

South Somerset District Council

Minutes of a meeting of the **Area North Committee** held at the **Council Chamber, Council Offices, Brympton Way, Yeovil BA20 2HT on Wednesday 22 October 2014.**

(2.00pm - 5.40 pm)

Present:

Members: Councillor Shane Pledger (Chairman)

Graham Middleton	Jo Roundell Greene
Roy Mills	Sylvia Seal
Terry Mounter	Sue Steele
David Norris	Paul Thompson
Patrick Palmer	

Officers:

Charlotte Jones	Area Development Manager (North)
Lisa Davis	Community Office Support Manager
Roger Meecham	Engineer
John Millar	Planning Officer
Adrian Noon	Area Lead (North/East)
David Norris	Development Manager
Angela Watson	Legal Services Manager
Nick Whitsun-Jones	Principal Legal Executive
Becky Sanders	Democratic Services Officer

NB: Where an executive or key decision is made, a reason will be noted immediately beneath the Committee's resolution.

92. Minutes (Agenda Item 1)

Councillor Terry Mounter requested an amendment to minute 72, Declarations of Interest, to indicate that he had declared a personal interest for agenda item 10.

Members were content that the minutes of the meeting held on 24 September 2014, copies of which had been circulated, be approved and signed by the Chairman as a correct record, subject to the amendment being made to minute 72.

93. Apologies for absence (Agenda Item 2)

Apologies for absence were received from Councillors Pauline Clarke, Barry Walker and Derek Yeomans.

94. Declarations of Interest (Agenda Item 3)

There were no declarations of interest.

95. Date of next meeting (Agenda Item 4)

Members noted that the next meeting of Area North Committee was scheduled for 2.00pm on Wednesday 26 November 2014 (venue to be advised).

96. Public question time (Agenda Item 5)

Mrs M Chambers addressed members and read out a statement about drainage in Somerton, raising a number of concerns about the drainage infrastructure system, availability of maps of drainage systems, and disappointment about the new gully cleaning schedules.

In response to the statement made, Councillor David Norris commended the work by Mrs Chambers and the Flood Action Group in Somerton.

97. Chairman's announcements (Agenda Item 6)

There were no Chairman's announcements.

98. Reports from members (Agenda Item 7)

Councillor Sue Steele noted there was a new PCSO covering Islemoor.

Councillor Patrick Palmer noted a meeting had recently taken place in Long Load regarding a bund in the Long Load Bridge area. He had great hopes that something positive would come out of the meeting.

Councillor Sylvia Seal reminded members that the Gold Star Awards were taking place at the Octagon Theatre on 28 October. She also highlighted that the new Ranger Centre at Yeovil Country Park would be opening shortly and the café was open now.

99. Presentation by South Somerset Association for Voluntary and Community Action (SSVCA) (Agenda Item 8)

Sam Best, SSVCA Chief Executive officer introduced herself and explained the work of the organisation. Her comprehensive presentation included information about:

- The aims, background and structure of the SSVCA
- Community transport
- Furnicare
- Voluntary Sector Support
- Somerset Emergency Volunteers
- Achievements over the past year
- Plans for 2014 and beyond

During discussion, Ms Best responded to comments raised by members. Members congratulated the SSVCA on the work done, and continuing to be done regarding the

flooding last winter. It was also commented that SSVCA and Ms Best were to be congratulated on the work achieved over the past 5 to 10 years as funding had continuously been cut.

Members thanked Ms Best for providing her informative presentation and for all the work done by volunteers.

RESOLVED: That the report and presentation be noted.

100. Community Offices Update (Agenda Item 9)

The Community Office Support Manager presented the report as detailed in the agenda. She highlighted there had been a reduction in opening hours at all offices and more customers were now using the internet and telephone to access services. It was noted that although there had been a reduction in footfall, more time was being spent with customers, especially the vulnerable.

During a brief discussion members expressed concern about whether the lack of a public computer in the Langport Office was an issue. In response the Area Development Manager commented that an outcome of discussions with the housing team had indicated that a public computer might be beneficial and this would be investigated.

The Chairman thanked the officer for her report.

RESOLVED: That the report be noted.

101. Flooding, Drainage and Civil Contingencies (Agenda Item 10)

The Engineer presented his report as detailed in the agenda. He addressed some of the comments made during public question time and informed members that a meeting was taking place the following day with the Somerton Flood Action Group.

He highlighted it was important that members noted appendix A which explained the responsibilities and roles of different organisations involved with flooding and drainage.

(the meeting was suspended at this point for 15 minutes due to a fire alarm)

At the end of the discussion, a member thanked the Engineer for his easy to understand report and commented it would be useful for members to receive a presentation from Somerset County Council regarding its role as the lead Local Flood Authority. It was agreed this would be added to the Forward Plan.

Councillor Patrick Palmer, gave a short presentation to thank the Engineer for his 48 years of service as an officer of the council and to wish him a happy retirement.

RESOLVED: That the report and presentation be noted.

102. Area North Committee Forward Plan (Agenda Item 11)

The Area Development Manager updated members that the following items would be added to the Forward Plan:

- as agreed at item 10, a presentation from Somerset County Council about roles and responsibilities regarding flooding and land drainage
- presentation from the Levels and Moors Local Action Group

RESOLVED: That the Area North Forward Plan be noted including the addition of the following items:

- as agreed at item 10, a presentation from Somerset County Council about roles and responsibilities regarding flooding and land drainage
 - presentation from the Levels and Moors Local Action Group
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103. Planning Appeals (Agenda Item 12)

Members noted the report that detailed recent planning appeals that have been lodged, dismissed or allowed.

RESOLVED: That the report be noted.

104. Schedule of Planning Applications to be Determined By Committee (Agenda Item 13)

Members noted the schedule of planning applications to be determined at the meeting.

105. Planning Application 14/03835/FUL - Land at Ganges Hill, Fivehead (Agenda Item 14)

Application proposal: The erection of a dwelling.

The Planning Officer presented the application as detailed in the agenda. He advised that since writing his report, an additional letter of support had been received which mentioned the site had deteriorated over the years and the supporter looked forward to the site being developed. The officer recommendation was to approve the application.

Ward member, Councillor Sue Steele, agreed that the site needed tidying up and noted there were restrictions on the highway. She felt the proposal would make a good family home.

In response to a query raised about the conifers along the boundary, the Planning Officer commented there was legislation if the conifers grew too large and became a nuisance, but there was nothing that could be conditioned in planning terms.

It was proposed and seconded to approve the application as per the officer recommendation, and on being put to the vote, was carried unanimously.

RESOLVED: That planning application 14/03835/FUL be APPROVED as per the officer recommendation.

Justification

01. The proposed development is considered to be acceptable, by reason of its design, scale and materials, and has no adverse impact the character and appearance of the locality, the setting of local heritage assets and highway safety and causes no unacceptable harm to residential amenity in accordance with the aims and objectives of saved policies ST3, ST5, ST6 and EH5 of the South Somerset Local Plan and the provisions of chapters 4, 6, 7 and 12 and the core planning principles of the National Planning Policy Framework.

Subject to the following:

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved plans: '1013-02' and '1013-03', received 19th August 2014 and '1013-01 A', received 22nd August 2014.

Reason: For the avoidance of doubt as to the development authorised and in the interests of proper planning.

03. The particulars of materials to be used for the external surfaces of the development hereby permitted shall match those indicated on the approved plans and as listed within the submitted application form.

Reason: In the interests of visual amenity, in accordance with saved policies ST5, ST6 and EH5 of the South Somerset Local Plan 2006 and the provisions of chapters 7 and 12 of the National Planning Policy Framework.

04. The proposed access over at least the first 5.0m 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, as shown on the approved plan, drawing no. '1013-03'. Such approved works shall be provided and constructed before the dwelling hereby permitted is first occupied and thereafter retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with policy 49 of the Somerset and Exmoor National Joint Structure Plan and saved policy ST5 of the South Somerset Local Plan.

05. The area allocated for parking and turning on the approved plan, drawing no. '1013-03', shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety, in accordance with policy 49 of the Somerset and Exmoor National Joint Structure Plan and saved policy ST5 of the South Somerset Local Plan.

06. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway in accordance with details, as shown on the approved plan, drawing no. '1013-03'. Such approved drainage details shall be completed and become fully operational before the dwelling hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with policy 49 of the Somerset and Exmoor National Joint Structure Plan and saved policy ST5 of the South Somerset Local Plan.

(Voting: Unanimous)

106. Planning Application 14/03432/FUL - Land at Buttle Close, Shepton Beauchamp (Agenda Item 15)

Application proposal: Erection of a detached dwelling and garage.

The Planning Officer presented the application as detailed in the agenda. He provided members with several updates including:

- On page 41 of the agenda, under principle of development, reference had been made to a separate application 14/03436/DPO. He confirmed that since the agenda had been published, that application had been approved.
- On page 42 of the agenda, under residential amenity, reference had been made to the height of the proposed garage, he clarified that the report should have read 2m to eaves and 3.35m to ridge height.
- Since the agenda had been published, a comment from the Council's Drainage Engineer had been received in respect of flood risk. He had advised there was no particular flood risk issue. However Environment Agency mapping indicated some potential surface water flood risk locally and so he suggested to be free of risk that finished floor levels were raised by 150mm.

The Planning Officer noted that if members were minded to approve the application and were in agreement with the Engineer's suggestion, with the resulting increase in floor height and ridge height, that the changes were considered to be minor enough to be addressed by condition. He therefore suggested that condition 4 be amended to require the agreement of finished floor levels in writing rather than as the approved plans.

The officer recommendation was for approval, however some changes to conditions were suggested. Firstly the amendment to condition 4 as mentioned and it was also considered appropriate to:

- Remove reference to construction operation hours in condition 6 as it specifically controlled by condition 7.
- Addition of a further two conditions to require agreement of boundary details and also removal of Permitted Development Rights for extensions and outbuildings.

Ms R Lee, spoke in objection to the proposal and noted the garage would be very close to the neighbouring bungalows, would loom over the bungalow gardens and block out light. She raised concerns about construction traffic and drainage. She felt the development was unnecessary and would detract enormously from the bungalows.

Ms F Rowswell, applicant, commented that the proposal would finish the site off and fitted in with current development policy. She noted no windows would directly overlook the neighbouring bungalows, and the height of the dwelling was limited by design with the dormer windows. Parking along the drive would continue to be allowed.

Ward member, Councillor Paul Thompson, commented that numbers 5 and 6 Buttle Close would probably be most affected. He noted there was nothing to stop either party putting up a fence, and that construction traffic would not be great as it was a single dwelling. He asked members to support the application.

In response to items raised during the discussion, the Planning Officer and Area Lead clarified:

- The ridge height of the house and distance to the neighbouring bungalows.
- There were guidelines regarding height of buildings, and distances to boundaries and neighbouring properties. In this case the distance varied as the proposed dwelling was offset.
- Eave height of the proposed garage was unlikely to be much higher than the existing boundary fence.
- The proposed garage required permission as part of it would be above 2.5m in height and the building would be within 2m of the boundary, but in effect the highest point would be more than 2 metres away from the boundary.
- It was not felt there was a suitable alternative location for the garage within the plot.

During discussion mixed opinions were expressed by members, some felt there was little reason to refuse the application, while others felt the position of the garage would affect amenity of neighbours, and there were other options for siting of the garage or lowering the height.

The Area Lead advised, that if members were minded, the application could be refused on amenity value, or it could be deferred for further negotiation with the applicant regarding repositioning of the garage.

It was first proposed and seconded to approve the officer recommendation with the changes to conditions as suggested. On being put to the vote, the voting was 5 in favour and 5 against, the Chairman used his casting vote against the proposal and therefore the proposal was lost.

It was then proposed to defer the application to renegotiate with the applicant about repositioning the garage, and on being put to the vote was carried 9 in favour and 1 against.

RESOLVED: That planning application 12/03432/FUL be DEFERRED to renegotiate with the applicant about repositioning of the garage.

(Voting: 9 in favour, 1 against, 0 abstentions)

107. Planning Application 12/00951/FUL - Lopen Head Nursery, Lopenhead, South Petherton (Agenda Item 16)

Application proposal: Erection of a building for B1, B2 and B8 uses with associated infrastructure, parking and landscaping.

The Area Lead introduced the application and reminded members of the site and the history. He referred members to the Google Earth display before them, which was a little out of date but illustrated the site location. He advised that since writing his report, he had a number of updates to the report including:

- further letters had been received:
 - Three from local residents raising concerns about landscaping and visual impact generally, feeling that the Landscape Officer had shifted position, concern about non-compliance with planting at the site in general and reference that the proposal represents over provision of employment land in Lopen.
 - Another letter and email had been received from the lawyer engaged by an objector raising a number of issues.

He summarised the content of the e-mail and 12 page letter received from the lawyer (James Smith) for an objector, (the letter having been previously circulated to members). The Area Lead responded to some of the points contained within these communications including:

- Complaint had been made that specific commercial information relating to the business of the applicant and used to inform the EIA screening decision was not in the public domain. The Area Lead explained the reasons for such confidentiality but advised that SSDC would respond to the request for disclosure of this information by dealing with it as an environmental information request.
- SSDC was confident that its' latest (and fourth) screening opinion (based on both the applicant's and an objector's disclosed information) was sound, and maintained its' stance that an EIA was not required. What was proposed was not an integrated chemical installation for the purposes of EIA. Neither was the landscape impact (whether considered individually, or cumulatively with other site development) so significant that a formal EIA was necessary to deal with it.
- Some issues raised in the letter included:
 - Concern that all emerging policies of the draft Local Plan had not been mentioned in the report to Committee
 - Allegations that a flawed framework led approach had been taken.
 - Some elements relating to save policies had been omitted from the officer report.

- Claimed that development at this site was not of small scale.
- Disputed that it was a sustainable location – his client’s view was that it clearly was not and the officer report did not clearly say it was. Concerned that emerging policies of the Local Plan were not mentioned in the officer report.
- Concluded that the proposal would have a significant negative visual impact on the landscape
- Claimed that the LPA had failed to fully assess noise and light pollution

In response to some of the points raised in the lawyer’s letter, the Area Lead noted that:

- The Area Lead clarified that it was the LPA’s opinion it was considered to be a sustainable site in the context of this application
- A large building in a prominent position did not mean it was automatically unacceptable.
- It was not considered there had been a change in circumstances since the application was last considered.
- The Secretary of State was aware of the situation with the application and had been contacted about the screening opinion.
- Environmental Health had not raised any objection regarding noise and light pollution. He had visited the site at night and the street lighting at the nearby roundabout was more prominent than lighting at the application site.

The Area Lead read out comments and advice received by SSDC’s Counsel in response to the 12 page letter from an objector’s lawyer, as follows:

- Emerging policy: this did not form part of the development plan. Even if relevant, it was a matter for the Council (‘SSDC’) as to how much weight it gives it as a material consideration for section 38(6) purposes (that is, the Area Lead further commented, the starting point needs to be the consideration of the Local Plan).
- The NPPF: this was a material consideration for section 38(6) purposes. There was more to it than paragraph 28. It must be read as a whole. The weight to be afforded to it and its policies was a matter for SSDC.
- Section 38(6): the officer report was not “NPPF led”. It clearly set out section 38(6) first in the Policy section, and it clearly detailed the saved Local Plan 2006 policies before identifying Chapters of the NPPF and the national Planning Policy Guidance. The Justification section reached a clear conclusion in accordance with the development plan taken as a whole, before reference to the NPPF.
- Members were advised that they should of course apply section 38(6), appreciating that the development plan is the starting point and that the scales did not start off in even balance.
- The High Court judgment (*R (on the application of Sienkiewicz) v South Somerset District Council (2013)*) did not fix for all time the issue as to whether the proposed development was in accordance with the development plan, since the weight to be afforded to policies within it (such as Policy ME4) may change with the passage of time or because of some other material consideration (e.g. consistency with the NPPF). It was common for relevant development plan policies to pull in different directions with respect to planning applications. SSDC had to make a judgment as to whether the proposal was in accordance with the development plan taken as a whole. Officers judged that it was. Moreover, officers judged that the NPPF (an important material consideration) indicated that planning permission should be granted in any event.

- Sustainability: there were three dimensions to sustainable development: economic, social and environmental. Officers had considered all three in the round. They considered, having regard to all three dimensions, that the proposal represented sustainable development. The judgment as to the sustainability of the proposal having regard to all three dimensions was a matter for SSDC as decision-taker.
- Landscape and visual impact/residential amenity: there is a difference of opinion between SSDC officers and objectors with respect to the landscape and visual impact of the proposed development. That does not disclose an error of law on the part of SSDC. There is no obligation to undertake a full Landscape and Visual Impact Appraisal of the scheme. By the same token, the objections as to residential amenity do not disclose an error of law on the part of SSDC either.
- Building B: officers did not consider that Building B on the allocated site provided a basis for refusing this application.
- Environmental Impact Assessment: SSDC concluded prior to the High Court proceedings that the application did not amount to EIA development. The Secretary of State agreed (twice). The Court rejected the challenge on this issue. SSDC had comprehensively reconsidered the issue afresh. It had considered the proposal in isolation and cumulatively. Officers remained of the view that the proposal did not represent EIA development.
- Personal condition: the first permission was challenged by reason of the personal condition attached to it. The Court upheld that challenge and quashed the permission. In a judgment handed down as recently as 14 October 2014, it records at paragraph 62 a submission by Leading Counsel (Gregory Jones QC), for the objector, citing the High Court judgment in this very case, that paragraph 93 of Circular 11/95 advised that local planning authorities should not grant personal permission to companies. The Area Lead then said that there was a reference then to a High Court case: *R (Lady Hart of Chilton) v. Babergh DC (2014)*. Members were referred to the entirety of paragraphs 93-95 of Circular 11/95, including paragraph 95 on personal occupancy conditions.

The Area Lead said that he had those pages with him if members needed clarification on that, but it was quite clear from Circular 11/95 that to seek to make a permission personal to a company was flawed and that was the reason the permission was quashed.

The Area Lead apologised for the length of the updates but noted it was important to go through all the issues and to address concerns raised so that members had all the information in order to make a decision.

The Principal Legal Executive, clarified that the comments and advice just read out were from the barrister who had represented SSDC at the Judicial Review when the previous permission was quashed. The barrister had seen the objector's solicitor's letter, gone through it and what the Area Lead had read out was the barrister's response to the points made by that solicitor, including the legal issues. The *Lady Hart* case mentioned was a case heard on 14 October 2014 (very recently, in the last couple of weeks) and indicated that a personal condition should not be used; which was the point being taken against SSDC when the objector challenged SSDC in the High Court last December. So for the complaint to now be made that SSDC was not now proposing a personal condition was invalid, when the High Court had clearly indicated that, as the Circular on conditions clearly says, such conditions were inappropriate.

The Area Lead then presented the application as shown in the agenda, during which he highlighted it would be prudent to add the plans for the floor layout to the condition

detailing the approved plans. He explained that the existing line of conifer trees were recommended to be removed and be replaced with more appropriate species as the conifers were not in good condition. The presentation included photographs from an objector's landscape and visual impact assessment.

Moving on to the key consideration, the principle of development, the Area Lead said that it was accepted that the site was outside of the existing allocation and outside any identified settlement in the saved Plan. However, it adjoined the allocated site and was a former horticultural site, and it was not considered to be objectionable in principle, subject to considerations as to scale and whether the other points as listed, were on balance acceptable.

In terms of sustainability it allowed for the expansion of an existing employment site and an existing user on that site, providing rural jobs for people who live in the countryside. In terms of justification for the sustainability decision recommended to members, the applicant had provided clear evidence as to their on-going business plan, why they need the additional works space. The applicant was a local company who had started in Stoke sub Hamdon and had moved to this site with a history of operating outside major settlements. No fundamental sustainability issues were seen that would prevent them continuing to do so on their new site.

In terms of justification the applicant had supplied all the evidence that SSDC could reasonably ask for to demonstrate that this was not a speculative application and was to meet the applicant's needs. It was not seen that, on the basis of consideration of those other issues, that a personal condition or any kind of personal limitation was necessary to make the development acceptable in planning terms because, going on to consider the landscape and visual issues, an objector's point that the development was fundamentally objectionable was not accepted. SSDC's landscape architect had looked at it in great detail. The site was already there and it had been accepted that it could be developed, permissions had been granted with conditions for landscaping. While the concerns that these landscaping conditions may not have been fully complied with, no evidence of that had been seen in relation to the Probiotic's site. The planning officer was more than happy to check the position with regard to the Lift West site to see if there are outstanding issues, but the mere fact that someone might not comply with their conditions was not a sufficient reason in its own right to withhold permission. It was SSDC's view that the landscaping and visual impact of the proposed scheme could be acceptably mitigated, a landscaping plan had been seen and SSDC's landscape architect was satisfied that it would do so.

In terms of highways and parking, the Area Lead referred to the photograph of the entrance and commented that it was a perfectly acceptable entrance to accommodate the development. There was adequate parking provided.

In terms of drainage, there were local misgivings about the consideration of the drainage plans. These had been looked at by SSDC's Engineers and the Environment Agency and they had raised no concerns. The Area Lead had confirmed on site with the applicant that their conditions on the other buildings had been complied with. The advice received from technical consultees was that the proposed drainage arrangements were acceptable

The Area Lead referred to the previous decision and explained that members needed to be satisfied as to whether there had been any material changes in circumstance that justified a full reconsideration of this application and potentially a different decision. He referred to his lengthy report (and to his appended earlier officer's report by way of

background) and said that it considered this in terms of all those points and there had been no fundamental changes in circumstance. The Area Lead did not believe a personal condition was necessary to make the application acceptable. He did not believe that there was a justification to withhold planning permission. The officer recommendation was for approval subject to the change to condition 12 to include floor plans (ground floor plan 004B and first floor plans 005A).

The Principal Legal Executive referred to what he had said earlier in the meeting and clarified to members the advice in Circular 11/95 (as referred to by SSDC's barrister and the Area Lead) as to why personal conditions should not be used in the context of companies (as in the situation with this applicant), namely, the problems that could ensue if a company's shares were transferred. He gave an example of this situation. He also reminded members that copies of the relevant paragraphs of the Circular could be handed round to members if they wanted to view them and reminded them that SSDC's barrister had specifically drawn their attention to these paragraphs, although the Area Lead had already summarised the advice anyway.

Ms K McDonald, spoke as representative for Lopen Parish Council and in objection to the application, and noted it was not merely a handful of individuals that have problems with the site – as a community, they really could not have sent a stronger clearer message. It was felt the community had been frozen out and no attempt had been made to engage with them. No mitigation measures requested by the parish council had been granted. She noted the parish were not against development but were against inappropriate development. She commented it was thought the instigation of legal proceedings would have spurred the local authority to engage in trying to resolve issues. In their opinion Lopenhead was not justifiable.

Mrs T Sienkiewicz, objector, noted that she had prepared something to say but had not seen the legal advice read out by the officer. She claimed the Council had not been upfront about disclosing information. Rural development should be small scale and reference was made to the settlement hierarchy, and this proposal being against just about every saved policy. She did not understand why officers were still advising as they were, and felt the proposal failed the sustainability test. She did not agree that the conifers should be removed, and did not agree with the landscape officer comments.

Mr A Whitehouse, spoke in support of the application as the landowner. He made reference to the Lift West business at the site and noted that many employees were local. He noted he had heard the village comments for years and had tried to engage with the parish council to no avail. He commented he was a member of Into Somerset and wanted to see new jobs.

Mr M Frost, agent, noted the application had been first submitted in March 2012, approved, but then quashed solely due to the personal condition. The contribution to the local economy was not what it could have been if the proposal had been built. He made reference to the Local Plan being out of date, the NPPF, and the elements of the legal challenge that had failed. He noted the design of the building was inappropriate to any other business and there were no objections from technical consultees. He hoped members continued to support the business and approve the application.

Ward member, Councillor Paul Thompson, comments included that Probiotics could be considered a market leading business, and for their processes and customers there was a need for a separate building. There had been no representations about flooding since the wider site had been developed. He agreed it would be nice to keep the conifers but they were not in a state as to be worth keeping. He struggled to see the impact of the

proposal on Lopen. With reference to the legal challenge he commented that in effect members were only considering the personal condition. He could see no reason to refuse the application and hoped it would be supported.

The Principal Legal Executive referred to what had just been said and reminded members that they must be under no illusion that their decision was a re-determination of the application and it was not just limited to looking at condition 08 (the personal condition). Members must consider all matters afresh again as outlined in the officer's report and as amplified by the Area Lead. He asked members to have a completely open mind in reaching their decision.

The Area Lead was asked by the Chair if he had any comments to make on anything that the objectors, or anyone else, had said so far. He indicated that his only point was going to be exactly what the Principal Legal Executive had just said, that this was a re-determination of the application and that members must consider all aspects of it.

During a short discussion comments raised by members included:

- Agree with officer
- Feel objectors comments are over-stated and exaggerated
- Have read everything, listened carefully – feel no option but to approve
- Fully support, have followed site all way through since the first application
- Well respected business
- Perhaps conifers could be retained and trimmed until new planting matured
- Feel would be foolish not to approve
- Might be preferable for mature planting rather than saplings
- Disappointing that community and businesses cannot come together
- Site will be better cleaned up.

At the conclusion of discussion it was proposed and seconded to approve the application, as per the officer recommendation and subject to condition 12 being amended to include the floor plans. On being put to the vote, the proposal was carried unanimously in favour

RESOLVED: That planning application 12/00951/FUL be APPROVED, as per the officer recommendation, subject to an amendment to condition 12 to include floor plans.

Justification

Notwithstanding local concerns, and in light of reasonable mitigation measures in the form of landscape planting and the external treatment of the building, the benefits of the proposed development in terms of employment opportunities and the contribution to the rural economy stemming from the expansion of an established business on its existing site, would outweigh any visual or landscape impacts. The scheme, for which a reasonable justification has been made, will provide a satisfactory means of vehicular access and adequate drainage without detriment to ecology, residential amenity or water quality. As such the scheme accords with saved policies ST5, ST6, EC3, EP1, EU4, EC8, TP2 of the South Somerset Local Plan. It is in accordance with the Development Plan taken as a whole, notwithstanding policy ME4, and

the policies contained within the NPPF.

Conditions

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Once approved such details shall be implemented as part of the development hereby approved and not subsequently altered without the written agreement of the local planning authority

Reason: To protect the amenity of the area to accord with saved policy ST5 of the South Somerset Local Plan 2006.

03. No development hereby permitted shall be commenced until such time as the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority (LPA):

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

action.

Thereafter the development shall be carried in accordance with the agreed measures unless the local planning authority agrees to any variation in writing.

Reason: To safeguard the water environment in accordance with saved policies EP1 and EU4 of the South Somerset Local Plan 2006.

04. Prior to the commencement of the development, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Such Travel Plan should include soft and hard measures to promote sustainable travel as well as targets and safeguards by which to measure the success of the plan. There should be a timetable for implementation of the measures and for the monitoring of travel habits. The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should continue to be implemented as long as any part of the development is occupied.

Reason: In the interests of sustainable development in accordance with saved policy TP2 of the South Somerset Local Plan 2006.

05. The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety in accordance with saved policy ST5 of the South Somerset Local Plan 2006.

06. No means of external lighting shall be installed on the building or within the rest of the application site without the prior written approval of the Local Planning Authority. Details of any external lighting to be submitted shall include the hours of operation of such lighting. Any approved external lighting subsequently installed shall not be changed or altered without the written consent of the Local Planning Authority.

Reason: To protect the visual amenity of the area in accordance with Policy ST5 and ST6 of the South Somerset Local Plan.

07. The development hereby permitted shall not commence unless a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include construction operation hours, construction delivery hours, car parking for contractors and specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice. Once approved the development shall be carried out in accordance with the approved

Construction Management Plan.

Reason: To safeguard the amenities of the locality in accordance with accord with Policy EP6 of the South Somerset Local Plan.

08. No development hereby approved shall be commenced until surface water drainage details, including calculations, have been submitted to and approved in writing by the local planning authority. Such details shall incorporate sustainable drainage techniques where appropriate and shall include measures to prevent surface water from private properties draining onto the public highway. Once approved such details shall be fully implemented prior to the occupation of the unit and shall be maintained in good working order at all times thereafter.

Reason: To ensure that the development is adequately drained in accordance with saved policy EU4 of the South Somerset local Plan.

09. No development hereby approved shall be commenced out until foul water drainage details have been submitted to and approved in writing by the local planning authority. Once approved such details shall be fully implemented prior to the occupation of the unit and shall be maintained in good working order at all times thereafter.

Reason: To ensure that the development is adequately drained in accordance with saved policy EU4 of the South Somerset local Plan

10. All planting, seeding or turfing comprised in the landscaping hereby approved, as shown on drawing 479/01 P1, shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity in accordance with saved policy ST5 of the South Somerset Local Plan.

11. No development hereby approved shall be carried out until such time as details of the proposed levels across the site, including internal floor levels, have been submitted to and agreed in writing by the local planning authority. Once approved such details shall be fully implemented unless agreed otherwise in writing by the local planning authority.

Reason: In the interests of visual amenity in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

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

479/01 P1 - Landscape plan

3030/PL-007 - Elevations.

3030/PL-006 - Roof Plan

3030/PL-003 - Site Plan

3030/PL-004 B – Floor Plan

3030/PL-005 A – Floor Plan

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

13. No machinery shall be operated, no process shall be carried out and no deliveries taken or despatched from the site outside the hours of 07.00 - 19.00 Monday to Saturday nor at any time on Sunday, Bank or Public Holidays.

Reason: To protect residential amenity in accordance with Policy ST6 of the South Somerset Local Plan.

Informatives:

01. You are reminded that there should be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses or via soakaways/ditches. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings should be passed through trapped gullies with an overall capacity compatible with the site being drained
02. Any oil or chemical storage facilities should be sited in bunded areas. The capacity of the bund should be at least 10% greater than the capacity of the storage tank or, if more than one tank is involved, the capacity of the largest tank within the bunded area. Hydraulically inter-linked tanks should be regarded as a single tank. There should be no working connections outside the bunded area.
03. You are reminded of the findings and recommendations of the Protected Species Survey submitted in support of the application which should be adhered to at all times to ensure compliance with the relevant legislation.

(Voting: Unanimous in favour)

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Chairman