objections	Officer Comment
Precedent for areas outside village boundary	Paragraph 10.1.11
Greenfield outside village envelope	Paragraph 10.1.1
Not sustainable	Paragraph 10.1.1 and 10.1.10
Needed productive agricultural land	
No house needed for agricultural worker and there have been houses for sale in the village	Paragraph 10.1.1
Not an affordable dwelling and not a Rural Exceptions site	Paragraph 10.1.1
Not eco friendly and near to river	Paragraph 10.1.10
Contrary to policies SP1, CP1, CP8, DM1, DM2 and SADMP H1a	Paragraph 10.1.1 and 10.1.5
5 Support	Officer comment
Sympathetic to the area	
No negative impact	Paragraph 10.1.5 and 10.1.7
Environmental benefits and improved biodiversity	Paragraph 10.1.8
Commute will be zero emissions	Paragraph 10.1.1

8.7.1 Summary of support - non planning matters

Family an asset to the village and provide local employment

9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications 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).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a local plan within 5 years of vesting day

Relevant policies of the development plan in the assessment of this application are listed below:

Core Strategy

- SD1 - Presumption in favour of sustainable development,
- SP1 - Sustainable development locations,
- CP1 - Climate change,
- CP4 - Housing,
- CP6 - Transport and accessibility,
- CP8 - Environment,
- DM1 - General requirements,
- DM2 - Development in the countryside,
- DM4 - Design,
- DM5 - Use of resources and sustainable design,

Site Allocations and Development Management Plan

- SB1 - Settlement Boundaries,
- A1 - Parking Requirements,
- A5 - Accessibility of development,
- D7 - Design quality,
- ENV1 - Protection of trees, woodland, orchards and hedgerows,
- ENV2 - Tree planting within new developments,
- I4 - Water infrastructure,

Supplementary Planning Documents

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 (March 2022).

Neighbourhood plans:

N/a

9.1 National Planning Policy Framework

Sections 2, 4, 5, 6, 14 and 15

10. Material Planning Considerations

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

10.1.1 The principle of development

The applicant claims this development to be a scheme that seeks one dwelling as affordable homes via the Rural Exceptions site policy and which will remain affordable in perpetuity. However while the rural exception site policy allows for local planning authorities to grant permission for affordable housing on land not normally used for housing, such an exception still has to be considered in light of other issues such as site, scale and design as well as other planning policies.

Affordable housing is defined in Annex 2 of the NPPF and this defines affordable housing as a) that available for rent, b) starter homes, c) discounted market sales housing and d) other affordable routes to home ownership, such as shared ownership, low cost for sale or rent to buy. These affordable requirements do not extend to a large detached self-build new dwelling. The design and scale of the proposal with 5 double bedrooms is not considered an affordable unit that could be controlled for occupation by a local person in need in the future and so it is not considered to be a suitable development that outweighs the unsustainable location in the countryside.

The site lies outside of the boundaries of a settlement identified in Core Strategy policy SP1 and in terms of Settlement Boundaries, policy SB1 within the Site Allocations and Development Management Plan (SADMP) applies and development has to be assessed against Core Strategy policies CP1, CP8 and DM2. The justification for this policy is that the Framework recognises the importance of protecting and enhancing the natural environment. The policy also assists in meeting other core principles such as shaping patterns of development to reduce the need to travel, reducing pollution and CO2 emissions.

Policy DM2 of the Core Strategy sets out forms of development outside of settlement limits that will be supported. This includes affordable housing, however as set out above it is not considered the development is affordable. The development is not considered to fall into any other category and is not supported by this policy. Policy CP1 relates to Climate Change and sets out a number of criteria by which climate change has been assessed by. Criterion a) refers to reducing the need to travel through locational decisions. The applicant claims that his travel will be reduced as his employment is in the village and not where he currently lives. While this may be the case the new dwelling would be permanent and is outside of the settlement in a location that would be reliant on the private car for the majority of services. This is a key issue as to whether this is an appropriate location for residential use having regard to planning policies and guidance surrounding the accessibility of services.

The site is outside of any settlement containing basic services required to meet day to day needs. The characteristics of the nearby roads required to reach those destinations are likely to discourage pedestrians and cyclists resulting in a reliance on the private car. It has been established that bus ridership falls off substantially where distance to walk to bus stops exceeds 300-400m. Given that bus frequencies are relatively low in the district compared to larger urban centres, it is important that walking distances to bus stops are short and walking and waiting conditions are attractive to bus users.

The NPPF promotes limiting the need to travel and offering a genuine choice of transport modes. This is not the case here where public transport is limited and walking and cycling opportunities limited by factors such as the nature of the rural lanes and distances involved. The proposal is not considered to comply with the Framework when considered as a whole and it is not considered to comply with policy A5 of the SADMP. Locationally the site is not considered a sustainable location and it is not considered that the development would reduce the need to travel for the lifetime of the dwelling. The applicant may have a reduced commute to work than at present and may decide not to take a vehicle to work, however the latter cannot be controlled and the impact of the long term occupation of the dwelling has to be considered not just the current applicant.

Policy CP8 relates to the Environment and seeks to 'conserve and enhance the natural and historic environment and will not permit development proposals that will harm these interests or the settings of the towns and rural centres unless other material factors are sufficient to override their importance'. It goes on to state that 'Unallocated greenfield land outside of settlement boundaries will be protected and where possible enhanced. Development within such areas will be strictly controlled in order to conserve the environmental assets and open character of the area.' The development will adversely impact on the open rural character of the area and is not considered to comply with CP8 and members have to consider whether there are other material factors to override the importance of protecting the character of the area.

Policy H1a is also quoted by an objector and this policy relates to Permanent housing for rural workers. The applicant however is not claiming to be a rural worker

with a functional need to live on the site and so this is not considered relevant to the development proposed.

10.1.2 Design of the proposal

The proposal is for a modern split level house over two floors and is set back around 100m from the road frontage. The concept is to develop a barn like form set behind a blue lias stone wall and a hedge to the south west. The dwelling is two storey and is to be set into the ground by around 1.3m utilising some of the fall across the site. There is a break between the dwelling and garage and a courtyard is formed with the continuation of the stone wall. The two storey building is proposed to have a zinc standing seam roof over vertical composite cladding and off white render below. In addition, a blue lias wall is proposed to the north. While the contemporary approach to design is not objected to in principle the provision of four external materials here is considered excessive.

10.1.3 Quality of Accommodation

The accommodation meets the requirements of size in terms of space and amenity in policies D10 and D12 of the Site Allocations and Development Management Plan.

10.1.4 Access, Highway Safety and Parking Provision

The proposal envisages an access utilising a modified agricultural access that already serves the field. It will involve hedge cutting and replanting to achieve the 43m splay. A new gravel drive will extend along the field boundaries to the north and east for around 180m before ending in a turning head and access to the garage. Adequate parking and turning are provided within the site in compliance with policy A1 and an EV charging point is provided within the garage. The Highway Authority refer to standing advice and the provision of a dwelling here is not considered to give rise to highway safety or parking issues. Suitable conditions could be imposed if other matters were considered acceptable.

10.1.5 The impact on the character and appearance of the locality

The proposed dwelling will be set back behind a stone wall some 100m from the road and will appear as a development in the middle of a field. While the building is set down and there is intended to be orchard planting in front to help screen it, it will still appear as an incongruous form of development in the middle of a field out of keeping with the vernacular form of development in the area and as such is considered contrary to policy DM1d of the Core Strategy which seeks to prevent harm to the appearance and character of any affected landscape, settlement, building or street scene.

10.1.6 The impact on neighbouring residential amenity

The proposal is not considered to have a significant adverse impact on the residential amenity of nearby properties.

10.1.7 The impact on trees and landscaping

The proposal is located within a large field and will have no adverse impact on existing trees. It would result in the realignment of the hedge at the access point to achieve the necessary visibility. It integrates well with the topography of the site and being set into the land with orchard planting in front, it will have limited landscape

impact from the road. However the site, as identified by the Landscape Officer, will add to the fragmentation of the open undeveloped agricultural landscape. The largely glazed southern elevation and domestic curtilage to the south would be open to views from the public right of way T14/9 to the south.

10.1.8 The impact on ecology and biodiversity and the Somerset Levels and Moors Ramsar Site.

An ecological survey was submitted with the application, however no protected species were considered to be affected by the development, although recommendations were made in terms of a badger informative and mitigation of lighting to protect bats and a condition to protect reptiles. Enhancements were also proposed and a condition to control/ensure provision of these (bat and bird boxes, native planting, invertebrate hotel and log piles) was suggested. The County Ecologist has confirmed there is no objection subject to the conditions re bird and reptile protection, a bat lighting condition badger informative and condition concerning enhancements. These could be imposed if other matters were to be acceptable.

The development provides an additional dwelling in the Levels and Moors catchment and a legal agreement would be required to secure the necessary phosphate mitigation. This would need to be addressed if the application were permission to be granted

10.1.9 Waste/Recycling facilities

There is adequate space for waste and recycling facilities provided for within the building.

10.1.10 Flood risk and energy efficiency

The site incorporates a large field which straddles the flood risk zones. The dwelling is sited within zone 1 and is not considered to increase flood risk and the Environment Agency has raised no comment. The site lies outside of an area of mains drainage and a package treatment plant is proposed. This lies within zone 3 and is at potential risk and the treatment plant would need to be agreed under the Building Regulations. The project aims to be highly sustainable through its orientation on site, use of a carbon neutral biomass heating system, integrated fuel storage, a highly insulated envelope and adoption of solar gain principles. The garage will house the biomass boiler and associated heat store. While the dwelling is seeking to be zero carbon it still lies in an unsustainable location.

10.1.11 Any other matters

It is noted that the applicant has applied for a self-build property and is registered on the Self Build Register with the Local Authority. Since monitoring began the LPA has granted more permissions than the need indicated by the Register. The applicant puts significant weight on a Three Dragons report on Self and Custom Housebuilding which identifies potential demand of 84 plots per annum. However, it also recognises the current level of supply may therefore be similar to the demand identified on the register. It is noted that the Local Planning Authority does not have a specific policy relating to self-build development. However, it is recognised that the Council has met the identified need on the register with plot permissions. It is not considered the

appeals quoted are comparable to this scheme. Any new self-build development should be well related to existing settlements and in sustainable locations. In this case the proposal would not meet such aspirations, could set a precedent if allowed, and fails to comply with local plan policies as detailed previously and it is not considered that the potential demand identified warrants an exception to policy as proposed.

11 Local Finance Considerations

11.1 Community Infrastructure Levy

Creation of a dwelling is CIL liable regardless of size.

This proposed development measures approximately 300 sqm.

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 £37,500.00. With index linking this increases to approximately £53,000.00.

12 Planning balance and conclusion

The site is outside of a settlement in an unsustainable location contrary to policies CP1a and SP1 of the Core Strategy and SB1 of the SADMP and is not considered affordable in terms of an exception site. The introduction of a building here would erode the open rural character of the area and would create a form of development out of keeping with the rural pattern of development contrary to policies CP8 and DM1d and would have a harmful effect on the character and appearance of the rural area and fail to complement the environment and character of the existing settlement.

12.2 For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is refused.

In preparing this report the planning 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/ Reason/s for refusal

- 1 The site is lies in a rural location outside settlement limits where the form of the development set back from the road would be out of keeping with existing character of rural dwellings and would erode the rural character and undeveloped quality of the landscape contrary to policy CP8 and the proposal to allow a permanent residential dwelling (Class C3) within the countryside would be contrary to the principles of sustainable development, adopted development plan policies and Guidance which seek to avoid the development of homes in the countryside and to reduce reliance on the car. In circumstances where the proposal would fail to enhance the vitality of rural communities, there is no identified need for a countryside location, the permanent use would be likely to increase reliance on the car, the proposal would result in identified harm contrary to Policies CP1a, CP8, DM1d, SP1 and CP6 of the Taunton Deane Core Strategy 2012 and Policies SB1 and A5 of the Taunton Site Allocations and Development Management Plan 2016.

Notes to applicant.

1. In accordance with paragraph 38 of the National Planning Policy Framework 2021 the Council works in a positive and creative way with applicants and looks for solutions to enable the grant of planning permission. However in this case the applicant was unable to satisfy the key policy test and as such the application has been refused.

Application Details	
Application Reference Number:	3/21/22/119
Application Type:	Full Planning Permission
Earliest decision date:	29 December 2022
Expiry Date	26 January 2023
Extension of Time Date	8 February 2023
Decision Level	Planning Committee
Description:	Erection of a detached garage, widening of vehicle access and repairs to boundary wall (retention of part works already undertaken)
Site Address:	Barn Cottage, Combeland Road, Alcombe, Minehead, TA24 6BS
Parish:	21
Conservation Area:	Alcombe Conservation area in Minehead
Somerset Levels and Moors RAMSAR Catchment Area:	No
AONB:	No
Case Officer:	Sarah Wilsher
Agent:	Architectural Studio SW Ltd
Applicant:	Ms Tonia Tipper
Committee Date:	02 February 2023
Reason for reporting application to Committee	As required under the scheme of delegation due to the Town Council and over four objections from residents being received contrary to officer recommendation.

Recommendation

1.1 That permission be GRANTED subject to conditions.

2. Executive Summary of key reasons for recommendation

The proposal is for the erection of a detached garage, widening of vehicle access and repairs to a boundary wall including retention of part works undertaken in respect of the frame of the garage already being in situ, a stone pier having been removed to widen the access and the boundary wall having been made good.

The application is recommended to be granted, as amended, subject to conditions as it will not harm the setting of the conservation area or the appearance and character of the locality and will not impact on the character and appearance of the host dwelling, thereby complying with policies NH1 and NH2c. Subject to conditions there will also be no harm to residential amenity.

3. Planning Obligations and conditions and informatives

3.1 Conditions (full text in appendix 1)

3.1.1 Standard time limit – 3 years

3.1.2 Approved plans

3.1.3 Materials

3.1.4 Drainage

3.1.5 Landscaping

3.1.6 Biodiversity enhancement

3.2 Informatives (full text in appendix 1)

3.2.1 Proactive Statement

3.2.2 Nesting birds

4. Proposed development, site and surroundings

4.1 Details of proposal

It is proposed to retain and continue the erection of a single garage within the front garden of the dwelling. It lies about 9m north west of the dwelling and is roughly in line with the corner point of Barn Cottage, which sits end onto the access, and is aligned with the front of the neighbour's side extension, at no. 10 to the west. It sits slightly back from the building line of dwellings in this section of Combeland Road. It is also proposed to retain a widened access of 800mm, which has been created by the removal of a stone pier of 1.55m in height along the roadside elevation and making good the end of the wall. The driveway surface will be made good to match the existing concrete and an area of hardstanding has been formed using gravel.

The garage will have a dual-pitched roof with a ridge height of 3.4m and an eaves height of 2.5m. It will have a depth of 6m and a width of 4.7m and will be constructed in waney edge timber cladding (timber boards which are designed to be fitted horizontally and overlap each other) painted black under a light green corrugated metal sheet roof. Concerns were expressed with the timber cladding being painted black which would increase its visual impact and the metal sheet roof was requested to be replaced with natural slate or clay tiles which are both characteristic of the conservation area. Amended plans were therefore submitted for natural timber cladding to be used and left to weather and for Double Roman tiles to be used for the roof to match those on the dwelling.

4.2 Sites and surroundings

Barn Cottage is a semi-detached two and a half-storey linear sandstone dwelling under a Double Roman clay tiled roof with timber windows. It is situated within the Alcombe Conservation Area.

5. Planning (and enforcement) history

Reference	Description	Decision	Date
3/21/15/033	Erection of single storey extension	Grant	5 May 2015

6. Environmental Impact Assessment

Not applicable.

7. Habitats Regulations Assessment

The site is outside the catchment area for the Somerset Levels and Moors Ramsar site.

8. Consultation and Representations

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

8.1 Date of consultation: 30 November 2022

8.2 Date of revised consultation (if applicable):

8.3 Press Date: 08 December 2022

8.4 Site Notice Date: 5 December 2022

8.5 Statutory Consultees the following were consulted:

Consultee	Comment	Officer Comment
Minehead Town Council	The Committee object due to the detrimental impact on visual amenity of neighbouring properties and the Conservation Area.	
Highways Development Control	Standing Advice.	Parking provision and drainage are addressed under 4.1.4.

8.6 Internal Consultees the following were consulted:

Consultee	Comment	Officer comment
Conservation Officer	The proposed garage will form a visual change to the setting of this element of the Conservation Area and the pair of listed cottages (The Heritage and The Lodge). However, the position of the proposed	Addressed under 10.1.4

	<p>garage fits in with the grain of the development within the Conservation Area, where development is a mixture of street frontage and set back elements. The amended materials are sympathetic to the context of the position of the proposed garage, matching the surrounding buildings and blending in with the verdant element of the character of the Conservation Area.</p> <p>Therefore, the proposal is not considered to harmful to the setting of the Conservation Area or the pair of listed cottages.</p>	
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8.7 Local representations

Neighbour notification letters were sent in accordance with the Councils Adopted Statement of Community Involvement.

Seven letters have been received in respect of the proposal, as originally submitted, making the following comments (summarised):

Material Planning Considerations	
Objections	Officer Comment
Not compatible with the preservation or enhancement of the architectural and historic character of the Conservation Area in terms of scale, proportion, architectural quality and local features.	Addressed within report - 10.1.4 and 10.2.
The garage detracts from the setting of other historic cottages in Combeland Road, the surrounding area and Barn Cottage itself.	Addressed within report under 10.1.4 and 10.2.
A grassed area within the garden has been replaced with an extensive area of hardstanding and a building which is out of scale and character, which dwarves the C17th cottages opposite.	Addressed within report under 10.1.4 and 10.2.

A black painted structure will make it very visible and out of character with the area.	Proposed walling and roofing materials have been amended. This is addressed under 10.1.2 and 10.1.4.
The modern design and external materials are not appropriate and contrast strongly with the stone built cottages and agricultural buildings in the immediate area, which generally pre-date 1840.	Proposed walling and roofing materials have been amended. Addressed under 10.1.2 and 10.1.4.
The floor area and height of the garage are in excess of that necessary for a single garage and being painted black will make it very visible and out of character with the area. It will be clearly visible from the highway, especially from the SE approach as the garden is substantially higher than the road level.	Proposed walling and roofing materials have been amended. Addressed under 10.1.2 and 10.1.4.
The hedge has been decimated so no longer sufficiently screens the garden. This should be re-established for screening and to provide a wildlife habitat.	Addressed under 10.1.6 and 10.1.7.
The cottages opposite are prone to flooding. They are approximately 1m lower than the garden at Barn Cottage and have regularly flooded and continue to do so. In times of heavy rainwater collects in the road. Extensive hardcore will exacerbate this issue, causing increased run-off of water into the road. The widening of the access may also contribute to greater run-off.	Addressed under 10.1.3.
A garage, reduced in size and height, would be better placed at the back corner of the garden beside the far shed and well away from the road where it would be less visible and less intrusive. There are also ample parking spaces within the boundary of the garden.	The applicant wishes for the current proposal to be considered rather than an alternative.
The structure blocks the outlook from the opposite cottages.	Addressed under 10.1.5.
Support	Officer comment
The boundary wall has been sensitively repaired using traditional techniques and materials.	

8.7.1 Summary of objections - non planning matters

8.7.1.1 The structure obscures the view of the landscape and horizon.

9. Relevant planning policies and Guidance

Section 70(2) of the Town and Country Planning Act 1990, as amended ("the 1990 Act), requires that in determining any planning applications 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 West Somerset area. The Development Plan comprises the Adopted West Somerset Local Plan to 2032, Somerset Mineral Local Plan (2015), and Somerset Waste Core Strategy (2013).

Both the Taunton Deane Core Strategy and the West Somerset Local Plan to 2032 were subject to review and the Council undertook public consultation in January 2020 on the Council's issues and options for a new Local Plan covering the whole District. Since then the Government has agreed proposals for local government reorganisation and a Structural Change Order agreed with a new unitary authority for Somerset to be created from 1 April 2023. The Structural Change Order requires the new Somerset authority to prepare a local plan within 5 years of vesting day.

Relevant policies of the West Somerset Local Plan to 2032 in the assessment of this application are listed below:

BD/3	Conversions, Alterations and, Extensions
NH1	Historic Environment
NH2	Management of Heritage Assets

Neighbourhood Plans:

There is no neighbourhood plan for Minehead

Supplementary Planning Documents:

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 (March 2022)

9.1 National Planning Policy Framework
Chapter 16 applies.

10. Material Planning Considerations

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

10.1.1 The principle of development

Policy NH1 of the West Somerset Local Plan to 2032 states that 'proposals will be supported where the historic environment and heritage assets and their settings are sustained and/or enhanced in line with their interest and significance' and policy NH2C states that 'Development proposals that affect a conservation area should preserve or enhance its character or appearance, especially those elements identified in any conservation area appraisal'.

It is considered that due to the position of the garage fitting in with the existing building line, it will blend into the character of the conservation area, which is mainly characterised by buildings abutting or just set back from the roadside, with few areas of open space. The low height of the garage, together with the amended materials of natural timber cladding left to weather and a Double Roman clay tiled roof plus a landscaping condition for further hedge planting above the boundary wall will ensure that it is not overly dominant and does not appear obtrusive within the street scene. The proposal will thus be easily assimilated into the locality and will preserve the character and appearance of the Conservation Area

10.1.2 Design of the proposal

The garage is relatively large in length and width but the shallow pitch of the roof will ensure that it does not look incongruous or over dominant in its location, whilst the natural timber clad walls being left to weather will reduce its visual impact and the Double Roman tiles will match those on the host dwelling and on neighbouring buildings to the south. A condition will be added if permission is granted in respect of the materials including the Double Roman tiles to be clay.

10.1.3 Access, Highway Safety and Parking Provision

An Aco drain is shown at the highway abutment on the amended plans, which will discharge to an onsite soakaway. At present the concrete driveway runs down to the highway with no drainage. The Aco drain will therefore help to prevent surface water running onto the highway and will be secured to be retained by condition. It is also noted that although not as permeable as a lawn the hardstanding replacing the grass consists of gravel which has qualities of permeability. The proposal should therefore not exacerbate the existing situation.

The garage will have internal length of about 5.75m and an internal width of about 4.6m. Highways Standing Advice state that a single garage should have internal dimensions of 6m x 3m. Whilst the width exceeds that laid down in Standing Advice, the length does not reach the required 6m. The garage length has been confirmed as being suitable for the applicant's car, and although future occupiers may have different sized cars, as small modern vehicles of about 3.7m in length are becoming increasingly popular it is considered that the garage will retain its useability for some years to come. In addition, the length of the garage needs to be considered not only from a highway point of view but from an aesthetic perspective and in the latter regard it would be more desirable for the length not to be increased.

10.1.4 The impact on the character and appearance of the locality and on heritage

Barn Cottage is within Alcombe Conservation Area and the site of the garage is about 28m south-east of The Lodge and The Hermitage, which are grade II listed buildings.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that where an area is designated a conservation area 'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the area', whilst Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with development which affects a listed building or its setting, 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 that it possesses.

The garage is situated on higher land than the public highway and the terraced cottages to the north, but it is set back from the boundary and in line with the 1.5 storey element of no. 10 to the west so it will not look out of place or overly prominent. Its proposed Double Roman style roofing material will enable it to blend in with the roofscape to the east and south, whilst the use of clay tiles will sit well with the plain clay tiled roofs at no. 10. Also, the boundary wall with additional hedgerow planting above the wall (see 10.1.6 below), will screen the bulk of the garage from view from the north and west, so that only the roof is showing. The structure will be most visible from the south-easterly direction due to the angled open vehicular access, but due to its low height and appropriate materials, as amended, and its set-in position from the entrance to the site, it is considered that there will be no harsh impact within the street scene.

The Conservation Area Appraisal states that the boundary of Alcombe Conservation Area was drawn to encompass the traditional groups of buildings that give Alcombe its distinctive village character. Due to its position, amended materials and the landscaped screening of the garage, as the Conservation Officer, has commented, it will be easily assimilated into the mixture of buildings within this part of the Conservation Area and as such the character and appearance of the conservation area will be preserved.

The importance of the streams, stone walling and planting were all recognised within the Conservation Area Appraisal. Regrettably, a stone pier has been lost as part of the development, but as the stone boundary wall has been made good by a skilled stonemason it is considered that the conservation area has been preserved.

As the garage will blend into the character of the area in terms of scale, position and materials and will be partly hidden from view from the listed buildings, it is considered that there will be no harmful impact on their setting.

10.1.5 The impact on neighbouring residential amenity

It is considered that there will be limited impact on neighbours as extra planting will be conditioned to further screen the garage and as it is set back from the boundary wall and a minimum of about 11.5m from the cottages opposite it will not create an overbearing impact on these neighbours or reduce their outlook. The installation of

drainage will help to prevent any exacerbation in the flooding situation to the cottages, which the garage and removal of lawn may contribute to.

10.1.6 The impact on trees and landscaping

The row of hedging above the wall has been reduced/thinned, but further hedge planting on the wall is proposed. This will be conditioned to soften and screen the bulk of the proposed garage.

10.1.7 The impact on ecology and biodiversity

The application is partly retrospective so the land has already been prepared for the garage, in that part of the domestic, maintained lawn has been removed and the area for the garage gravelled. Irrespective of this a maintained domestic lawn is unlikely to sustain habitats for wildlife. Some hedging has been removed from the wall, which reduces the planting available for wildlife, but further planting is proposed and will be conditioned, which will create future habitats.

An informative to protect any nesting birds in the existing vegetation will be added to the permission if granted, together with a condition in respect of biodiversity enhancement.

10.1.8 Flood risk and energy efficiency

Although not in a flood risk area, due to the higher level of the garage in relation to the cottages opposite and the propensity for flooding in the area, the proposed Aco drain will be conditioned to be retained (as under 10.1.4) to ensure that surface water does not run onto the highway.

A climate emergency checklist has been submitted which states that where possible local materials will be sourced to avoid excess travel for material deliveries and all timber proposed for the construction will come from sustainably managed forests such as FSC certified wood. The proposal will thus contribute to sustainability.

11 Local Finance Considerations

11.1 Community Infrastructure Levy

CIL does not apply in the former West Somerset Council area.

12 Planning balance and conclusion

12.1 The proposed development, due to the position, scale and materials of the garage, with landscaping to be conditioned to screen the bulk of the proposed building, will ensure that the Conservation Area and listed buildings are not harmed and as such the proposals comply with policies BD/3, NH1 and NH2.

12.2 For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted subject to conditions.

In preparing this report the planning 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/ Reason/s for refusal Recommended Conditions

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

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

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

(A3) DrNo 2711/200 Proposed Site Plans
(A1) DrNo 2711/201A Proposed Floor Plans
(A1) DrNo 2711/202A Proposed Elevations

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

- 3 The walling material of the hereby approved garage shall be natural wany edge timber cladding left to weather and the roofing material shall be brown Double Roman clay tiles to match the existing roof of the dwelling, and thereafter retained as such.

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

- 4 An Aco drain shall be installed at the highway abutment, leading to a soakaway within the curtilage, as per drawing no. 2711/201A, and thereafter retained.

Reason: In the interests of highway safety and flood risk.

- 5 A landscaping scheme for the west and south boundaries above the stone wall shall be submitted to and approved in writing by the local Planning Authority prior to such a scheme being implemented. The scheme shall include details of the species, siting and numbers to be planted.

(ii) The scheme shall be completely carried out within the first available planting season (1 October to 31 March) from the date of completion of the development. Written confirmation of the completion of the landscaping scheme shall be submitted to the Local Planning Authority.

(iii) For a period of five years after the completion of each landscaping scheme, the trees and shrubs shall be protected and maintained in a healthy weed free condition and any trees or shrubs that cease to grow or are uprooted shall be replaced by trees or shrubs of similar size and species.

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

6 The following will be integrated:

- One bird box shall be added to the north elevation of the hereby approved garage, or to an existing outbuilding within the garden, with the box placed as high as possible to the eaves within one month of the completion of the development.
- A bee or insect hotel shall be erected within the garden within one month of the completion of the development. Please note bee bricks attract solitary bees which do not sting.

Photographs of the installed features will be submitted to the Local Planning Authority within one month of the completion of the development.

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 and in accordance with West Somerset Local Plan to 2032: Policy NH6: nature conservation and the protection and enhancement of biodiversity.

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 are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop until the young have fledged or then advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

Somerset West and Taunton Council

Planning Committee – 2 February 2023

Briefing to Somerset Planning Committees - Somerset Statement of Community Involvement Consultation

Report Author: Andrew Reading, Principal Planning Officer, Sedgemoor District Council and Laura Higgins, Principal Planning Policy Officer, Somerset West and Taunton Council

1. Recommendation

- 1.1 For Committee to NOTE the content of the report and feedback any comments on the draft SCI.

2. Introduction

- 2.1 On 18 January 2023, Somerset County Council Executive Committee approved a draft Statement of Community Involvement (SCI) for public consultation. The draft SCI was produced collaboratively by all five Somerset authorities. The consultation will take place between 1 February and 16 March 2023.
- 2.2 Following public consultation, the intention is to then finalise the document to be formally adopted by Somerset Council as soon as possible following vesting day. The draft SCI is at Appendix 1.

3. What is the Statement of Community Involvement?

- 3.1 The SCI sets out how the Local Planning Authority will engage and consult with the community and stakeholders on planning matters. This includes consultation on planning policy (e.g. Local Plans, Neighbourhood Plans) and the Development Management (e.g. determination of planning applications). The SCI therefore includes who we will consult through the various stages of Local Plan preparation, and what consultation methods we will use. In relation to Development Management, it includes details of consultees and neighbours who will be notified of planning applications and expectations for developers and agents in terms of pre-application engagement.
- 3.2 Many members of committee will already be aware of existing separate SCIs that are already in place within their separate Councils. These have been prepared at different times and reflect the specific planning functions of the different Councils under the two-tier system. With the formation of the new Somerset Unitary there is therefore a need to prepare a new single SCI for Somerset as a whole. This will ensure a consistent approach to how we engage with our communities on planning matters after vesting day.

4. How to feedback

- 4.1 As part of the consultation we are keen to hear the views of members of existing planning committees, so these can be taken into account in taking the document forward. Please therefore provide any feedback you have through discussion at committee. Alternatively members can email any comments to planning policy strategy@somersetwestandtaunton.gov.uk, or comment directly via the Somerset County Council online consultation portal when the consultation goes live on 1 February 2023.

Appendix 1 – Draft Statement of Community Involvement for Somerset Council

Appendix A to Report to Executive on 18 January 2023

Statement of Community Involvement – Draft for public consultation

Draft Statement of Community Involvement in Planning Somerset Council

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1. Introduction

This Statement of Community Involvement (SCI) sets out how and when the new Somerset Council will engage the community and stakeholders in planning policy documents and planning proposals. It outlines how and at what stages consultation will be carried out.

Somerset Council is responsible for determining and consulting on planning matters within the authority area, including applications for new development, prior approvals, works to listed buildings and trees, mineral and waste development, and planning enforcement.

This is the first SCI for Somerset Council. It replaces the SCIs for the former districts of Mendip, Sedgemoor, Somerset West and Taunton and South Somerset, and for Somerset County Council. Part of Exmoor National Park lies within the Council's area but Exmoor National Park Authority is responsible for planning matters within their area and so they produce their own separate SCI.

There are two main areas of planning that you can be involved in:

- **Planning Policy** (including Local Plan and Minerals and Waste Plan preparation and preparation of other planning policy documents) – these documents set out the policies or guidance that development proposals will be assessed against.
- **Planning Proposals** (Development Management) – some types of development require a planning application to be submitted and approved. Planning applications can be commented on by the public. Some applications are 'permitted development' and are not required to be advertised.

Consultation will occur in the preparation of policy documents and when planning applications are validated (the process undertaken by the Council to check that new planning applications are complete and include all relevant supporting information). The Council aims to give consultees, stakeholders, and the general public the opportunity to respond to consultations and influence decisions within their area.

The intention of the guidelines set out in this document is to ensure that the process for responding to consultations or influencing decisions is understood and accessible so everyone will be able to give their views on proposals quickly and easily.

Local communities often have a good understanding and detailed knowledge of the issues in their area. The views of both local communities and stakeholders should be considered through plan-making and the planning application processes to ensure the best decisions for the community.

2. Legislative Requirements

Regulation 18(1) of the Planning and Compulsory Purchase Act 2004¹ requires authorities to produce a Statement of Community Involvement (SCI).

The Council has a legal duty to consult in the preparation of Local Plans and on relevant planning applications. These requirements are set out in several pieces of legislation set out below:

- Town and Country Planning Act (1990)² (as amended)
- Planning and Compulsory Purchase Act (2004)³ (as amended)
- Town and Country Planning (Development Management Procedure) (England) Order (2010)⁴ (as amended)
- Localism Act (2011)⁵ (as amended)
- Neighbourhood Planning (General) Regulations (2012)⁶ (as amended)
- Town and Country Planning (Local Planning) (England) Regulations 2012⁷ (as amended)
- Levelling Up and Regeneration Bill (emerging)⁸

3. Equalities and Diversity

This SCI has been prepared in line with equalities legislation and has been completed with an Equalities Impact Assessment.

The Equality Act (2010)⁹ defines nine “protected characteristics”: age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Council will work to ensure that these characteristics do not affect people’s ability to respond to our consultation or have their views heard, and impact on these characteristics will be considered in the determination and adoption processes.

Some groups are harder to engage than others and traditional consultation methods may not be effective and, in some cases, further support may be necessary. The Council will endeavour to take account of barriers faced by groups or individuals.

¹ <https://www.legislation.gov.uk/ukpga/2004/5/contents>

² <https://www.legislation.gov.uk/ukpga/1990/8/contents>

³ <https://www.legislation.gov.uk/ukpga/2004/5/contents>

⁴ <https://www.legislation.gov.uk/uksi/2010/2184/contents/made>

⁵ <https://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

⁶ <https://www.legislation.gov.uk/uksi/2012/637/contents/made>

⁷ <https://www.legislation.gov.uk/uksi/2012/767/contents/made>

⁸ <https://bills.parliament.uk/bills/3155>

⁹ <https://www.gov.uk/guidance/equality-act-2010-guidance>

All plan making documents are proposed to be written clearly and concisely with any technical terms or language explained. A translation facilities box will be included on all consultation and adopted DPDs and SPDs, and follow accessibility guidelines. We will also offer a clear and appropriate timescale for comments to be received to allow everyone the opportunity to participate.

As part of the Public Sector Equality Duty¹⁰ the Council will consider all individuals when carrying out day-to-day work. We will have due regard to:

- Eliminating discrimination
- Advancing equality of opportunity

For those who are unable to access information digitally, alternative arrangements can be made such as supported digital viewing, paper copies which could be made available on request or telephone support. Letters of comment can be received online, by email or by post and can be made on behalf of other individuals. They may also be signposted to suitable support such as Planning Aid.

4. Planning Policy

4.1 The Local Plan and Minerals and Waste Plans (“Local Plans”)

This section sets out how the Council will engage the public in any review of policies and future policy making. The minimum requirements for public engagement in planning policy making is set out in various legislation and regulations including the Town and Country Planning Act, the Planning and Compulsory Purchase Act, The Environmental Assessment of Plans and Programmes Regulations 2004, the Conservation of Habitats and Species Regulations, as well as relevant requirements set out under EU Directives. The Council will always meet these requirements and seek to go beyond them where appropriate.

Alongside the National Planning Policy Framework, Local Plans and any made Neighbourhood Plans form the statutory policy framework within which all decisions on planning applications are made. Development Consent Orders follow a different process as set out in Section 5 below.

Within Somerset, the former district level Local Plans will apply to their specific district geographical areas until superseded by a Somerset-wide Local Plan. Somerset Council are required to adopt a new Local Plan by 1 April 2028. Exmoor National Park Authority is the planning authority for the National Park area and has its own Local Plan.

The Local Plans set out the principal policies and proposals for land use and development, contains overall vision and objectives, the development strategy, allocate sites for development and present a suite of policies used in decisions on planning applications. Once a Local Plan is adopted, it must be reviewed every five years to establish whether it requires updating.

¹⁰ <https://www.gov.uk/government/publications/public-sector-equality-duty>

Supplementary Planning Documents (SPDs) that provide guidance based on the Local Plan policies may be produced from time to time. The arrangements for consultation on SPDs are set out in paragraph 4.2 below.

Who we will notify, consult and involve in plan making

In respect of plan making, the Council is required to engage with some groups to meet the regulations. These are set out below:

Duty to Co-operate Bodies - The Localism Act 2011 places a ‘duty to co-operate’ on local planning authorities and neighbouring authorities and various public bodies for any strategic cross boundary issues. These bodies play a key role in delivering local aspirations, and cooperation between them and local planning authorities is vital in order to make Plans as effective as possible. These bodies include:

- The Environment Agency
- Historic England
- Natural England
- Civil Aviation Authority
- Homes England
- NHS Somerset Integrated Care Board
- National Health Service
- Office of Rail Regulation
- National Highways
- Marine Management Organisation
- Adjoining Principal Authorities
- Local Enterprise Partnership
- Local Nature Partnership

Specific consultation bodies – are agencies that must be consulted if they are affected by the proposals because they have an interest in the matter. These include organisations such as the Environment Agency and Wessex Water. The full list is at **Appendix 1**.

General consultation bodies – these include local community or amenity groups, residents’ associations, businesses, developers, landowners, and other agencies. In particular, the Council will seek to engage with hard-to-reach groups and vulnerable groups. The types of groups are at **Appendix 1**.

Residents and others with an interest – those who live in, or carry out business in, the area.

The Duty to Co-operate bodies, specific and general consultation bodies are contacted formally by letter or email. Members of the public and/or other interested parties who have registered to be on the online Consultation Portal are also notified of any consultation. Members of the public are informed through general publicity, including the local newspaper, social media, and the Council website.

When and how we will notify, consult, and involve people in plan making

Plan making is undertaken in stages with the opportunity for the community and relevant stakeholders to engage during the process. This includes the partial update of a plan

following the required five yearly review. Whilst engagement is an ongoing process throughout plan making, there are specific periods of consultation that are held.

The Council updates its Local Development Scheme, which is the programme for Plan production and review, from time to time. It will be published on the Council's website.

Evidence gathering and identification of issues for the Local Plans:

- The Council researches and gathers evidence to guide the content of the Local Plan. In this early stage of plan production, informal engagement can continue throughout this period and using a variety of formats.
- The Council may use methods such as workshops or surveys to ensure that the Council receives the relevant specialist and local opinions at an early stage. Where appropriate, individuals and parties on the Council's consultee database will be notified.
- It may also involve activities such as the 'Call for Sites' in which interested landowners and their agents are invited to identify their land for future development.
- Dedicated briefings and workshops may be held for specific evidence base studies. Invitations to attend will depend upon the subject matter and targeted consultation may be undertaken with specific interest groups to check the findings or look at information in more detail.

The evidence gathering stage is informed by the findings of studies that can give rise to the need for further investigation. When a degree of understanding has been reached regarding the issues that the Plan should address, the work proceeds to the next stage.

Production of the Draft Local Plan (Regulation 18):

- The Council develops a draft Local Plan (or partial review of the plan) containing proposed policy approaches. The Draft Local Plan undergoes a formal consultation period under Regulation 18 of the Town and County Planning (Local Planning) (England) Regulations 2012. This will last for a minimum of 6 weeks.
- At this stage the Council will make people aware of the consultation primarily through the website, social media coverage, the consultation portal, and the press.
- Other methods that may be used to involve people in the consultation include videos, quick polls, workshops, presentations, surveys, newsletters, forums, or drop-in events.
- The Draft Local Plan will be made available in a range of formats including electronic and hard copies placed at inspection points which may include some libraries and Council offices.
- Due to the large number of responses that we receive, we do not provide individual responses to comments received.

The methods for making comments and the deadline for submission will be set out clearly as part of the consultation to ensure that people who want to comment can do so.

It is recognised that some methods may not suit everybody. However, a variety of methods will be used to enable a greater range of people to be involved in the consultation. The Council will make every reasonable effort to encourage under-represented groups to participate.

Planning policy often includes acronyms and technical language so the Council will do its best to simplify language where possible and may provide ‘easy read’ summaries. Council officers are always willing to offer advice and explanations if required and can provide documents in a variety of formats, such as Braille or in foreign languages, on request. Further information can be found in the Equalities section of this document.

Following the consultation on the draft Local Plan, the Council will process the comments received. A statement of consultation will be produced containing an overview of the consultation activities undertaken, summary of comments received and how or what the Council will do to take these into account as part of the Local Plan.

The Council will consider the issues raised, and may undertake further work on the Local Plan, which may include further evidence gathering, before it finalises the Local Plan for the ‘publication’ stage under Regulation 19.

Publication of the Submission Local Plan (Regulation 19):

- Having considered issues raised during the Regulation 18 stage, the Council publishes the Submission Local Plan (or partial review of the plan). This is the version of the Local Plan that it intends to submit to the Secretary of State for examination.
- The Council publicises the Submission Local Plan for formal representations (comments) under Regulation 19 of the Town and County Planning (Local Planning) (England) Regulations 2012. This will last for a minimum of 6 weeks.
- This allows respondents to make representations to explain in writing on a specific electronic form (available in a paper format if required) why they consider that the plan meets (or does not meet) the governments requirements for Local Plans and whether they seek to appear at an examination public hearing session. There will be a guidance note to help fill in the form.
- Any representations (comments) made at this stage cannot remain confidential as the examination is a public process.
- The Submission Local Plan will be made available in a range of formats including electronic and hard copies places at inspection points which may include some libraries and Council offices.

Following the Regulation 19 publication (consultation) period, the Council will process the representations received. Each response is logged and given a unique reference number.

Each response will be posted on the Council's website. Comments and the name of the respondent will be published but any further personal details redacted in line with the General Data Protection Regulation (GDPR). This is to ensure an open and fair examination process as required by the Planning Inspectorate¹¹. A Consultation Statement including a summary of the main issues raised in the responses, and who was informed, will be submitted to the examiner as part of the process.

¹¹ Paragraph 1.21 <https://www.gov.uk/government/publications/examining-local-plans-procedural-practice/procedure-guide-for-local-plan-examinations>

Examination of the Local Plan:

- The Council is required to submit the Submission Local Plan and all of the evidence upon which it is based for examination. This also includes the representations made on the Regulation 19 Plan. All of these documents will be included and updated on the Council's website.
- The government requires that the Submission Local Plan (or partial review) will be examined to assess whether it has been prepared in accordance with legal and procedural requirements set down by Government and whether it is 'sound'. The tests of soundness are set out in the National Planning Policy Framework paragraph 35 (or as updated).
- The examination of the Local Plan involves an Inspector(s) considering all of the written material submitted and holding public hearing sessions.
- The Council will dedicate a section of the website to the Local Plan Examination where all the material and information about the examination will be posted.
- As soon as the Council knows when the public hearing sessions will be held it will publicise these on the website and via social media.
- Those who have indicated a wish to be heard at the public hearing sessions will be contacted by the independent Programme Officer responsible for the administration of the examination.

The Council will publicise the outcome of the examination on the website, social media and in the local press.

Register online to ensure that you are consulted

The Council has an online consultation portal enabling individuals and organisations to register an interest in Council consultations, including planning policy consultations.

The online consultation portal is the council's preferred method for consultation as it enables interested people to manage their own involvement, keep their contact details up-to-date and withdraw consent if they no longer wish to be contacted.

Groups are often under-represented in the consultation process and are therefore encouraged to sign up to the consultation portal so that views can be gathered through the consultation process to appropriately reflect people within our society.

The Council will maintain a database of postal addresses of individuals and organisations who are not able to use or access the online consultation portal to ensure that they can still be involved with the development of local plans and other policy documents. Anyone on a Local Plans postal database with one of the former District or County Councils in Somerset will need to re-provide us with postal details due to the General Data Protection Regulation (GDPR).

GDPR requirements will be followed to ensure that personal data is only required and retained where proportionate and necessary, is only gathered where explicit consent has been provided, is kept securely, and is not disclosed to others.

Evidence base documents

As part of the plan making process, the Council produces (or will commission external consultants on their behalf) an evidence base of documents that inform the Local Plans. Where appropriate, the Council will consult relevant “specific” or “general” consultation bodies on the contents (see Appendix 1).

Strategic Environmental Assessment and Sustainability Appraisal

A Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA) Scoping Report is produced when starting the process of Local Plan preparation. This provides a basis for assessing the economic, environmental, and social impact of policies and proposals. In accordance with government guidelines, the Council will ensure that any sustainability appraisal developed is compliant with the Strategic Environmental Assessment Regulations.

A SA/SEA is an iterative process undertaken when preparing each stage of the Local Plan. It informs decisions taken on policy options in relation to strategies, policies, and allocations. The report is consulted on at key points throughout the plan-making process, at the same time as the Local Plan.

4.2 Supplementary Planning Documents

Supplementary Planning Documents (SPD) are non-statutory planning policy documents. They provide additional information or detail on how particular policies in the Local Plan should be applied. The process for the preparation of SPDs is simpler than the more formal requirements of a Local Plan. There is no requirement to undergo independent examination prior to adoption.

Legislation¹² requires the following with respect of public participation when preparing an SPD.

¹² <https://www.legislation.gov.uk/uksi/2012/767/contents/made>

- Depending upon the subject of the Supplementary Planning Document the Council may invite specific groups or organisations with specialist interest in the subject matter to engage in workshops or provide specific evidence to support production of the Supplementary Planning Document or Guidance.
- When the Council has produced its draft Supplementary Planning Document it will undertake press, Council website and social media coverage of the draft and contact those on its consultation portal inviting comments on the draft. There will be a minimum period of 4 weeks to make representations.
- The comments on the Supplementary Planning Document will all be published on the Council website (with personal contact details redacted).
- A summary of the issues raised and how they are addressed will also be posted on the website.
- The Council will publicise the adoption of the Supplementary Planning Document in the local press, social media and on the Council website. It will inform those who have requested notification of adoption.

From time to time other guidance may be produced that is agreed by the Council to be a material planning consideration in making decisions on planning proposals or documents. The arrangements for consultation will broadly follow that for Supplementary Planning Documents but may vary according to the guidance.

4.3 Neighbourhood Development Plans

Neighbourhood Planning was introduced by the Localism Act 2011. Legislation¹³ sets out the regulatory requirements for making a Neighbourhood Plan.

A Neighbourhood Plan is a community led and prepared document. It guides the future development, regeneration and conservation of the parish or neighbourhood area it covers. The Plan may contain a vision, aims, planning policies, proposals for improving the area or new facilities and site allocations. It can deal with a range of social, economic, and environmental issues, for example housing, employment, heritage, transport.

The production of a Neighbourhood Development Plan is the responsibility of a Parish, Town Council or Neighbourhood Forum. However, the Council has some responsibilities with respect to the process.

The Council has a responsibility to advise and assist groups undertaking all forms of Neighbourhood Planning. The Council's policy in this respect is set out below:

¹³ <https://www.legislation.gov.uk/ukxi/2012/637/contents/made>

In line with its statutory duties the Council will publish on its website:

- The designation of a neighbourhood area including a map showing the extent.
- Draft proposals and supporting documents produced by the Parish, Town Council or Neighbourhood Forum provided they comply with the regulatory requirements and representations will be invited including details of how to respond (under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012). Comments and the name of the respondent will be published but any further personal details redacted in line with the General Data Protection Regulation (GDPR).
- Details of the examination of the Neighbourhood Plan.
- The results of the examination of the Neighbourhood Plan.
- Details of a referendum on a Neighbourhood Plan and the result.
- The making of a Neighbourhood Plan which is the point at which it becomes part of the Development Plan for the Council.

Legislation requires the Parish Council, Town Council or Neighbourhood Forum preparing the Plan to consult with stakeholders during the Neighbourhood Planning process and outlines at which stage consultation should happen. Due to the individual nature of each Neighbourhood Plan, the scope and form of consultation necessary will vary. The Council expects the relevant qualifying body to undertake appropriate and effective consultation with the community and stakeholders. This will identify issues that will shape the form and content of the Neighbourhood Plan.

The Council expects the Parish Council, Town Council or Neighbourhood Forum preparing the Plan to provide details of the engagement undertaken through their consultation statement. This should include a list of organisations, associations and bodies who were consulted, a summary of their input, how any relevant issues have been taken into account and how the draft Neighbourhood Plan has been shaped to take account of them.

The adoption of a Neighbourhood Plan requires a referendum which is organised by Somerset Council, the rules for which can be found in the Neighbourhood Planning (Referendum) Regulations 2012 (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2013 and 2014) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012. In order to progress to this stage, the Plan must meet basic conditions concerning accordance with national planning policies, general conformity to the adopted Local Plan(s) for the area and contribution to the achievement of sustainable development.

Once the Plan is “made”, it becomes part of the development plan for the area, carrying statutory weight and policy consideration along with the Local Plan for the area when determining planning applications.

Advising and Assisting Neighbourhood Plan Groups

In line with its statutory duties to advise and assist in neighbourhood planning the Council will either undertake these duties itself, or use the services of another organisation, to:

- Maintain the neighbourhood planning pages of the Council website, providing updates on the progress of designated neighbourhood planning areas and the production of any subsequent draft plans or orders.
- Signpost to useful information and sources of funding provided by other organisations.
- Share information on planning issues including information and published evidence relating to the Council's Local Plan.
- Provide advice on key assessments such as the Strategic Environmental Assessment (SEA) and other supporting evidence.
- Advise on national and local plan policy which any Neighbourhood Development Plan or Order produced would need to have regard to.
- Advise Neighbourhood Planning groups on the process, providing advice on the drafting of a project plan in understanding the milestones and work involved.

4.4 Neighbourhood Development Orders and Community Right to Build (NDO and CRtBO)

NDOs and CRtBOs grant planning permission for specific types of development in a particular area.

Whilst NDO and CRtBO proposals are subject to formal consultation, it is really important to engage with communities and stakeholders from the beginning of the process. This helps to ensure that the community is aware of emerging proposals, well before the formal consultation stage.

Importantly, early engagement means that the knowledge and views of a wider range of people inform the content of the NDO or CRtBO. This means that people can influence the fundamentals of NDOs or CRtBO, rather than being limited to tweaking matters of detail. For CRtBOs, the outcomes of early engagement can inform the development brief.

As with Neighbourhood Plans, close liaison with the Council is important.

If you are submitting either of the above for consideration it will need to be subject to a six-week period of consultation (Regulation 14). This will include consulting national bodies, which are set out in Schedule 1 of the Neighbourhood Planning (General) Regulations 2012.

Following the consultation period, representations must be considered, and any amendments thought to be necessary must be made to the NDO or CRtBO.

The Council's role

The NDO or CRtBO proposal must be submitted to the Council. We will check that proper procedures and consultation has been carried out in the preparation of the order. The Council

will then publicise the order to bring it to the attention of people in the area and consult certain national bodies.

The Council may decline to consider a CRtBO if it considers the development specified in the order is likely to have significant effects on the environment by virtue of its nature, size, or location.

Once the Council has confirmed that the order proposal has followed the required process and includes the necessary documents, it will arrange for it be assessed by an independent examiner. If successful at the examination stage, the Council will arrange for a referendum to take place.

The public will have the opportunity to vote in the referendum which will confirm if the order should be made (agreed). Once the order is made, development that is permitted under an NDO can take place without having to apply for planning permission. However, if the order is subject to conditions or limitations, then an ‘approvals application’ may have to be made to the Council to confirm that each development proposal satisfies the relevant conditions or limitations.

4.5 Conservation Area Appraisals

Conservation Area Appraisals and boundary reviews

It is a duty¹⁴ of the Council to, from time to time, review whether any parts or any further parts of their area should be designated as conservation areas and designate those parts accordingly. There is no legal requirement to consult on Conservation Area Appraisals or new Conservation Area boundaries or boundary reviews.

However, the Council may engage with local groups such as the Parish/ Town Council to undertake a ‘fact checking’ exercise prior to adopting the appraisal or boundary review.

Aligning with Historic England’s advice, the Council will consider how to best inform local people about a new appraisal or boundary review to ensure that everybody is aware of the designation, its benefits, and implications.

Conservation Area Management Plans

The Council has a duty to, from time to time, formulate and publish proposals for the preservation and enhancement of any of our conservation areas, also known as a Conservation Area Management Plan. There is a legal requirement for the Council to arrange a public meeting in the area to which the management plan relates.

The Council will collate responses and have regard to any views expressed at the meeting.

5. Planning Proposals (Development Management)

5.1 Introduction

¹⁴ <https://www.legislation.gov.uk/ukpga/1990/9/contents>

The Planning System enables Local Authorities to determine applications for development and change of use of land or buildings. National planning legislation, regulations and guidance set out what should be included in an application and the process of making decisions on their acceptability.

Development Management decisions shape the character of the area. A range of applications are determined by the Council, including householder development, extensions to domestic or commercial sites, fences, listed building and tree applications, changes of use, advertisements, major housing development, commercial development, mineral applications, waste applications, planning enforcement, major highway schemes and the Council's own development. Nationally Significant Infrastructure Projects (NSIPs) follow a different process that are set out in The Planning Act 2008. Development Consent Orders (DCOs) are submitted to the Planning Inspectorate and a 6 stage process is followed involving pre-application, acceptance, pre-examination, examination, recommendation and decision, and post decision. The Planning Inspectorate must prepare a report on the application to the relevant Secretary of State, including a recommendation, within three months of the close of a six month Examination stage. The relevant Secretary of State then has a further three months to make the decision on whether to grant or refuse development consent. Once a decision has been issued by the relevant Secretary of State, there is a six week period in which the decision may be challenged in the High Court. This process of legal challenge is known as Judicial Review.

The National Planning Policy Framework (NPPF)¹⁵ expects Councils to have a positive approach to decision-taking in order to deliver sustainable development. Councils are expected to proactively work with applicants to secure development aiming to improve the economic, environmental, and social conditions of an area.

There are four stages during the planning application process where the local community and stakeholders are consulted and/or notified about the proposals:

1. Pre-application stage: undertaken **by the applicant** once or a number of times. The scale and extent of consultation is dependent on scope and scale of proposal and whilst encouraged is not a requirement prior to submission of a planning application for the majority of applications.
2. Application stage: formal consultation on the application undertaken **by the Council**.
3. Appeal consideration: consultation is undertaken **by the Council** on behalf of the Planning Inspectorate (PINS); additional formal comments may be submitted to the Inspector prior to the determination of the appeal.

Government legislation, including Planning Acts, Orders and Regulations, set out the approach to consultation, publicity, and community involvement that the Council and applicants are required to undertake in regard to planning applications.

¹⁵ <https://www.gov.uk/guidance/national-planning-policy-framework>

This SCI will be utilised by the Council to set expectations for applicant led consultation and guide the approach taken to consultation in the planning application process.

5.2 Pre-Application stage

Pre-application consultation is the responsibility of the applicant. This section of the SCI focuses primarily on setting the standards the applicant is encouraged to follow prior to making an application for planning permission.

Councils cannot require that a developer submits a pre-application proposal or engages with them before submitting a planning application, but the take-up of any pre-application services they offer is strongly encouraged. Pre-application advice is subject to payment of an appropriate fee based on the size and scale of the development.

Applicants are also encouraged to undertake appropriate and effective pre-application consultation with the local community and, where relevant, with statutory and non-statutory consultees, prior to submitting an application. There is an expectation that applicants that are promoting rural exception sites to meet a specific community need should engage with the local community prior to submitting an application. The applicant is encouraged to seek the views through early engagement to highlight issues, and potential amendments to address comments or concerns of both the Council and the local community which can then influence and shape the design of the development. Additional information requirements can also be highlighted at this stage. The Council does not consult neighbours or parish councils on applications for Pre-application advice and advice given is not publicly available.

The Council also offers Planning Performance Agreements to applicants and developers, for an additional fee, for an enhanced service with respect to their proposal. A planning performance agreement is a project management tool which the Council and applicants can use to agree timescales, actions, and resources for handling particular applications.

5.3 Application stage

Once an application has been submitted to the Council it is checked to ensure it is valid and, if so, it is registered and allocated to a Case Officer. The application, and all accompanying documents are then published on the Council's website.

Who can comment?

Anyone is allowed to comment on planning applications whether or not they have been consulted. Consultees on applications include the following groups:

- Statutory consultees (those that we must consult to fulfil our statutory duty)
- Non-statutory consultees (those we consult to inform the application)
- Adjoining owners or occupiers (where required as set out below)

Who is consulted?

It is required under Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Council carries out consultation on applications.

For certain types of application, the Council is also obliged to consult with statutory consultees. Appendix 1 provides an extract of from Government guidance that confirms the up-to-date list of statutory requirements to consult particular bodies or persons on applications for planning permission in prescribed circumstances. This is not a definitive list. It does not necessarily include, for example, all the bodies which must be consulted as a consequence of a consultation direction.

Consultation will be proportionate to the application being considered.

Other, non-statutory consultees may be consulted on an application if the Council considers that their professional advice is required. The requirement for this type of consultation is determined on a case-by-case basis and could occur after validation if the case officer considers it necessary.

Adjoining owners or occupiers will also be notified where required as set out below.

How do we consult?

Publicity

The Council has a duty¹⁶ to ensure applications and decisions are properly publicised to ensure that everyone can meaningfully engage with the process. The way in which a particular application is publicised will depend upon the nature, scale and location of the development proposed.

The Council is required to publicise an application either by serving a written notice to neighbours or by displaying a site notice, depending on the type of application. Where neighbours are to be notified, as a minimum the Council will notify any adjoining owner or occupier. If a site notice is required, it will be displayed in a prominent position on or near to the site. Appendix 3 provides an extract from Government Guidance summarising these requirements.

A Public Notice will also be placed in the local newspaper if required, for example for major developments, applications contrary to the Local Plan and some statutory applications (e.g. those within Conservation Areas).

The letter, notice or advert will contain details of the planning application and a link to the Council's website where the plans and supporting documents can be viewed. Additionally, it will provide a link for comments to be made online.

Although most applications are subject to a 21 day consultation period, this can vary depending on the type of application and can range from 14 to 30 days. The consultation deadline for each specific application will be clearly stated in the letter, notice, advert and online. Information on statutory publicity requirements is available on the Government's website.

Other Consultation Methods

¹⁶ Regulation 15 <https://www.legislation.gov.uk/uksi/2015/595/article/15/made>

Other than the statutory consultation methods discussed above, the Council may decide to utilise some optional methods of consultation for planning applications depending on the size and scale of the proposal.

How to comment on planning applications

All comments should be submitted online within the consultation period set out in the consultation letter, notice, or advert you may have seen. You can still comment online after the consultation period has expired and until a decision is made, however, we recommend you do so as soon as possible because a decision can be made at any time after the expiry of the consultation period.

To track progress of an application, search the online application database. Using the application reference number is the easiest way to find the application.

What do we do with comments received?

Comments received will be published on the Council's website. Comments will not be viewable to the public until the content has been checked and we endeavour to upload comments within 5 working days of receipt.

Personal information such as the name and address of the respondent will be published but phone numbers, email addresses and signatures will be removed/redacted. Anonymous representations will not be accepted. Please ensure that you only provide information belonging to you and that you are happy will be made available to others.

The Council can only consider comments which relate to material planning issues and planning applications. Examples of these matters include, but are not limited to:

- Loss of light or overshadowing
- Overlooking or loss of privacy
- Transport problems
- Noise and disturbance resulting from use
- Hazardous materials
- Smells
- Loss of trees
- Effect on listed buildings and Conservation Areas
- Layout and density of buildings
- Design, appearance, and materials
- Planning policy
- Previous planning decisions
- Nature conservation
- Archaeology

Examples of what is not considered a material consideration include loss of value to a property, background of the applicant, or the loss of a person's private view. We would not publish photographs of certain protected species and habitats where this could give rise to their subsequent disturbance.

Some applications are limited in terms of what can be considered as part of the determination. Prior Approvals are a form of permitted development with considerations for any Prior Approval application set out in legislation. If comments raise issues outside of the listed considerations, they cannot be taken into account.

Comments will not be accepted that are offensive, obscene, racist, or malicious. Content will be redacted to remove any comments that are considered inappropriate and could be returned. We may pass such material on to the Police.

Please do not include hyperlinks in your representations as you will be asked to remove them because the Council is unable to control information on other websites. All comments will be taken into account but will not be acknowledged. Please note that the Council does not normally respond to individual representations given the volume received.

Decisions

After a decision has been made, a copy of the decision notice will be made available to view on the Council's website by searching for the specific planning application.

5.4 Planning Appeals

An applicant has the right to appeal if they disagree with the Council's decision to refuse the application. They also have the right to appeal against non-determination if a decision is not made within the required time period. Applicants must lodge an appeal with the Planning Inspectorate (PINS) who will confirm it is valid before initiating proceedings and issuing a start date.

In most cases appeals must be made within 6 months of the date on the decision notice from the Council. The right of appeal is only available to the applicant and not to any third parties.

There are three types of appeal: Written Representations, Hearing, or Inquiry. There are also fast track householder appeals which are considered and determined based on the officer's report.

Most appeals are considered via written representations. More complex or controversial appeals are usually considered via a Hearing or Inquiry. Irrespective of the type of appeal, members of the public and other interested parties are notified by the Council on behalf of PINS and have the opportunity to forward any additional comments to the Planning Inspectorate. Comments originally submitted on the application that was refused planning permission are forwarded to PINS for consideration when the appeal is registered. Unless a new issue has emerged, there is no need for members of the public and interested parties to re-submit their original comments.

The Council will write to those who were originally consulted informing them of the appeal and outlining the appeal process. A time limit of six weeks is allowed in which comments can be forward to the Inspector. Applicants, agents and third parties can register to attend and are given an opportunity to address the Inspector during an Informal Hearing and Public Inquiry to expand on or discuss their concerns on the application.

Further information can be found on the Planning Inspectorate website¹⁷

5.5 What we will do if you feel unfairly treated

The level of service you can expect from the Council is set out in our Service Standards. If a person is not happy with the service they have received they should contact the service manager in the first instance. If they are dissatisfied with the response, they can make a formal complaint through the Council's complaints procedure.

If you have gone through the Council's complaints procedure and remain unsatisfied with the service you have received, the Local Government Ombudsman investigates complaints of injustice arising from misadministration by Local Government and certain other bodies. The Ombudsman can investigate complaints about process and whether the appropriate procedures were followed, they cannot overrule planning decisions on applications.

6. Monitoring and Review

Legislation requires the SCI to be updated every five years. It will be reviewed to ensure it meets any national regulations, the needs of the community and our corporate objectives.

¹⁷ <https://www.gov.uk/topic/planning-development/planning-permission-appeals>

Appendix 1 – Consultations bodies for Local Plans

“Specific Consultation Bodies” to be consulted as the local planning authority consider may have an interest in the subject of the proposed local plan as set out in Regulation 2(1) of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)¹⁸.

National Agencies and organisations	Environment Agency National Highways Homes England Historic England Natural England Sport England The Coal Authority Network Rail Marine Management Organisation Civil Aviation Authority* Officer for Road and Rail*
Regional Agencies and Strategic Bodies	Heart of South West Local Enterprise Partnership Local Nature Partnership Avon and Somerset Constabulary NHS Somerset Integrated Care Board NHS England
Other planning authorities relevant to Somerset	Exmoor National Park Authority Bath and North East Somerset Council North Somerset Council Wiltshire Council Dorset Council Devon County Council East Devon District Council Mid Devon District Council North Devon District Council Mendip Hills Area of Outstanding Natural Beauty (AONB) Cranbourne Chase AONB Blackdown Hills AONB Quantock Hills AONB East Devon AONB Dorset AONB
Town, City and Parish Councils	Town and Parish Councils in and adjacent to the Local Planning Authority area.
Infrastructure Providers	National Grid Western Power Distribution Wales and West Utilities RWE npower renewables

¹⁸ <https://www.legislation.gov.uk/ukxi/2012/767/regulation/2/made>

	EDF Energy Office for Nuclear Regulation (for matters relating to Hinkley A and B) South West Water Wessex Water Parrett Internal Drainage Board British Telecom PLC Commpro Telecommunications Mobile Operators Association (MOA) Mono Consultants Ltd. T-Mobile (UK) Ltd O2 (UK) Ltd Orange Personal Communications Vodafone Ltd
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* Relates solely to Duty to Cooperate

“General Consultation Bodies” to be consulted as the local planning authority consider appropriate as set out in Regulation 2(1) of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended):

- (a) voluntary bodies some or all of whose activities benefit any part of the local planning authority's area,
- (b) bodies which represent the interests of different racial, ethnic, or national groups in the local planning authority's area,
- (c) bodies which represent the interests of different religious groups in the local planning authority's area,
- (d) bodies which represent the interests of disabled persons in the local planning authority's area,
- (e) bodies which represent the interests of persons carrying on business in the local planning authority's area.

These could include:

Community Support and Hard to Reach Community	<ul style="list-style-type: none"> • Older persons groups • Youth groups • Mental health and well-being Disability groups • Churches and Faith groups • Cultural Organisations • Individuals and Groups representing Gypsies, Travellers & Showpeople
Housing	<ul style="list-style-type: none"> • Housing Associations/Registered Providers • Tenants Groups & Housing Initiatives • Residents and Neighbourhood Groups

Environmental Organisations & Groups	<ul style="list-style-type: none"> • Environmental organisations • Local amenity societies and Trusts • Wildlife groups • Local food initiatives
Sport & Recreation	<ul style="list-style-type: none"> • National/local sports organisations • Sport clubs • Cultural organisations
Heritage & Culture	<ul style="list-style-type: none"> • Historical/Archaeological organisations • Town and village societies and associations • Arts organisations
Transport & Accessibility	<ul style="list-style-type: none"> • Rail and bus groups • Groups supporting cycling and walking • Community sustainable transport initiatives
Education & Health	<ul style="list-style-type: none"> • Schools, colleges, and other education/training providers • Health organisations
Development Industry	<ul style="list-style-type: none"> • Housebuilders/developers • Professional interest (agents, promoters, architects, consultants) • Significant Landowners • Other landowners promoting sites for development
Businesses	<ul style="list-style-type: none"> • Chambers of trade and commerce • Key Employers • Town centre strategy groups • Business groups • Farming organisations
Individuals & Others	<ul style="list-style-type: none"> • Individuals and organisations requesting to be on planning policy mailing list and those added to the list through making a response to a planning document (and have not opted out)

Appendix 2 – Statutory consultees on applications

Extract from Planning Practice Guidance [Consultation and pre-decision matters - GOV.UK](https://www.gov.uk/guidance/consultation-and-pre-decision-matters)
www.gov.uk

Table 2 – Statutory consultees on applications for planning permission

The table below contains a list of statutory requirements to consult particular bodies or persons on applications for planning permission in prescribed circumstances. The table also includes links to planning guidance that encourages consultation with those bodies in other circumstances. This is not a definitive list. It does not necessarily include, for example, all the bodies which must be consulted as a consequence of a consultation direction.

Statutory consultee	Type of development
Canal and River Trust	Schedule 4(za) Development Management Procedure Order
Coal Authority	Article 26 and Schedule 4(o) Development Management Procedure Order
Control of major-accident hazards competent authority (COMAH)	Schedule 4(zb) Development Management Procedure Order
County Planning Authorities	Paragraph 7 of Schedule 1 to the Town and Country Planning Act 1990, Article 21 Development Management Procedure Order and Schedule 4(b)(c) Development Management Procedure Order
Crown Estates Commissioners	Article 26 Development Management Procedure Order
Department for Business, Energy and Industrial Strategy	Article 26 Development Management Procedure Order

Designated Neighbourhood Forum	Paragraph 8A inserted into Schedule 1 of the Town and Country Planning Act 1990 and Article 25A and paragraph (d) of Schedule 4 of the Development Management Procedure Order 2015
Environment Agency	Schedule 4(p)(t)(u)(v)(zc)(zd) Development Management Procedure Order
Forestry Commission	Paragraph 4 of Schedule 5 of Town and Country Planning Act 1990
The Gardens Trust	Schedule 4(s) Development Management Procedure Order and see also guidance on conserving and enhancing the historic environment
Greater London Authority	Mayor of London Order 2008 (as amended)
Health and Safety Executive	Schedule 4(e) and (in relation to applications for planning permission made on or after 1 August 2020 (zg) Development Management Procedure Order, see also guidance on hazardous substances and advice for local planning authorities on consulting Health and Safety Executive on planning applications; and paragraph 113 of guidance on minerals
[Relevant] Highways Authority (including Highways England)	Schedule 4(g)(h)(i) Development Management Procedure Order
Historic England	Schedule 4(g)(r)(s) Development Management Procedure Order and see also guidance on conserving and enhancing the historic environment

Lead local flood authority	Schedule 4(ze) Development Management Procedure Order
Local Planning Authorities	Schedule 4(b)(c), Article 19 and Article 24 Development Management Procedure Order, Paragraph 4(2) Schedule 1 and Paragraph 7 of Schedule 1 of the Town and Country Planning Act 1990 and Paragraph 3(b) of Schedule 4 to the Planning (Listed Buildings and Conservation Areas) Act 1990
National Parks Authorities	Schedule 4(a) Development Management Procedure Order
Natural England	Schedule 4(w)(y)(zb) Development Management Procedure Order and Paragraph 4 of Schedule 5 of the Town and Country Planning Act 1990
Office for Nuclear Regulation	Schedule 4(f) Development Management Procedure Order and see also deciding planning applications around hazardous installations guidance
Oil and Gas Authority	Article 26 Development Management Procedure Order
Parish Councils	Article 25 Development Management Procedure Order and Schedule 4(d) Development Management Procedure Order
Rail Infrastructure Managers	Article 16 Development Management Procedure Order
Rail Network Operators	Schedule 4(j) Development Management Procedure Order and see also guidance on transport

<u>Sport England</u>	<u>Schedule 4(z) Development Management Procedure Order</u> and see also <u>guidance on open space, sports and recreation facilities</u>
<u>Theatres Trust</u>	<u>Schedule 4(x) Development Management Procedure Order</u>
<u>Toll Road Concessionaries</u>	<u>Schedule 4(m) Development Management Procedure Order</u>
<u>Water and sewerage undertakers</u>	<u>Schedule 4(zf) Development Management Procedure Order</u>

Paragraph: 030 Reference ID: 15-030-20190722

Appendix 3 – Statutory publicity requirements

Extract from Planning Practice Guidance [Consultation and pre-decision matters - GOV.UK](https://www.gov.uk/guidance/consultation-and-pre-decision-matters)
(www.gov.uk)

Table 1 – Statutory publicity requirements for applications for planning permission and listed building consent

Type of development	Site notice	Site notice or neighbour notification letter	Newspaper advertisement	Website
Applications for major development as defined in Article 2 of the Development Management Procedure Order (which are not covered in any other entry) (including an application for public service infrastructure development made on or after 1 August 2021)	-	X	X	X
Applications subject to Environmental Impact Assessment which are accompanied by an environmental statement	X	-	X	X
Applications which do not accord with the development plan in force in the area (including an application for public service infrastructure development made on or after 1 August 2021)	X	-	X	X

Applications which would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 applies (including an application for public service infrastructure development made on or after 1 August 2021)	X	-	X	X
Applications for planning permission not covered in the entries above eg non-major development	-	X	-	X
Applications for listed building consent where works to the exterior of the building are proposed	X	-	X	X
Applications to vary or discharge conditions attached to a listed building consent or involving exterior works to a listed building.	X	-	X	X
Applications for development which would affect the setting of a listed building, or affect the character or appearance of a conservation area.	X	-	X	X

Note: the [Environment Impact Assessment guidance](#) sets out further publicity and consultation requirements for applicants where this is relevant.

Paragraph: 029 Reference ID: 15-029-20170728

APPEAL DECISIONS – 02 February 2023

Site: Elms Farm, Forest Drove, Bickenhall, Taunton, TA3 6UE

Application number: 04/22/0001

Reason for refusal:

<https://www.gov.uk/planning-inspectorate>

Appeal Decisions

Hearing held on 6 December 2022

Site visit made on 6 December 2022

Decision by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 12 January 2023

Appeal A Ref: APP/W3330/X/21/3278008

Elms Farm, Forest Drove, Bickenhall, TAUNTON, TA3 6UE

- **The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended, against a refusal to grant a certificate of lawful use or development (LDC).**
 - **The appeal is made by Miss J Criddle, Mrs I Betzler & Miss F Criddle against the decision of Somerset West and Taunton Council.**
 - **The application ref 04/20/0013/LP, dated 30 June 2020, was refused by notice dated 23 February 2021.**
 - **The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.**
 - **The development for which a certificate of lawful use or development is sought is proposed change of use of an agricultural building into one dwelling.**
- Appeal B Ref: APP/W3330/W/22/3302573 Elms Farm, Bickenhall, TAUNTON, TA3 6UE**
- **The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.**
 - **The appeal is made by Miss, Mrs & Miss J, I & F Criddle, Betzler and Criddle against Somerset West and Taunton Council.**
 - **The application Ref 04/22/0001/INV is dated 27 June 2022.**
 - **The application sought planning permission for the proposed change of use from agricultural building to dwelling house (Class C3) and associated building operations without complying with a condition attached to permitted development.**
 - **The condition in dispute is no Q.2(3) which states that Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.**
 - **No specific reason is given for the condition.**

Preliminary Matters

Relevant legislation includes Schedule 2, Part 3 Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) [GPDO]

Decisions

Appeal A

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful. Appeal Decisions APP/W3330/X/21/3278008 and APP/W3330/W/22/3302573 <https://www.gov.uk/planning-inspectorate> 2

Appeal B

2. The appeal is allowed and planning permission is granted for variation of a condition of application 04/20/0002CQ for the extension of three years to complete the development at Elm Farm, Forest Drove South, Bickenhall at Elms Farm, TAUNTON, TA3 6UE in accordance with the terms of the application, Ref 04/22/0001/INV, dated 27 June 2022, and the plans submitted with it, subject to the following conditions.

- Development under Class Q(a) and under Class Q(b), if any, must be completed within a period of 3 years starting with the date of this decision.
- Development shall be completed in accordance with the requirements of GPDO Class Q, that remain relevant, and in accordance with the plans/details of applications 04/20/0001/INV and 04/20/0002/CQ.

Application for costs

3. An application for costs was made by the appellants against the Council and this is the subject of a separate decision.

Main Issues

Appeal A

4. The main issues in this case are:

- Whether the effective determination on prior approval as required by GPDO Condition Q2, also confirms that the development conforms with the requirements of GPDO Q1.
- Whether the applicants have shown on the balance of probability that the development was solely for an agricultural use as part of an established agricultural unit on the 20 March 2013 or in the case of a building which was in use before that date but was not in use on that date, when it was last in use.

Appeal B

5. The parties acknowledge that the outcome of Appeal A will effectively determine the outcome of Appeal B. If Appeal A fails the appellant agrees there would be no permitted development to attach conditions. Conversely the Council accept that if Appeal A succeeds then there is a condition. It also acknowledged that in that case extension of the condition for a further 3 years would be reasonable.

Reasons

Appeal A

Prior Approval

6. The prior approval requirement comes from GPDO Part Q2(1). It notes that where development is proposed under GPDO Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required.

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7. The determination as to whether prior approval is required relates to matters (a) to (g), it does not relate to whether the proposed act of development accords with GPDO Class Q in the first place.

8. Therefore, if a Council does not respond within the 56 day period (or even if it does respond and say prior approval is not required) that only means that the appellant does not need to seek prior approval for the matters (a) to (g). Therefore, the fact the Council did not respond within 56 days did not confirm accordance with GPDO Class Q in general.

Use of the building

9. For LDCs the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If there is no evidence to contradict it or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence is precise and unambiguous to justify the grant of a certificate on the balance of probability.

10. The original consent for the building was for the erection of a calf shed and fodder store (Application no 15/92/008). There is no evidence for the use at that time, but presumably in granting consent some justification of the agricultural need was demonstrated. Apart from this group of buildings there are no other buildings to service the land.

11. There is little evidence to suggest that there has been any intervening use of the building. The Council has some correspondence/information that the building has been used for equestrian purposes. It is acknowledged by all that the owner at the time kept horses, which were for her own recreation and not an agricultural use. However, the owner lived a little away from the appeal site and at her home had stables and a fenced area where horses could be kept. Grazing of horses on the land around the appeal site would remain an agricultural use.

12. In addition, the inside of the appeal building is not set up for the stabling of horses, with low block walls around the pens, which are relatively large. There are also narrow hatches to allow small animals to be led from the pens. I do not consider the Council's evidence is nearly sufficient to suggest an equestrian use of the building, particularly given the building's arrangement and fact that the owner had her own stables near her house. The use of land for grazing only was acknowledged by the Council in 1985.

13. There is a grazing Licence for 2013 related to a paddock at Mistletoe Cottage, showing further land was sought, and that land was restricted to grazing sheep.

14. Agricultural use implies trade or business, but there is no size, profitability or viability of the business test. The land held by the previous owner in 2013 was well over 30 acres and there are land registry documents to support this. The fact that the land was not all together, does mean that it was not used as a single unit.

15. Importantly, on the death of the previous owner in 2019 Agricultural Property Relief from Inheritance Tax was successfully claimed. This would only be likely to have been granted if Her Majesty's Revenue and Customs [HMRC] were satisfied that Elms Farm was in genuine agricultural use. The Council say that

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the evidence submitted to HMRC should also have been presented to it. Clearly that would have been beneficial, but the applicants note that the submission to HMRC was on behalf of the previous owner and they do not have access to the relevant information. In my view, the fact that HMRC gave relief for inheritance tax, on the basis of the agricultural use, carries significant weight. The Council also say that it would have been beneficial to see business records of the previous owner, demonstrating the extent of the business. While beneficial, these were not available to the appellants and they are not essential to show on the balance of probability the use, if there is sufficient other evidence.

16. Records show a significant number of sheep were sold between 2012 and 2019, indicating a trade in livestock to sales and an abattoir. The fact that many of these animals were sold to abattoirs suggests a commercial rearing of livestock, not a hobby farm. Hobby farmers tend to keep animals as pets or for breeding or maybe for their own domestic consumption.

17. The land available was much greater than necessary to be able to take advantage of agricultural permitted development rights under Class A of Part 6 of Schedule 2 of the GPDO. The right relates to agricultural land which is used as part of a “trade or business”. The area of land is not itself determinative of the question of “trade or business”, but it is clear that a smaller unit than the land related to the appeal can operate on a commercial basis.

18. The previous owner produced a substantial hay crop (it is noted as roughly three times what would have been needed for her own livestock) and the cutting and baling was carried out by a professional contractor. This evidence suggests something more than a hobby. I acknowledge that the evidence does not suggest a highly profitable enterprise, but more subsistence type farming.

19. I consider that if the above information is looked at in the round it shows, on the balance of probability, that the building was part of an agricultural holding, was designed for agricultural use, and that the internal layout reflects this (and not use as a stable) and that was its sole use. Records suggest an active agricultural use before March 2013 and a continuing agricultural use after that date. There is no reasonable suggestion of any other, or intervening uses. I conclude that the building was in agricultural use, associated with a business on the land surrounding and nearby.

Conclusion

20. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed change of use of an agricultural building into one dwelling was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Appeal B

21. I have allowed Appeal A, so acknowledge that permitted development requirements were complied with. However, I have some concern about GPDO condition Q2(3). This condition only comes into effect or starts where there is prior approval. An application was made for a determination as to whether prior approval was required, and there was no response from the Council

within the 56 day period, that effectively determined the matter of whether prior

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approval was required. It does not grant prior approval by default, it just means that prior approval is not required. As at this stage there is no prior approval requirement, it is not possible for GPDO condition Q2(3) to come into effect.

22. Although GPDO condition Q2(3) cannot take effect, it is still attached to the permission, so I will consider it. Shortly after the expiry of the 56 day period the Council stated its view that the development was not in compliance with GPDO Class Q, as in its opinion it did not conform with Q1. Therefore, the appellants delayed commencing construction.

23. This seems to me an entirely reasonable response to the situation. Until it was shown to be permitted development or not it would have been very unwise to proceed. Given that I am considering this application on the basis of being permitted development, it is only right that the requirements/conditions relevant to permitted development should be reimposed. Therefore, it is reasonable that the period for completion as set out in GPDO Q2 (3) should be reimposed, but with the date of this decision being the start date of the completion period.

Conditions

24. GPDO conditions Q2(a) and (b) have been discharged by the appellant so these do not need to be reattached to this decision. However, it is reasonable that the permission should relate back to the permitted development as set out in GPDO Class Q and part Q1, as relevant to the development and in accordance with the application for prior approval.

Conclusion

25. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission with the disputed condition, but confirming the activation date is that of this decision. I shall also add a condition confirming that planning permission shall be in accordance with Permitted Development Class Q as relevant to the permission.

26. For the reasons given above and having had regard to all other matters raised, the appeal is allowed.

Inspector's Decision

Graham Dudley

Graham Dudley

INSPECTOR

Appendix 1 List of those who have appealed

Reference

Case Reference

Appellant

Appeal A

APP/W3330/X/21/3278008

Miss J Criddle, Mrs I Betzler & Miss F Criddle

Appeal B

APP/W3330/W/22/3302573

Miss, Mrs & Miss J, I & F Criddle, Betzler and Criddle

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Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192

(as amended by Section 10 of the Planning and Compensation Act 1991)

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (ENGLAND)**

ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 30 June 2020 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and specifically the part of the building cross hatched in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

On the balance of probability the identified part of the building was solely for an agricultural use as part of an established agricultural unit on the 20 March 2013.

Signed

Graham Dudley

Inspector

Date: 12 January 2023

Reference: APP/W3330/X/21/3278008

First Schedule

Proposed change of use of an agricultural building into one dwelling.

Second Schedule

Land at Elms Farm, Forest Drove, Bickenhall, TAUNTON, TA3 6UE

IMPORTANT NOTES – SEE OVER

Appeal Decisions APP/W3330/X/21/3278008 and APP/W3330/W/22/3302573

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NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule if taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

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Plan

This is the plan referred to in the Lawful Development Certificate dated: 12 January 2023
by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA
Land at: Elms Farm, Forest Drove, Bickenhall, TAUNTON, TA3 6UE
Reference: APP/W3330/X/21/3278008
Scale: Not to Scale

APPEAL DECISIONS – 02 February 2023

Site: The Wilderness (land North of The Warren) Stoke Road, North Curry, TA3 6HN

Application number: 24/18/0036

Reason for refusal:

<https://www.gov.uk/planning-inspectorate>

Appeal Decision

Site visit made on 21 November 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 13 January 2023

Appeal Ref: APP/W3330/W/21/3287661

The Wilderness (land north of The Warren), Stoke Road, North Curry, Somerset TA3 6HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of an approval.
- The appeal is made by Mr Mark Taylor against the decision of Somerset West and Taunton Council.
- The application Ref 24/18/0036, dated 20 February 2021, sought discharge of conditions 4 and 8 of planning permission Ref 24/18/0036 granted on 10 December 2018.
- The details of the conditions for which approval are sought are:
(4) Before the commencement of the development hereby permitted the applicant, or their agents or successors in title, shall have secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted and approved in writing by the Planning Authority. The WSI shall include details of the archaeological excavation, the recording of the heritage asset, the analysis of evidence recovered from the site and publication of the results. The development permitted shall be carried out in accordance with the approved scheme.
(8) Before development commences (including site clearance and any other preparatory works) a scheme for the protection of trees to be retained shall be 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. It shall be maintained and retained for the full duration of 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.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the substantive content of conditions 4 and 8 attached to planning permission Ref 24/18/0036 (Planning Permission), discharge of these conditions was withheld by the Council due to the requirement for an appropriate assessment to be carried out, under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) (The Habitat Regulations). The requirement for an appropriate assessment arose following advice from Natural England dated 17 August 2020, which said new Appeal Decision APP/W3330/W/21/3287661

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housing development could, alone or in combination with other projects, lead to likely significant effects on the integrity of the Somerset Levels and Moors Ramsar (Ramsar Site). This is due to the unfavourable condition of the Ramsar Site arising from the high level of phosphates, which in turn, means that any additional phosphate load risks additional harm.

3. The Written Ministerial Statement dated 20 July 2022 (WMS) confirms that the requirement for an HRA can arise in connection with an application for the discharge of conditions. Specifically, it states "The Habitats Regulations Assessment provisions apply to any consent, permission, or other authorisation, this may include post-permission approvals; reserved matters or discharges of conditions".

4. I acknowledge that conditions 4 and 8 are not directly related to the issue of phosphates. Nonetheless, following the advice of Natural England and the potential risk of the proposal to the integrity of the Ramsar Site, I consider it entirely appropriate for the Council to require an appropriate assessment to be carried out before development can properly commence. The WMS confirms the lawfulness of this approach, which has been further endorsed in a recent appeal decision¹. I have proceeded on this basis.

Main Issue

5. In this context, the main issue is the effect of the proposed development on the integrity of the Somerset Levels and Moors Ramsar Site.

Reasons

6. The Ramsar Site is afforded special protection under the Ramsar Convention, due to its internationally important wetland features, including the floristic and invertebrate diversity and species of its ditches, which together help support numerous habitats and protected species. As highlighted above, Natural England has advised that the Ramsar Site is now in an unfavourable condition, due to the effects of eutrophication caused by such excessive phosphate levels. Any additional phosphate load into the Ramsar Site could

therefore exacerbate the site's unfavourable condition, thereby further undermining its integrity.

7. The appeal site is located within the catchment of the Ramsar Site. In this area, wastewater from new residential development risks increasing phosphate levels within the protected area. The proposal could therefore exacerbate the unfavourable effects of eutrophication caused by excessive phosphate levels. In turn, likely significant effects on the Ramsar Site cannot be ruled out without appropriate mitigation.

8. To rule out such effects, proposed mitigation would need to procure nutrient neutrality in connection with the development. Mitigation measures would therefore need to fully offset the potential additional phosphate load arising from the development into the Ramsar Site. In this instance, the appellant's Nutrient Neutrality Statement (NNS)² concludes that the proposal would lead to a total phosphate surplus of 0.304kg/year.

9. A Package Treatment Plant (PTP) has been proposed by the appellant as mitigation for the phosphate surplus arising from the development. However, 1 APP/W3330/W/22/3296248

2 Nutrient Neutrality Assessment & Mitigation Strategy, 29 September 2022
Appeal Decision APP/W3330/W/21/3287661

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advice from both Natural England and the Environment Agency (EA) is clear that new development should connect to a public foul sewer (rather than a PTP), where it is reasonable to do so. This is because private non-mains foul drainage systems are not considered to be environmentally acceptable within publicly sewered areas. Generally, where a site is within 30 metres of a public foul sewer, the presumption in favour of connection to a public foul sewer will therefore apply.

10. In this instance, correspondence between the Council and the EA suggests that the site is indeed within 30 metres of a public foul sewer. On this basis, the EA says that a PTP would not be appropriate. Without any information to indicate otherwise, this means it is unlikely that the EA would issue a permit to the appellant for use of the proposed PTP. In turn, I cannot be certain that the proposed mitigation would be realistic, or indeed feasible, and without such mitigation, the total phosphate surplus arising from the development would not be adequately offset.

11. On this basis, I am left with no option but to conclude as competent authority that the proposal would have significant adverse effects on the integrity of the Ramsar Site. The development would therefore fail to pass the appropriate assessment required under Regulation 63 of the Habitats Regulations.

Other Matters

12. The appeal application relates to land north of The Warren (known as The Wilderness), and not The Warren itself. Whilst the two sites are closely linked, the planning history of the wider site would not alter outcome of the appropriate assessment. Indeed, the NNS concluded that development of The Wilderness (specifically) would lead to a total phosphate surplus of 0.304kg/year. Irrespective of the number of dwellings that have previously occupied the wider site (including The Warren), the development would therefore exacerbate the unfavourable condition of the Ramsar Site, without appropriate mitigation. In turn (and in its own right), the development would

fail the appropriate assessment required under Regulation 63 of the Habitats Regulations.

13. Whilst I sympathise with the appellant's position, any application to extend the time limit for implementation of the Planning Permission would need to have been made within six months of the date of the original Permission. This is because such applications are specifically excluded from the remit of s73 TCPA 1990. Instead, such applications would be dealt with in accordance with the provisions of s93(3) and s78 of the TCPA, which impose the standard six month time limit for such an appeal.

14. The proposed sale of the appeal site (with the benefit of Planning Permission) is intended to help fund necessary repairs to, and restoration of, the Brewery (which a listed building). Whilst this would be a benefit of the scheme, it would not be sufficient to outweigh the significant adverse effects on the integrity of the Ramsar Site.

Conclusion

15. I have not been able to rule out the possibility of likely significant effects on the integrity of the Ramsar Site. The proposal would therefore conflict with the

3 s73(5) Town and Country Planning Act 1990 (as amended)

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requirements of the Habitats Regulations, as well as the development plan as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

James Blackwell

INSPECTOR

APPEAL DECISIONS – 02 February 2023

Site:

Application number:

Reason for refusal: