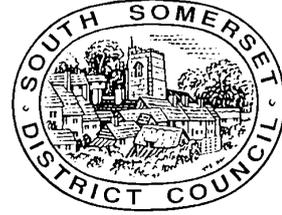


South Somerset District Council

Notice of Meeting



Area South Committee

Making a difference where it counts

Wednesday 4th January 2017

3.30 pm

**Council Chamber, Council Offices,
Brympton Way, Yeovil BA20 2HT**

(Disabled access and a hearing loop are available at this meeting venue)



The following members are requested to attend this meeting:

Cathy Bakewell
John Clark
Gye Dibben
John Field
Nigel Gage
Peter Gubbins
Kaysar Hussain

Andy Kendall
Sarah Lindsay
Mike Lock
Tony Lock
Sam McAllister
Graham Oakes
Wes Read

David Recardo
Gina Seaton
Peter Seib
Alan Smith
Rob Stickland

Consideration of planning applications will commence no earlier than 4.30pm.

For further information on the items to be discussed, please contact the Democratic Services Officer on 01935 462011 or democracy@southsomerset.gov.uk

This Agenda was issued on Monday 19 December 2016.

Ian Clarke, Assistant Director (Legal & Corporate Services)

**This information is also available on our website
www.southsomerset.gov.uk and via the mod.gov app**



Information for the Public

The council has a well-established area committee system and through four area committees seeks to strengthen links between the Council and its local communities, allowing planning and other local issues to be decided at a local level (planning recommendations outside council policy are referred to the district wide Regulation Committee).

Decisions made by area committees, which include financial or policy implications are generally classed as executive decisions. Where these financial or policy decisions have a significant impact on council budgets or the local community, agendas will record these decisions as “key decisions”. The council’s Executive Forward Plan can be viewed online for details of executive/key decisions which are scheduled to be taken in the coming months. Non-executive decisions taken by area committees include planning, and other quasi-judicial decisions.

At area committee meetings members of the public are able to:

- attend and make verbal or written representations, except where, for example, personal or confidential matters are being discussed;
- at the area committee chairman’s discretion, members of the public are permitted to speak for up to up to three minutes on agenda items; and
- see agenda reports

Meetings of the Area South Committee are held monthly, usually at 2.00pm, on the first Wednesday of the month at the Council Offices, Brympton Way, Yeovil (unless specified otherwise).

Agendas and minutes of meetings are published on the council’s website
www.southsomerset.gov.uk/councillors-and-democracy/meetings-and-decisions

Agendas and minutes can also be viewed via the mod.gov app (free) available for iPads and Android devices. Search for ‘mod.gov’ in the app store for your device, install, and select ‘South Somerset’ from the list of publishers, then select the committees of interest. A wi-fi signal will be required for a very short time to download an agenda but once downloaded, documents will be viewable offline.

Public participation at committees

Public question time

The period allowed for participation in this session shall not exceed 15 minutes except with the consent of the Chairman of the Committee. Each individual speaker shall be restricted to a total of three minutes.

Planning applications

Consideration of planning applications at this meeting will commence no earlier than the time stated at the front of the agenda and on the planning applications schedule. The public and representatives of parish/town councils will be invited to speak on the individual planning applications at the time they are considered.

Comments should be confined to additional information or issues, which have not been fully covered in the officer’s report. Members of the public are asked to submit any additional documents to the planning officer at least 72 hours in advance and not to present them to the Committee on the day of the meeting. This will give the planning officer the opportunity to respond appropriately. Information from the public should not be tabled at the meeting. It should

also be noted that, in the interests of fairness, the use of presentational aids (e.g. PowerPoint) by the applicant/agent or those making representations will not be permitted. However, the applicant/agent or those making representations are able to ask the planning officer to include photographs/images within the officer's presentation subject to them being received by the officer at least 72 hours prior to the meeting. No more than 5 photographs/images either supporting or against the application to be submitted. The planning officer will also need to be satisfied that the photographs are appropriate in terms of planning grounds.

At the committee chairman's discretion, members of the public are permitted to speak for up to three minutes each and where there are a number of persons wishing to speak they should be encouraged to choose one spokesperson to speak either for the applicant or on behalf of any supporters or objectors to the application. The total period allowed for such participation on each application shall not normally exceed 15 minutes.

The order of speaking on planning items will be:

- Town or Parish Council Spokesperson
- Objectors
- Supporters
- Applicant and/or Agent
- District Council Ward Member

If a member of the public wishes to speak they must inform the committee administrator before the meeting begins of their name and whether they have supporting comments or objections and who they are representing. This must be done by completing one of the public participation slips available at the meeting.

In exceptional circumstances, the Chairman of the Committee shall have discretion to vary the procedure set out to ensure fairness to all sides.

Recording and photography at council meetings

Recording of council meetings is permitted, however anyone wishing to do so should let the Chairperson of the meeting know prior to the start of the meeting. The recording should be overt and clearly visible to anyone at the meeting, but non-disruptive. If someone is recording the meeting, the Chairman will make an announcement at the beginning of the meeting.

Any member of the public has the right not to be recorded. If anyone making public representation does not wish to be recorded they must let the Chairperson know.

The full 'Policy on Audio/Visual Recording and Photography at Council Meetings' can be viewed online at:

<http://modgov.southsomerset.gov.uk/documents/s3327/Policy%20on%20the%20recording%20of%20council%20meetings.pdf>

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Area South Committee

Wednesday 4 January 2017

Agenda

Preliminary Items

- 1. Minutes of previous meeting**
- 2. Apologies for absence**
- 3. Declarations of Interest**

In accordance with the Council's current Code of Conduct (as amended 26 February 2015), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting.

Members are reminded that they need to declare the fact that they are also a member of a County, Town or Parish Council as a Personal Interest. Where you are also a member of Somerset County Council and/or a Town or Parish Council within South Somerset you must declare a prejudicial interest in any business on the agenda where there is a financial benefit or gain or advantage to Somerset County Council and/or a Town or Parish Council which would be at the cost or to the financial disadvantage of South Somerset District Council.

Planning Applications Referred to the District Council's Regulation Committee

The following members of this Committee are also members of the Council's Regulation Committee:

Councillors Peter Gubbins, Graham Oakes, David Recardo and Gina Seaton.

Where planning applications are referred by this Committee to the Regulation Committee for determination, Members of the Regulation Committee can participate and vote on these items at the Area Committee and at Regulation Committee. In these cases the Council's decision-making process is not complete until the application is determined by the Regulation Committee. Members of the Regulation Committee retain an open mind and will not finalise their position until the Regulation Committee. They will also consider the matter at Regulation Committee as Members of that Committee and not as representatives of the Area Committee.

- 4. Public question time**
- 5. Chairman's announcements**
- 6. Reports from representatives on outside organisations**

This is an opportunity for Members who represent the Council on outside organisations to report items of interest to the Committee.

Items for discussion

7. **Somerset County Council Highways - Lyde Road/Sherborne Road Improvement Scheme** (Page 6)
8. **Area South Forward Plan** (Pages 7 - 8)
9. **Planning Appeals (For information only)** (Pages 9 - 21)
10. **Schedule of Planning Applications to be Determined by Committee** (Pages 22 - 23)
11. **Planning Application 16/03944/FUL - Tyndale Nursing Home 36 Preston Road Yeovil** (Pages 24 - 34)
12. **Exclusion of the Press and Public** (Page 35)
13. **Potential Acquisition of a property by Portreeves or Corporation Almshouses (Confidential)** (Pages 36 - 40)

Please note that the decisions taken by Area Committees may be called in for scrutiny by the Council's Scrutiny Committee prior to implementation.

This does not apply to decisions taken on planning applications.

Agenda Item 7

Somerset County Council Highways – Lyde Road/Sherborne Road Improvement Scheme

Assistant Director: Helen Rutter, Communities
Service Manager: Natalie Fortt, Area Development Lead (South)
Contact Details: Helen.rutter@southsomerset.gov.uk or 01963 435012

Alyn Jones, Interim Director Economic & Community Infrastructure & Operations Director, and Phil Lowndes, Strategic Manager for Traffic & Transport Development from Somerset County Council will be attending Area South Committee. They will update members on this scheme, which is due to commence on 9th January 2017 and will answer questions on the traffic issues relating to the Lyde Road junction improvements and related Eastern Corridor in Yeovil.

Agenda Item 8

Area South Committee Forward Plan

Assistant Director: Helen Rutter, Communities
Service Manager: Natalie Fortt, Area Development Lead - South
Agenda Co-ordinator: Jo Boucher, Democratic Services Officer
Contact Details: jo.boucher@southsomerset.gov.uk or (01935) 462011

Purpose of the Report

This report informs Members of the agreed Area South Forward Plan.

Recommendations

Members are asked to:-

1. Comment upon and note the proposed Area South Forward Plan as attached at Appendix A.
2. Identify priorities for further reports to be added to the Area South Forward Plan, developed by the SSDC lead officers

Area South Committee Forward Plan

The forward plan sets out items and issues to be discussed by the Area Committee over the coming months.

The forward plan will be reviewed and updated each month, by the joint lead officers from SSDC, in consultation with the Area Committee Chairman. It is included each month with the Area Committee agenda, where members of the Area Committee may endorse or request amendments.

Members of the public, councillors, service managers, and partners may request an item is placed within the forward plan for a future meeting, by contacting the Democratic Services Officer.

Background Papers

None

Appendix A

Notes

- (1) Items marked in *italics* are not yet confirmed, due to the attendance of additional representatives.
- (2) For further details on these items, or to suggest / request an agenda item for the Area South Committee, please contact the Democratic Services Officer; Jo Boucher.

Meeting Date	Agenda Item	Background/ Purpose	Lead Officer
1st February 2017	Yeovil Vision & Regeneration Update	Update report on Yeovil Vision and Regeneration	Helen Rutter, Assistant Director, Communities/Natalie Fortt, Area Development Lead -South
	Work of the Conservation Service	Annual report on the work of the Conservation Service.	Adron Duckworth, Conservation Manager
	Historic Buildings at Risk	Confidential report on the Historic Buildings at risk within Area South.	Adron Duckworth, Conservation Manager & Andrew Tucker Conservation Officer
	SSDC Welfare Benefit Work in South Somerset	Annual Update on the Welfare Benefit Work in South Somerset	Catherine Hansford, Welfare Benefits Team Leader
1st March 2017	Westland Leisure Complex, Yeovil	3 monthly update report on the Westland Leisure Complex, Yeovil	Steve Joel, Assistant Director (Health and Well-Being)
	Markets Improvement Strategy	Update Report on the Yeovil Markets	Natalie Fortt, Area Development Lead - South
5th April 2017	Area South Development Team Annual Report	End of year report for Area South Development	Helen Rutter, Assistant Director (Communities)
TBC	Strategic Key Sites within Area South	Section 106 update report on the Strategic Key Sites within Area South	Neil Waddleton, Section 106 Officer
TBC	Western & Eastern Corridor Improvements	Update of the Western & Eastern Corridor Improvements	SCC

Agenda Item 9

Planning Appeals (For information)

Assistant Director: Martin Woods, Assistant Director (Economy)
Lead Officer: Martin Woods, Assistant Director (Economy)
Contact Details: martin.woods@southsomerset.gov.uk or (01935) 462071

Purpose of the Report

To inform members of the appeals that have been lodged, decided upon or withdrawn.

Recommendation

That the report be noted.

Background

The Area Chairmen have asked that a monthly report relating to the number of appeals received, decided upon or withdrawn be submitted to the committee.

Appeals Dismissed

Ward: Coker
Proposal: Appeal against an enforcement notice issued by South Somerset District Council (appeal decision attached)
Appellant: Mr P Richards
Site: Land at Wooden Top Farm, West Coker Hill, West Coker, Yeovil, Somerset BA22 9DG

Financial Implications

None

Implications for Corporate Priorities

None

Other Implications

None

Background Papers: Planning application files



Appeal Decision

Site visit made on 7 November 2016

by **Pete Drew BSc (Hons) DipTP (Dist) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 November 2016

Appeal Ref: APP/R3325/C/16/3152176

Land at Wooden Top Farm, West Coker Hill, West Coker, Yeovil, Somerset BA22 9DG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 [hereinafter "the Act"] as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Paul Richards against an enforcement notice issued by South Somerset District Council.
- The notice was issued on 4 May 2016.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from an agricultural use to a residential use by the siting on the land of six mobile homes used for residential purposes (whose approximate location is shown cross-hatched red on the [plan attached to the notice]).
- The requirements of the notice are: (i) cease the use of the land for the siting and residential occupation of the six mobile homes; and (ii) remove the said mobile homes from the land including in such removal all structures, works and domestic paraphernalia connected with such use.
- The period for compliance with these requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (b), (d) and (f) of the Act. Since no ground (a) appeal has been lodged and the prescribed fees have not been paid within the specified period, the application for planning permission, deemed to have been made under section 177(5) of the Act, does not fall to be considered.

Formal Decision

1. It is directed that the enforcement notice is corrected by the deletion of the words in paragraph 3 of the enforcement notice and their replacement with the words: "*Without planning permission, the change of use of the land from an agricultural use to a mixed use for residential, by the siting on the land of six mobile homes used for residential purposes (whose approximate location is shown cross-hatched red on the plan attached to the notice), and agriculture*". Subject to this correction the appeal is dismissed and the enforcement notice is upheld.

Preliminary matters

2. In advance of the accompanied site visit The Planning Inspectorate [PINS] wrote to the parties to advise that I had previously inspected the site on 31 August 2011 in connection with an appeal [Ref. APP/R3325/X/11/2153001]. As the Council's appeal statement records, at paragraph 2.1 thereof, that appeal related to a prospective Lawful Development Certificate [LDC] under section 192 of the Act for the erection of a circular hay barn. As a matter of record it was also a different Appellant¹. The focus of my inspection in 2011 was on buildings, in particular whether the proposed building was necessary, rather than mobile homes. Accordingly I have absolutely no recollection of

¹ The Appellant's Agent, in advising PINS by email dated 3 November 2016 at 11:40 hours that he has "No objection" to my appointment, tells me the Appellant was Mr Richards' business partner at the time.

whether there were, or were not, mobile homes on the site in August 2011. In the circumstances I see no reason why this should bar me from dealing with this appeal and my view in this matter is confirmed by the fact that neither main party has taken issue with my appointment. I shall instead focus on the submitted evidence that has been put before me.

3. At the accompanied site inspection on 7 November 2016 the Council did not dispute that there was an agricultural use subsisting. This is not reflected in the allegation in the enforcement notice, which alleges a change of use from agriculture to, in short, a residential use. Accordingly the allegation needs to be corrected to refer to the mixed use of the land for agriculture and residential. I am satisfied that this correction can be made without causing injustice to either main party. I should also make clear that the correction that I intend to make is without prejudice to the grounds of appeal examined below.
4. During the course of the site inspection on 7 November 2016 it was stated that the Appellant owns other land to the east and west of that edged red on the plan attached to the notice. In this regard I had already noted the claim in paragraph 1.2 of the Council's statement that a large part of the holding had recently been sold, which was denied in the Appellant's final comments. Whilst I have considered whether it might be appropriate to correct the notice so that the notice plan related to the whole of the land ownership this is not a course of action that I intend to take for a number of reasons. First I do not know the full extent of the land owned. Second it is clear that the Council have identified the residential use to be subsisting within the land edged red on the notice plan. Third there might be injustice to the Appellant if I were to extend the geographical ambit of the notice. For these reasons I intend to deal with this appeal on the basis of notice issued insofar as it relates to the land edged red.
5. The Council's statement identifies, in paragraph 4.6 thereof, a main issue to be whether the units benefit from permitted development rights. However this is pursuant to a ground (c) appeal and no such ground has been lodged. The Appellant is professionally represented and I have no doubt that this ground would have been lodged if it were considered that a case could be made. In the circumstances this is not a matter that I shall deal with in this appeal.

Ground (b)

6. Under the ground (b) appeal the onus of proof falls on the Appellant to show on the balance of probability that the "*breach of control alleged in the enforcement notice has not occurred as a matter of fact*" [as per section E(b) of the appeal form]. However the only material to support this claim is the ground of appeal on the appeal form that says: "*There is not and never has been a mobile home on the site, let alone six*". The appeal statement adds nothing to this ground: "*In the interests of brevity...*". Although the Appellant's final comments assert: "*...that the Authority has noted our ground "b" appeal and dropped reference to mobile homes, as well as the number six*", I do not understand the basis for that claim. The Council's statement, e.g. paragraph 4.2 thereof, continues to refer to the breach as originally alleged in the notice, and whilst elsewhere it refers to "*units*" without reference to quantum that is because paragraph 4.5 says that approach will be adopted by way of shorthand². In the circumstances I entirely reject the Appellant's claim that it is "*agreed*" that the allegation should be corrected in some way, e.g. to refer to a "*caravan site*".

² It says: "...mobile homes/caravans (*hereon termed the units*)..."

7. It is common ground that the Council has issued 2 Planning Contravention Notices [PCNs] in relation to this matter. The written responses appear to have been completed by the Agent who has submitted the grounds of appeal, quoted previously. In the response dated 21 May 2015 the following question is asked: "*4.1 There are five caravans on site; on what basis are they sited?*". The answer given to this question is: "*Currently six – on the basis that this site has continuously been used for the parking of caravans since 1999*" [*my emphasis*]. Although the second limb of the answer refers to parking it is clear from the remaining answers to that PCN that those caravans have been used for residential purposes, whether by volunteers or by the Appellant. The PCN is a formal document and both the Local Planning Authority [LPA] and I am entitled to attach significant weight to the answers given in response to a PCN.
8. It is unclear but in case the claim is being made that the allegation should be to 6 caravans, distinct from mobile homes, it is worth saying that I would not regard the difference to be material because the terms are interchangeable. The Council's statement refers to "*mobile homes/caravans*" and a similar approach is taken in some of the letters that have been submitted on behalf of the Appellant. For example the letter dated 12 July 2017 from DJ Smith³ says: "*...there has been caravans and mobile homes on site since I have been going there...*". A further letter dated 5 April 2016 from Mr Howe says: "*I've seen caravans [and] mobile homes there...*". The Appellant's Agent has also described them as mobile homes in his letter to the Council dated 27 October 2014. The substantive issue is whether those chattels, irrespective of whether they are described as caravans or mobile homes, have been used for residential purposes because the first reason for issue of the notice refers to a period of 10-years. So, fundamentally, I am concerned with the residential use rather than the descriptor of the vessels within which that use has subsisted.
9. At the time of my site inspection on 7 November 2016 there were only 4 such vessels that were sited broadly in the position cross-hatched red on the plan attached to the notice, within the land edged red. However the Appellant's statutory declaration says that the number has fluctuated between one and six and so it is not significant that there were less than 6 mobile homes at the time of my visit. In the light of the aforementioned answer to the PCN, that does not support the ground (b) appeal or cause me to correct the allegation.
10. For the reasons given the Appellant has not discharged the burden of proof to show that the breach of control alleged in the enforcement notice, as I propose to correct it, has not occurred as a matter of fact. To the contrary, the PCN admits that there were 6 caravans that were used for residential purposes and I have explained why the description as mobile homes is not inappropriate. Accordingly the ground (b) appeal must fail on the basis on which it was made.

Ground (d)

11. The Planning Practice Guidance ['the Guidance'] advises that the Applicant is responsible for providing sufficient information to support an application for a LDC, which is the equivalent of ground (d) in an enforcement appeal. It states: "*In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict 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 alone is sufficiently*

³ Presumably this should be 2016.

precise and unambiguous to justify the grant of a certificate on the balance of probability"⁴. This applies equally to an Inspector at appeal stage.

12. Under this ground of appeal the onus of proof falls on the Appellant to show that: "*...at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice*" [as per section E(d) of the appeal form]. The relevant date for this purpose is 10-years before the date of issue of the enforcement notice, i.e. 4 May 2006, hereinafter referred to as '*the material date*'. In order to succeed under this ground of appeal the Appellant needs to show, on the balance of probability, that the use alleged in the notice commenced prior to the material date and continued.
13. I propose to start my analysis with the various statutory declarations that have been submitted by third parties, then turn to consider the Appellant's statutory declaration before dealing with the miscellaneous supporting documentation.

An examination of the statutory declarations of third parties

14. Dealing in turn with each statutory declaration in Appendix 2 to the Appellant's statement, the first is from Mr Chubb who says that there have been caravans parked to the right of the approach to the farm buildings during the period he has visited the farm shop since 2011. He says he "*understood*" that the units are occupied by farm helpers because he has seen them at the farm and his impression is that they are largely from abroad. It follows that Mr Chubb is unable to categorically state that the farm helpers have resided in the caravans but in any event Mr Chubb is unable to give evidence about the period from 2006 to 2011, presumably because he did not visit the farm at that time. In these circumstances I am only able to attach his statutory declaration limited weight. It does not show that the use alleged in the notice commenced prior to the material date and has continued throughout the requisite period.
15. The second statutory declaration is that of Mr Rendell who says that to his certain knowledge there have continuously been several caravans at the farm since at least 2003. There is no elaboration as to how Mr Rendell knows that caravans have been there at all material times but, crucially, because Mr Rendell's statutory declaration is silent as to what the caravans have been used for his statutory declaration is of no assistance in showing that the residential use alleged in the enforcement notice commenced prior to the material date and has continued. Whilst it is evidence caravans have been stationed on the land since before the material date, the term "*several*" is imprecise and so I am only able to attach this aspect of his statutory declaration very limited weight.
16. The third statutory declaration is that of Mr Llewellyn-Woodward who states that he has lived at the farm "*from time to time*". Again this term is imprecise and gives no indication of duration: whether periods of 10 days, 10 months or 10 years. It is therefore wholly unfit for purpose and does not show that the use alleged in the notice commenced prior to the material date and continued.
17. Mr Llewellyn-Woodward continues by stating: "*I can confirm that Paul Richards has for the most part also been living there as have many foreign farm helpers who come and go throughout the year both then and up to and including the present day*" [*my emphasis*]. I deal with the Appellant below but note here that Mr Llewellyn-Woodward casts doubt on whether the Appellant has lived on the farm continuously. The more significant point is that whilst I shall assume

⁴ Source of quote: paragraph ID: 17c-006-20140306.

- that the present day is as at 11 August 2016, being the date the statutory declaration was sworn, which tends to corroborate my ground (b) finding, there is no indication when "*then*" is. This crucial term is ambiguous and means that I am only able to attach limited weight to Mr Llewellyn-Woodward's evidence.
18. The fourth statutory declaration is that of Mr Sawtell who states that he was working on the farm in 2010 and noticed casual workers and up to 3 caravans and that prior to that date he "*was aware of a number of mobile homes in different positions from 2007*". Again, at its highest, this does not show that the use alleged in the notice commenced prior to the material date. Whilst there might be an inference, it also fails to show that any caravans or mobile homes that might have existed were in residential use. For these reasons I am only able to attach limited weight to Mr Sawtell's evidence.
 19. The fifth statutory declaration is that of Mr Roadnight who states that he has lived at the farm: "*...at various periods since 2005*". I acknowledge this date is before the material date but my problem is that the term "*various periods*" is ambiguous and again could be periods of 10 days or 10 months. Moreover there is no elaboration as to where he lived at the farm and whether it was in a mobile home, building or tent. For these reasons it does not show that the use alleged in the notice commenced prior to the material date and has continued.
 20. The Council's final comments draw attention to previous correspondence with the Appellant's Agent with regard to Mr Roadnight and, in particular, whether he resided at the site. Whilst I accept that the response, dated 27 October 2014, does not appear to answer that direct question, I am unconvinced this goes anywhere. To some extent the Council is corroborating the statutory declaration of Mr Roadnight in the sense that it appears to have had complaints about him living on the site. However that correspondence is from 2014 and so it does not significantly advance the Appellant's case under this ground.
 21. Mr Roadnight continues by stating: "*I can confirm that Paul Richards has for the most part also been living there as have many foreign farm helpers who come and go throughout the year*" [*my emphasis*]. I observe that this turn of phrase is exactly the same as that quoted from the statutory declaration of Mr Llewellyn-Woodward and so my earlier comments apply. However in this case the statutory declaration does not elaborate on a period of time and so there is no indication as to when the Appellant might have been living on the farm.
 22. The sixth statutory declaration is that of Mr Bartlett who says that there have been caravans at the farm since 2002. To this extent it is similar to the statutory declaration of Mr Rendell and my earlier comments apply insofar as it is of no assistance in showing that the residential use alleged in the notice commenced prior to the material date and has continued. Whilst it is evidence caravans, plural, have been stationed on the land since before the material date, there is no indication of quantum and so I am only able to attach this aspect of his statutory declaration very limited weight because it is imprecise.
 23. The seventh statutory declaration appears to be from a gentleman called Mr Barnes, but I apologise if I have got that name wrong because it is unclear from the handwriting. This is the first statutory declaration to which I am able to give anything other than limited or very limited weight because it has a degree of precision that contrasts with those that I have reviewed above. It says: "*I can recall Paul Richards moving to Wooden Top Farm in about 2000.*"

He initially lived in a caravan at the farm. The number of caravans increased over the years & by 2005 there were at least 4 caravans...".

24. This is good, unchallenged evidence that the Appellant moved into a caravan on the farm in about the year 2000, before the material date, and initially lived in that caravan. However what is not said is that the Appellant continued to live in a caravan/mobile home from 2000 to the date of issue of the notice. So whilst I am able to attach this statutory declaration significant weight, insofar as it says the Appellant resided in a caravan on the farm in 2000, it does not show that the residential use alleged in the notice continued even up to the material date let alone beyond it. The last sentence is precise in quantifying the number of caravans to be at least 4, but again it does not say what those caravans were used for, whether in 2005 or subsequently. It does not show that the residential use alleged in the notice took place at all after the material date. In the circumstances I attach this aspect of his statutory declaration very limited weight.

An examination of the Appellant's statutory declaration

25. In the context of the above I turn to consider the Appellant's statutory declaration. It says that he rented the property from 1999-2002 and during that time: "*...spent most nights there in a small caravan*". The caravan is identified in the exhibits to the statutory declaration to be a small touring caravan that between 20 November 2001 and 22 February 2002, being the unchallenged dates of the respective photographs, appears to have been stationed adjacent to the southern wall of the largest barn on the site, to the east of the entrance. I have not been provided with the planning history for the period up to 22 February 2002⁵ and so, applying the advice in the Guidance, there is no evidence to contradict or otherwise make the applicant's version of events less than probable for this period. The statutory declaration of Mr Barnes appears to corroborate the Appellant's claim for this period.
26. In reaching this view I have taken account of the Council's final comments insofar as they say there is no planning history for the caravan at issue but that it could have been sited using permitted development rights. I am, of course, aware of part 5 rights and I assume the category at issue would be paragraph 7⁶ of Schedule 1 to the Caravan Sites and Control of Development 1960. However it is by no means clear that this would have permitted use over such a lengthy period between broadly 1999 and 2002 because that is not a particular season⁷. The mere assertion that it might have been permitted development does not clearly contradict the Appellant's version of events. I have also noted the Council's statement that the original farmhouse serving this land was sold off in December 2002, but on the limited information before me it is unclear whether the Appellant ever acquired that dwelling house.
27. If the breach of planning control, comprising residential use of a single touring caravan, took place in 1999, the question is whether that use continued? The Appellant's statutory declaration says that following purchase of the farm in

⁵ The Council's statement sets out the planning history from 2002 but the first planning permission is dated November 2002 and in respect of the position before that it merely says: "*Pre 2002 planning history exists*".

⁶ It permits: the use as a caravan site of agricultural land for the accommodation during a particular season of a person or persons employed in farming operations on land in the same occupation.

⁷ In saying this I have noted the answer to question 4.2 of the second PCN, but even this does not cover the full 12-months, e.g. June, and the Appellant's final comments explain, by reference to judicial authority, why a season is less than a year.

- 2002 he: "...continued living in the caravan pending permission for the eco house" but that it "never materialised". I assume that what did not materialise is the eco home because the Council's statement records that planning permission was granted for an "underground eco dwelling" in December 2002⁸.
28. The Officer's report on application No 06/00918/OUT, at Appendix 3 to the Council's statement, describes the planning history to be "complex" even at that stage and I am dealing with it 10-years later with only selected papers. Accordingly I intend to focus on what has been put before me. That Officer's report sheds relevant light on the planning history. It says the temporary dwelling granted planning permission for 3-years in March 2003 took the form of a log cabin. By reference to section 2.1 of the Council's statement that must be application No 02/03450/FUL, given that the eco home is said to have been permitted earlier and has the prefix 'OUT', which presumably stands for outline.
29. The Officer's report continues by saying that the log cabin: "...has been started but is far from complete regardless of the fact that the applicant stated it could be erected in 2-3days and fitted out in a further 2 weeks. Meanwhile, the applicant appears to be living in a tepee" [*my emphasis*]. The heading to that report confirms that the now Appellant was the applicant. I do not know the precise date of that report but it is plainly after 23 May 2006 and before 13 August 2007⁹. On the balance of probability it is closer to the latter than the former, but both dates are after the material date. The Appellant had an opportunity to rebut this evidence at final comments stage but did not do so. This is clear evidence to contradict the Appellant's version of events, if indeed that is being said, that he continued to live in the touring caravan after 2002. Whatever form it took a tepee is most unlikely to have been either a caravan or a mobile home. I attach this material consideration significant weight.
30. For completeness the Officer's report further records that the log cabin was significantly larger than what had been permitted. The recent appeal decision summarises the subsequent position in respect of this matter in saying the log cabin: "...was constructed but not completed by the end of the permitted temporary period. Subsequent applications were made regarding the condition that required its removal, extension of the permission and construction of a permanent dwelling on site, but these were refused or dismissed at appeal"¹⁰.
31. The subsequent applications in respect of the log cabin are described in terms of being for its retention. It is evident that the building as a structure would have needed to be retained. What is unclear from the information before me is whether the log cabin was ever used for residential purposes, even in its uncompleted state, such that its use was also being retained. Amongst other things I note that reliance was made on the Human Rights Act in respect of that structure, which might suggest it was being lived in¹¹. Whilst I have considered the possibility I conclude, on the balance of probability, that this was not the case. There is no silver bullet to substantiate this point one way or the other, but I anticipate that if the Council was aware that the Appellant had resided in the log cabin for any material period that it would have said so.

⁸ That may or may not be correct because elsewhere [Officer's report on application No 06/00918/OUT] it is said that the 2002 application was refused but it is not necessary for me to resolve that particular discrepancy.

⁹ The date of refusal, taken from the appeal decision [Ref APP/R3325/A/07/2057458].

¹⁰ Source of quote: paragraph 11, appeal Ref APP/R3325/W/15/3005120.

¹¹ Paragraphs 56 and 57, appeal Ref APP/R3325/W/15/3005120.

32. Following through with the planning history with which I am provided the other key document is the 2011 appeal decision [Ref APP/R3325/A/10/2126982, with a linked appeal], which relates to a proposal to station a mobile home. There is nothing in that decision to suggest that the appeal was retrospective and, whilst not a major point, this tends to contradict the Appellant's version of events. The appeal was considered at a 3-day Public Inquiry and in my experience that means that the proposal would have been given a significant level of scrutiny beyond that which one might expect on a written appeal.
33. Moreover the Inspector plainly did a site inspection at which he would have been actively looking for mobile homes or similar structures because that is what he was dealing with. So whilst I acknowledge the Appellant's final comments¹² this appeal contrasts in this respect with others. This is underlined by paragraph 38 of the decision, which says: "*Mobile buildings on site already cater for office space and a well equipped day room, either of which could support occasional overnight stays*". The first point is that a mobile building is not a mobile home. The Inspector clearly knew the difference because he was dealing with a proposal for a mobile home but he chose to describe what he saw in those terms, which strongly suggests there was no mobile home on the site on 9 June 2011. This appears to conflict with the statutory declarations of Mr Rendell and Mr Bartlett, who have suggested caravans have been on the site continuously. I test it against the Appellant's statutory declaration below.
34. Moreover the Inspector describes the primary use of the mobile buildings to be that of an office and day room. That suggests firstly that there were only 2 mobile buildings but also, crucially, that they were in use for materially different purposes on that date. In my view this is significant and contradicts the Appellant's version of events. I also attach this factor significant weight.
35. The Appellant's statutory declaration does not, in unambiguous terms, state that he has continued to reside in a caravan or mobile home on the farm since 1999. In any event there is evidence to contradict any such argument, if it is being made, including: (i) the statutory declarations of Mr Llewellyn-Woodward and Mr Roadnight; (ii) evidence that the Appellant lived in a tepee; and (iii) evidence that mobile features were in use as an office and day room in 2011.
36. I am also troubled by evidence that the Appellant has a number of other accommodation options available to him. In no particular order, paragraph 47 of the 2011 appeal decision states that he owns 2 dwellings: one in Charmouth and one in West Coker. I have little information before me about either, but it would appear that the latter had been owned since at least 2008¹³. The 2011 decision records that the one in West Coker was the subject of a lease at that time, but it is unclear whether that has always been the case. The Inspector observes a property in West Coker is: "*...close enough to allow quick and easy access and in adverse conditions the farm could be accessed on foot*"¹⁴. Allied to this paragraph 38 records: "*The appellant points to the difficulty of access to this site during winter months due to its high and exposed position*". This reinforces my view that the scheme was prospective, not retrospective, as the Appellant would not have made such a claim if he had actually lived on the site.

¹² That draw attention to the 2015 appeal decision, which does not record the existence of any mobile homes.

¹³ On the balance of probability that is what is being referred to in paragraph 16 of appeal Ref. APP/R3325/A/07/2057458.

¹⁴ Source of quote: paragraph 47, appeal Ref. APP/R3325/A/10/2126982.

37. In addition to the above, question 4.14 of the first PCN asks: "*What is the address of your primary residence?*" to which the answer "*Not relevant, but – 91a East St, Bridport*" is given. I appreciate this is some 4-years later, but on the information before me this is possibly a third accommodation option that is open to the Appellant. Moreover if the dwelling in Bridport is the Appellant's "*primary residence*" that suggests it is a property where he normally resides or calls home. I attach this material consideration significant weight. Amongst other things I note that question 4.17 of that PCN asked about the West Coker property and it was not stated that the property was no longer owned by the Appellant. No question was asked about the Charmouth property¹⁵ and so it remains in prospect that the Appellant owns 3 other dwellings. The Agent's letter dated 27 October 2014 also makes reference to him owning a public house and it is unclear whether this too has accommodation. The Appellant's statutory declaration does not deal with these accommodation options beyond saying that the house in Bridport is: "*...too far distant*", but that does not explain why it was said to be his primary residence. No explanation is given in the final comments as to how the respective properties have been used.
38. The Appellant's statutory declaration says: "*These caravans together with motor homes accommodating myself and helpers have fluctuated in number between one and six and have been replaced from time to time...*". I have given reasons for doubting this, including the lack of reference to mobile homes in the 2011 appeal decision and the fact that those mobile buildings that are recorded were being used for materially different uses at that time. Moreover there is no indication as to the duration during which there has been one as opposed six vessels used for residential purposes. As a matter of fact and degree this passage does not therefore show that the use of the land for the siting of 6 mobile homes for residential purposes, which is the identified breach of planning control, has been continuous since the material date.
39. In any event it is unclear from this generic statement the circumstances in which caravans or mobile homes were replaced. Based on the Appellant's own photographic evidence the touring caravan evident in the photographs from 2001 and 2002 is not evident in the same location in the 2006 image. What are said to be a cluster of caravans in the Google images appear to be different and larger than the touring caravan shown in the original photographs and the circumstances in which the touring caravan might have been replaced is unclear. It has not been shown that the caravan occupied by the Appellant, distinct from others used by helpers, has been continuously on site or used, as is evident from evidence that the Appellant lived in a tepee, probably in 2007.
40. I note that the Council suggest that what are claimed to be mobile homes in the 2006 Google image might be: "*...lorries which have also frequented the site over the years*". Noting the items are close together, the position is unclear. It has also been suggested that if they are mobile homes they are merely stored. As the Council observes the reply to one of the questions on the first PCN does talk about: "*...the parking of caravans since 1999*", which might suggest that if there are mobile homes in the 2006 image they were merely parked or stored. This reinforces my concerns about the statutory declarations of Mr Rendell, Mr Bartlett and the Appellant insofar as they refer to caravans being at the farm. However the evidence does not clearly show that any such caravans have been continuously occupied for residential purposes since the material date.

¹⁵ Charmouth is more than 10 miles from the appeal site, so question 4.18 would not apply.

41. The Appellant's statutory declaration says: "*In the same year I installed a septic tank exclusively to dispose of waste from this caravan and others which I had acquired to house helpers year-round who I recruited from abroad in return for their accommodation...*". The location of the septic tank is identified in Exhibit D to the statutory declaration and was pointed out to me during my recent visit. However by reference to the previous paragraph of the statutory declaration "*In the same year*" must be read to be 2002 and yet the invoice for the septic tank is November 2003; this is ambiguous. Moreover this passage fails to identify with any precision what number of caravans were acquired.
42. The Appellant's statutory declaration continues: "*Over the years they have accommodated some 200 helpers, typically between 3 and 6 year round and at any one time*". I assume that "*they*" are the other caravans, but I do not know how many and the remainder of the sentence makes little sense. It is unclear whether it is being said that there were between 3 and 6 people, 3 and 6 caravans or that the caravans were occupied for between 3 and 6 months. Again this is ambiguous. As the Council observes at final comments stage the upshot of all of this information is that it presents a "*confused picture*"; I agree. Applying the Guidance the Appellant's evidence is far from being sufficiently precise and unambiguous to justify success on ground (d) on the balance of probability, particularly given the Council's evidence that appears to contradict the Appellant's version of events and makes it less than probable.

An examination of the other submitted material, including final comments

43. Appendix 3 to the Appellant's statement comprises a series of letters and I propose to examine each in turn. I do so however against a background that because none of the letters are sworn I attach them little weight.
44. The first is a letter from Mr Laws that says that there was a residential caravan next to the agricultural buildings that was lived in continuously. However the inference that this was between 1998 and 2000 conflicts with the Appellant's statutory declaration that says he only started renting the farm "*from 1999*". If this not being said it is silent as to date. As such I attach it limited weight.
45. The second is a letter from Mr Howe, which says that the Appellant: "*...has lived on and off at Coker Hill land*". Plainly this is imprecise and, amongst other things, does not give any indication of when. Whilst the letter says Mr Howe has known the Appellant for 20 years that again takes me back before the farm was first rented by the Appellant and in any event that is not in the same sentence as that quoted above. In the circumstances I attach it limited weight. Moreover it contradicts the Appellant's case as to continuity, although noting the grounds of appeal say the Appellant lived there: "*...for the greater part of his time*", rather than continuously, this might be closer to the truth.
46. The third is a letter from Captain Berkeley who provides a character reference by saying that the Appellant: "*...has always been an honourable and honest person*". Captain Berkeley continues by saying that he has visited the farm regularly since 2002 and has seen caravans there every year. However he does not say how many caravans or what they have been used for. For these reasons I attach the contents of this letter very limited weight.
47. The fourth is a letter from CA Lag who also provides a character reference by saying that the Appellant is: "*...a pillar of the community*". The letter otherwise fails to offer any evidence in support of this ground of appeal because the merits of the development that has been undertaken are not in issue.

48. The fifth is a letter from DJ Smith, which says that: "...since 2002 there has been caravans and mobile homes on site...". However he does not say how many caravans and mobile homes or what they have been used for. For these reasons I attach the contents of this letter very limited weight.
49. Appendix 4 is a print out from the Helpx website, but as the oldest entry is from 1 August 2012 I fail to see how this assists the Appellant's case. To the contrary it suggests that the residential use of other mobile homes at the site started well after the material date. Moreover the Appellant's entry, which is in effect the advertisement, merely refers to 4 persons. The individual entries appear to relate to stays of short duration, typically up to 5 or 6 weeks, and there are big gaps, e.g. between March and October 2013, which indicates that any residential use of any mobile homes was not continuous. It does not support the claim that between 3 and 6 helpers live there year round, if indeed that is what is being said in the Appellant's statutory declaration. Appendix 5 is a print out from the Workaway website, but here the oldest entry appears to be May 2016 and so my earlier comments apply even more. Whilst the Appellant's statement refers to an earlier website, Woofer, no excerpts are provided.
50. Turning to the Appellant's final comments, I acknowledge that the submitted plans with the various applications over the years might not have recorded the mobile homes but that this should not be a conclusive factor. I appreciate that the 2015 appeal decision does not mention the mobile homes which, on the balance of probability existed on the site at that time, but he was dealing with an eco house rather than a mobile home and I regard that to be significant.
51. In the absence of a ground (c) or the deemed application, I do not intend to comment on the issue between the parties with regard to whether the helpers are employees or any other matter that goes to the need for seasonal workers. Neither is the policy framework, cited by the Council in its statement, relevant to this ground of appeal.

Overall conclusion on the ground (d)

52. For the reasons I have discussed above I conclude that the Appellant has not discharged the onus of proof to show that the mixed use of the land for residential, by the siting on the land of six mobile homes used for residential purposes, and agriculture commenced prior to the material date and continued. Although I have found some evidence that a single touring caravan was used for residential purposes by the Appellant prior to the material date there is reason to doubt that this use was continuous. Moreover I have given reasons for finding that even if I take the submitted evidence in combination, it is not sufficiently precise and unambiguous to justify allowing the ground (d) on the balance of probability. There is no clear evidence to show that the additional 5 mobile homes have been continuously stationed on the land since the material date nor to show the residential use thereof has been continuous. In finding that ground (d) should fail I have taken account of all the submitted evidence.

Ground (f)

53. It is unclear from the limited grounds of appeal under this head why occupation by seasonal helpers is being claimed to be legitimate. To the extent that the reasons given for this ground of appeal rely on the ground (d) argument, i.e. the reference to the six being: "...deemed to be established", this is not a sound basis to claim that they are legitimate given my findings on that ground of appeal. As the Council's final comments make clear the enforcement notice

does not purport to remove permitted development rights. In the absence of a ground (c), since no claim is even made that the use is permitted development, I do not intend to address the assertion made at final comments stage that the mobile homes could be retained out of season. The requirements of the notice seek to remedy the breach by requiring the residential use to cease and the mobile homes to be removed. That objective falls wholly within section 173(4)(a) of the Act and so the requirements of the notice are not excessive.

54. In reaching this view I have taken account of the reference at final comments stage to a Welsh appeal [Ref APP/M6825/C/12/2176562] and despite the fact that no copy was provided I have been able to identify it on the Planning Portal. That case was concerned with a single caravan where the Inspector was considering a ground (c) appeal. In contrast I am dealing with 6 mobile homes where no ground (c) has been lodged. On this basis alone the appeals do not appear to be comparable. In that case the Inspector found: "*The quantum of evidence thus leads me to conclude, as a matter of fact and degree and on the balance of probability, that the caravan is sited for purposes ancillary to the agricultural use of the land*"¹⁶ [*my emphasis*]. In contrast it is merely asserted here that the 6 mobile homes: "...could legitimately be retained for non-residential agricultural use out of season – such as for rest room, office or storage purposes"¹⁷. However as a matter of fact and degree, in the absence of evidence, I disagree. Moreover such an outcome would not achieve the Council's objective to remedy the breach by, amongst other things, discontinuing the use and restoring the land to its condition before the breach.
55. The Appellant's final comments also suggest in a half-hearted way¹⁸ that the disruption caused by the removal of the mobile homes would outweigh any perceived harm arising from their retention. This argument is however misconceived. The Appellant has not lodged a ground (a) or paid the deemed application fees that would have enabled the planning merits, including any human rights considerations that have been referred to in some of the letters, to be fully assessed. I have also given reasons why the requirements of the notice are within section 173(4)(a) of the Act, not 173(4)(b). This argument cannot therefore succeed in the particular circumstances of this appeal. For all of the above reasons the ground (f) appeal must also fail.

Conclusion

56. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed and I shall uphold the corrected notice.

Pete Drew
INSPECTOR

¹⁶ Source of quote: paragraph 7 of the decision dated 19 November 2012.

¹⁷ Source of quote: Appellant's final comments.

¹⁸ It says: "...verging admittedly on the pragmatic rather than the overtly legal".

Agenda Item 10

Schedule of Planning Applications to be determined by Committee

Assistant Director: Martin Woods, Economy
Service Manager: David Norris, Development Control Manager
Contact Details: david.norris@southsomerset.gov.uk or 01935 462382

Purpose of the Report

The schedule of planning applications sets out the applications to be determined by Area South Committee at this meeting.

Recommendation

Members are asked to note the schedule of planning applications.

Please note: Consideration of planning applications will commence no earlier than 4.30pm.

Members of the public who wish to speak about a particular planning item are recommended to arrive for 4.20pm.

SCHEDULE					
Agenda Number	Ward	Application	Brief Summary of Proposal	Site Address	Applicant
11	YEOVIL WEST	16/03944/FUL	Proposed demolition of existing single storey rear extension and the erection of a 2/3 storey replacement extension with minor alterations and the removal of a Western red cedar tree with replacement tree planting	Tyndale Nursing Home 36 Preston Road Yeovil	The Care Home Group

Further information about planning applications is shown below and at the beginning of the main agenda document.

The Committee will consider the applications set out in the schedule. The Planning Officer will give further information at the meeting and, where appropriate, advise members of letters received as a result of consultations since the agenda had been prepared.

Referral to the Regulation Committee

The inclusion of two stars (**) as part of the Development Manager's recommendation indicates that the application will need to be referred to the District Council's Regulation Committee if the Area Committee is unwilling to accept that recommendation.

The Lead Planning Officer, at the Committee, in consultation with the Chairman and Solicitor, will also be able to recommend that an application should be referred to District Council's Regulation Committee even if it has not been two starred on the Agenda.

Human Rights Act Statement

The Human Rights Act 1998 makes it unlawful, subject to certain expectations, for a public authority to act in a way which is incompatible with a Convention Right. However when a planning decision is to be made there is further provision that a public authority must take into account the public interest. Existing planning law has for many years demanded a balancing exercise between private rights and public interest and this authority's decision making takes into account this balance. If there are exceptional circumstances which demand more careful and sensitive consideration of Human Rights issues then these will be referred to in the relevant report.

Agenda Item 11

Officer Report on Planning Application 16/03944/FUL

Site Address:	Tyndale Nursing Home 36 Preston Road Yeovil
Yeovil (West) Ward (SSDC Member)	Cllr A Smith, Cllr W Read, Cllr J Clark
Proposal :	Proposed demolition of existing single storey rear extension and the erection of a 2/3 storey replacement extension with minor alterations and the removal of a Western red cedar tree with replacement tree planting
Recommending Case Officer:	Simon Fox Tel: 01935 462509 Email: simon.fox@southsomerset.gov.uk
Target date	15th December 2016
Applicant : Agent:	The Care Home Group Boon Brown Architects Motivo Alvington, Yeovil, BA20 2FG
Application Type:	Major Other f/space 1,000 sq.m or 1 ha+

Reason for Referral and Report Update

The original deferral was made at the Development Manager's discretion in consultation with the Chairman, in line with the Council's Scheme of Delegation, due to the fact the views of the Town Council and local residents conflicted with the final recommendation of the Case Officer and there was a no call-in from elected Ward Members.

At the meeting of Area South Committee held 30th November 2016 the Case Officer verbally updated members on an additional representation received from the occupant of No.5 Willow Road.

It was also proposed to amend Condition 05 from:

The two windows on the east elevation serving the dining and living room on the first floor shall be installed in a manner to ensure they are fixed units (not openable) and fitted with obscure glass to their lower halves as annotated on drawing no. 3666/05RevA and the stated windows shall be permanently retained and maintained in this fashion thereafter. Reason: In the interests of residential amenity to accord with policy EQ2 of the South Somerset Local Plan.

To:

The four windows on the east elevation serving the dining/living room and servery on the first floor shall be installed/modified in a manner to ensure they are fixed units (not openable) and fitted with obscure glass to their lower halves. The end of corridor glazing at first floor level between Studios 20 and 21 shall be fitted with patterned/frosted glazing in accordance with details to be submitted to the Local Planning Authority prior to installation.

The stated windows/works shall be permanently retained and maintained in this fashion thereafter. The prescribed works shall be undertaken prior to the first occupation of the extension hereby approved. Reason: In the interests of residential amenity to accord with policy EQ2 of the South Somerset Local Plan.

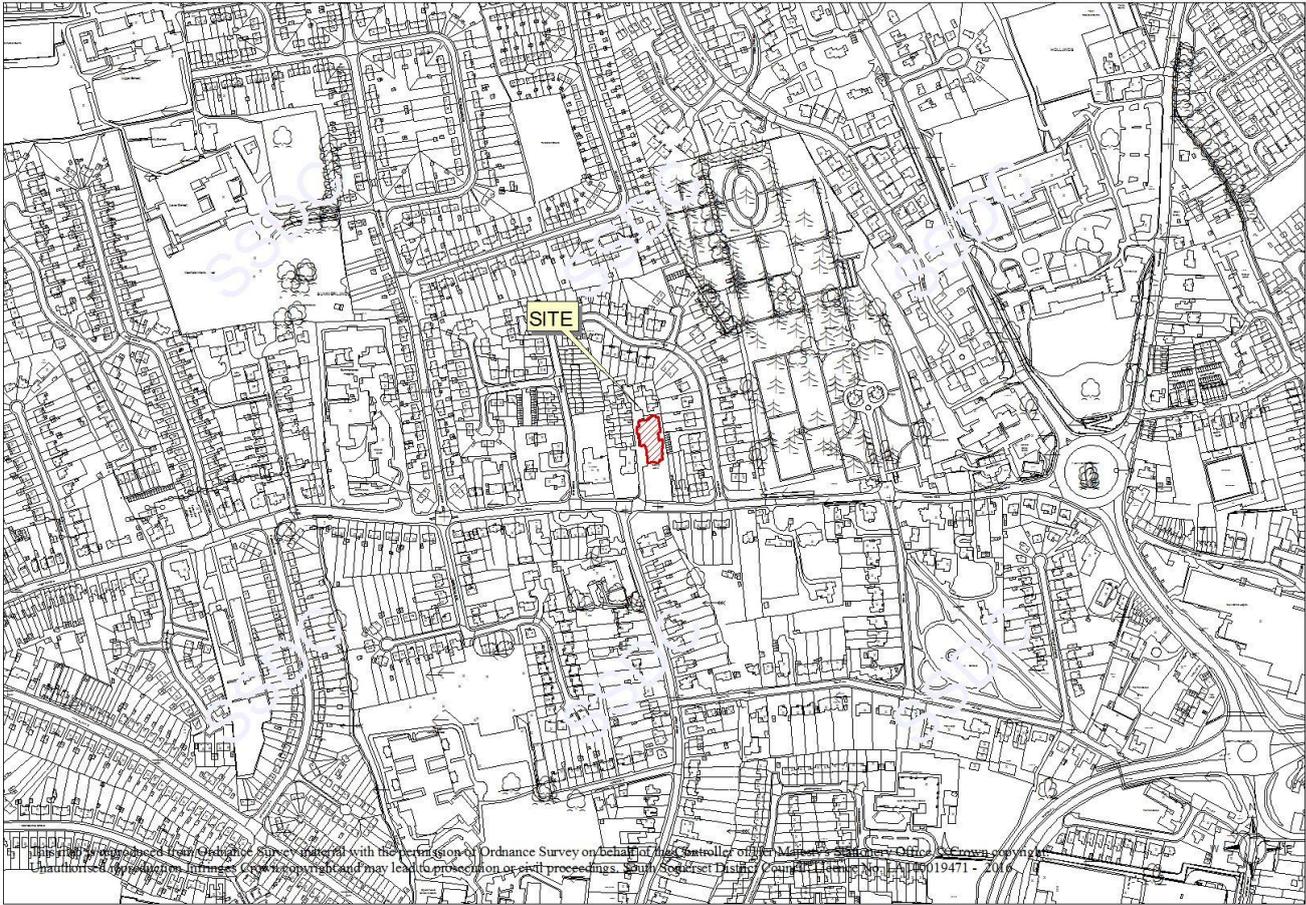
After the Case Officer presented his report Members resolved to undertake a site visit.

Arrangements have been made to undertake the visit prior to this committee meeting.

In the intervening period another representation has been received from the occupant of No.29 Willow Road. It refers to the fact Willow Road is already used for commuter parking and the development will bring rise to more parking in Willow Road by contractors initially and then visitors and staff.

The following report is unchanged from that presented on 30th November 2016 save for Condition 05.

Site Description and Proposal



The application site comprises two nursing homes, Latimer Lodge and Tyndale, plus 14 assisted living properties known as Coverdale Court.

The three entities are accessed off Preston Road to the south and share boundaries with bungalows at Willow Road to the north and east and with the former British Legion Club and properties on Legion Road to the west.

Latimer Lodge and Tyndale are located within the Conservation Area; there is one Willow tree subject to a tree preservation order at the site frontage and several within the grounds of Coverdale Court and along the western boundary. The Preservation Order was made in 1986 at the time Coverdale Court was developed.



The site benefits from two car parks at the site frontage to Preston Road either side of the vehicular access, and other spaces are available within Coverdale Court.

Latimer Lodge is currently undergoing renovation in order to accommodate 13 residents.

This planning application concerns Tyndale. The red brick two-storey property was originally built in 1902 as a family house before being converted into a nursing home in the mid-1980s. A single storey rear extension was added in the 1990s creating a facility for circa 20 elderly residents. The site closed in 2015 and was purchased by the applicant.

In order to provide accommodation of sufficient quality, and to modern day standards this application seeks to demolish the rear extension and erect a new two-storey extension with accommodation in the roofspace. The elevations show consideration for its host, incorporating 'Victorian style' materials of rich orange brickwork, half-timbered gable ends, vertical tile hanging, painted barge boards, terracotta ridge decorations and finals, sliding sash windows, exposed rafter tails, and brick dentil and string courses. A couple of gables utilise render rather than brick to break up the mass.

The proposal would facilitate the creation of 32 en-suite bedrooms with ancillary service rooms (dining, living rooms, salon, commercial kitchen etc). The plans indicate the removal of several small trees which lie outside the Conservation Area but also a large Western Red Cedar tree located on the southwest corner of the building located inside the Conservation Area. The proposal is to replace it with another tree.

The application clarifies that the use of the building would remain within its current C2 (Residential Institution) Use Class designation.

HISTORY

History relating to Tyndale unless otherwise stated:

04/01640/FUL: The erection of an extension to provide an eight person lift to serve ground and first floor: Application permitted with conditions: 27/07/2004

96/02092/TPO: Application to remove sycamore shown as T11 in the Yeovil No2 TPO 1986: Permitted: 21/10/1996 (*located in Coverdale Court*)

96/01403/FUL: Erection of a two-storey extension to nursing home without compliance with Condition 03 of decision notice 951533 dated 02-08-1995 (i.e.: dormer windows at second floor on eastern slope of roof to be glazed with frosted glass): Application permitted with conditions: 06/08/1996

95/07477/FUL (951533): Alterations and erection of a two-storey extension to nursing home and installation of dormer window: Application permitted with conditions: 02/08/1995

88/00099/FUL: Conversion of veterinary surgery into residential home for the elderly with matrons flat the erection of 12 sheltered housing units, 2 disabled bungalows and a guest flat: Application permitted with conditions: 04/10/1989 (*This relates to Latimer Lodge and Coverdale Court*)

861161: The erection of an extension to residential home: Application permitted with conditions: 25/07/1986

831424: The use of dwellinghouse as a rest home for the elderly: Application permitted with conditions: 26/08/1983

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

On 5th March 2015 South Somerset District Council, as Local Planning Authority, adopted its Local Plan to cover the period 2006 to 2028.

On this basis the following policies are considered relevant:-

South Somerset Local Plan (2006-2028):

SD1 - Sustainable Development
SS1 - Settlement Hierarchy
HG6 - Care Homes and Specialist Accommodation
EQ2 - Design & General Development
EQ3 - Historic Environment
EQ4 - Biodiversity
EQ5 - Green Infrastructure
TA5 - Transport Impacts of New Development
TA6 - Parking Standards

National Guidance - National Planning Policy Framework:

In particular-

Chapter 1 - Building a Strong, Competitive Economy
Chapter 4 - Promoting Sustainable Transport
Chapter 6 - Delivering a Wide Choice of High Quality Homes
Chapter 7 - Requiring Good Design
Chapter 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change
Chapter 12 - Conserving and Enhancing the Historic Environment

CONSULTATIONS

Yeovil Town Council:

"Refuse on the following grounds:

- Overdevelopment of site*
- Overbearing resulting in loss of light to neighbouring residents*
- Unacceptable impact on residential amenity including loss of privacy*
- Inadequate parking provision*
- The loss of a mature tree and adverse impact on street scene*
- Concern in respect of the visibility splay in the easterly direction".*

Upon receipt of a Daylight Assessment Report and amendments to windows on the east elevation the TC were re-consulted and comments received include:

"The attached documents do not address the parking issues which were a key part of the discussion at the planning meeting. They do show significant growth in the number of beds and therefore one would assume significant additional staffing. The on-site parking still seems to be very limited.

The document showing shading of neighbouring gardens talks of the gardens still having 'adequate day light' and yet shows that at certain times of the year these gardens will be almost completely in shade.

I do not believe the attached documents address the concerns we discussed and I am not prepared to support this application".

"I am struggling to understand the changes/ alterations that the applicant has made, as they still do not address the issues raised at YTC, primarily this was overlooking due to mass/bulk of the building and inadequate parking to serve the added bedrooms etc?"

SSDC Conservation Officer:

"The existing rear extension does not contribute positively to the character of the conservation area. In assessing the impact of the new proposal on the character of the designated area I need to take into account the views across to the site from the Cemetery, and views from within the main body of the conservation area to the south of the site.

The extension is huge. However it has been carefully considered and shows respect for the scale and massing of the late C19th buildings within the conservation area. The massing of the east facing elevation has been broken up by bringing some sections forward to form modest gables, which is largely successful. However, I do not think the furthest brick gable works well as it is very wide, and too dominant. I raised this at the pre-application stage, so it is disappointing to see it still included within the scheme. This element should be re-considered".

Highways Authority (Somerset CC):

Standing advice applies - in this case this refers to parking and the suitability of the access.

SSDC Highways Consultant:

"I recommend a parking assessment is undertaken to ensure that the overall on-site parking provision accords with the SPS optimum standards in light of the increase in bed accommodation. The means of access from Preston Road appears substandard in respect of

the extent of visibility in the easterly direction. The application represents an opportunity to improve visibility in this direction given the increase in traffic generation to and from the site. However, it is accepted that given the location of mature trees and the stone wall along the site frontage, such improvements may not be acceptable or possible for planning reasons".

SSDC Tree Officer:

"Western Red Cedar's are a long-lived, large-growing, evergreen species that were much favoured as ornamental planting during the Victorian/Edwardian period. Nowadays, they are a popular forestry tree commonly grown for the production of durable cladding timber.

They do require considerable un-compacted soil-volume in order to fulfil their normally vigorous growth potential. Unfortunately, the tree at Tyndale Nursing Home has historically been restricted by a restricted, poor quality below-ground environment - which may explain why it has remained rather a poor specimen.

The proposed American Sweetgum replacement is a long-lived, attractive species that is particularly renowned for robust health and colourful Autumnal display. Furthermore, it should co-exist sustainably in close proximity to the Nursing Home and being deciduous, would allow improved daylight availability to the Nursing Home during the dark days of Winter.

I have no objections to the proposal" [condition proposed for new planting].

SSDC Ecologist:

"I've considered this application, including the bat survey report, and I don't have any comments nor recommendations to make".

SSDC Environmental Protection:

No comments to make.

REPRESENTATIONS

20 neighbouring properties/premises to the site have been notified and a site notice has been displayed.

In response 9 letters of objection have been received from residents of Coverdale Court and Willow Road. A summary of comments:

- The development is not in-keeping and overwhelms.
- The development will reduce the visible skyline.
- The development will degrade the communal garden within Coverdale Court.
- The development does not match the architecture of the original house, render in not-in-keeping.
- The development will block light to Coverdale Court and Willow Road properties.
- The development will result in a loss of privacy to Coverdale Court and Willow Road properties by overlooking.
- Parking on site has been at a premium during works at Latimer Lodge; there is not enough parking; Willow Road is accommodating overflow and town centre worker parking.
- The development will cause light pollution.
- Noise from residents has in the past caused issues.
- Staff will not use public transport or walk.
- Concern over noise and disturbance during construction works.
- Properties on the east side of Willow Road have not been notified on this application.
- Value of neighbouring property will be affected.

CONSIDERATIONS

The proposal raises several matters that will be considered in turn:

Principle of Development

Policy SD1 proactively promotes Sustainable Development that improves the social conditions within the District and where necessary the Council will work with applicants to improve proposals so they are capable of being approved. The proposal aims to provide additional quality accommodation to support an ageing population in Yeovil and the district.

This application does not provide 'housing' that is attributable to the 15,950 total dwellings that the Local Plan sets out to deliver. However the provision of Care Homes and Specialist Accommodation to meet local need has informed the formulation of that figure.

Yeovil is a Strategically Significant Town as defined by Policy SS1 and is therefore the focus for development in South Somerset. The site is already well established as a nursing home in an area already prevalent with such accommodation. Policy HG6 specifically sets out the Council's approach to Care Homes and Specialist Accommodation. Proposal for such that meet a need will be supported. The use falls within Use Class C2 and so no 'affordable housing' is required.

The Council is now in receipt of the Strategic Market Housing Assessment 2016. The data shows that South Somerset (in line with other areas) is expected to see a notable increase in the older person population with the total number of people aged 65 and over expected to increase by 57% over the next 25-years.

At present (according to Housing Learning and Improvement Network) there are around 5,700 spaces in nursing and residential care homes in Somerset of which 1,487 are in South Somerset. The SHMA suggests 51 bedspaces are needed per annum in South Somerset up to 2039. The development of specialised accommodation can free up properties across the district aiding supply. It is considered that there is sufficient evidence of need, this is a well-established site, in the right place, and a project has been identified and there appears to be a commitment to provide it sooner rather than later.

As such it is considered the proposal complies with policies SS1, SD1 and HG6 of the Local Plan.

Design, Layout and Impact of Heritage Assets

The existing rear single-storey extension is of no value and in order to provide accommodation of sufficient quality, and to modern day standards this application seeks to demolish the rear extension and erect a new two-storey extension with accommodation in the roofspace.

In terms of layout the footprint is more-or-less identical design and the elevations show consideration for its host, incorporating 'Victorian style' materials of rich orange brickwork, half-timbered gable ends, vertical tile hanging, painted barge boards, terracotta ridge decorations and finials, sliding sash windows, exposed rafter tails, and brick dentil and string courses. A couple of gables utilise render rather than brick to break up the mass. The specific colours and manufactures of all the materials will be agreed via samples via a planning condition. Consideration has been made to the neighbouring properties by profiling the eastern elevation rather than butt the extension right up against the boundary wall and also with regard to roof height. The ridge of the extension sits approx. 1.5m under that of the existing retained original main part and is only 3.5m above the extension to be demolished and 2.5m above the existing closest unit of Coverdale Court. The extension is 6.5m longer at its northern extent. Nonetheless it is a sizeable extension. In such a situation you assess how the mass and bulk has been broken up by form and materials to aid disguise, provide visual interest and respond to its context, both in terms of the retained original main part but also neighbouring properties. Design is subjective but it is considered this is complementary

and this is a view shared by the Conservation Officer, save for one detail which was subsequently amended. The site is already densely developed, not that you read that from outside the site, and whilst this extension will be apparent from further afield to the east due to topography it is not seen to visually jar with its context.

Matters concerning residential amenity and parking are considered elsewhere but the site retains reasonable amenity areas at the site frontage which are screened from public view by mature landscaping and so it is felt the proposal is acceptable on the basis of design and layout.

The wider site does lie partly inside the Conservation Area, a Heritage Asset, the retained original main part is within but the existing rear extension is outside. This gives further indication as to the apparent (lack of) quality of that addition. For the reasons above it is not considered that any demonstrable harm would result to heritage assets that would warrant withholding planning permission. A view shared by the Conservation Officer.

As such it is considered the proposal complies with policies EQ2 and EQ3 of the Local Plan.

Residential Amenity

Yeovil Town Council reiterates concerns raised by residents of Willow Road concerning perceived impact of the development on residential amenity. In this regard this refers to overshadowing and overlooking.

In terms of overlooking the primary elevation to assess is the east facing side. The area where the extension is proposed adjoins Nos 7, 9 and 11 Willow Road and the proposal is such that the development is higher than those bungalows. Those properties are at least 22m from the retaining wall boundary with Tyndale. In the case of Nos 7 and 9 there is a garage court in-between.

At first floor level there are five windows that could conceivably view properties at Willow Road. Two serve a dining and living area, one serves a stairwell and two serve care studios (bedrooms). In the case of the first two they are 26m distant from Nos 7 and 9. In the case of the other three which are located within a recessed part of the extension they are 33m away from Nos 7 and 9 and 31m from No11. These distances are all in exceedance of guidelines that attribute a desirable distance of 21m from habitable window to habitable window. However the applicant has responded to the concerns raised by neighbours and has offered to alter the first two windows serving the dining and living area by fixing the casements and obscure glazing the lower sections.

In terms of visual dominance and overshadowing the building is set some 26-33m away from the nearest properties. Although set on higher ground it is considered that this level of separation is in excess of many other situations whether involving natural landforms, vegetation or built structure. During the course of the application the applicant has submitted a Shadow Assessment. The key conclusion is that whilst some gardens to properties on the west side of Willow Road may be cast a shadow earlier in the day during certain times of the year, the impact does not extend to those areas immediately to the rear of the properties, say where they may be a patio or conservatory, or any habitable rooms.

As such whilst the perception may persist that the proposal will result in a deterioration of residential amenity it is difficult to identify sufficient demonstrable harm that would warrant withholding planning permission.

As such it is considered the proposal complies with the NPPF and policy EQ2 of the Local Plan.

Highways

A number of comments from local residents and the Town Council relate to parking. Any assessment of parking cannot take into account abnormal events such as the (temporary) refurbishment of Latimer Lodge when many more trade vehicles are brought to site, nor does policy require you to.

Based on the proposal the increase of bed spaces is 10. The SCC Parking Standards (and therefore Local Plan policy TA6) request 1 parking space per 13 bedrooms, so the uplift in bedroom numbers doesn't require an additional space.

Notwithstanding this, the total number of bed spaces proposed by this development is 32. According to the SCC standards three parking spaces would be acceptable. The proposal comprises 11 spaces allocated to Tyndale in total. It is considered that the levels of parking, whilst exceeding policy requirements by three times, are appropriate for the development given the comments made.

In terms of the comments of the Town Council which reflect those of the SSDC Highways regarding the access it is noted that this is located within the Conservation Area and in very close proximity to substantial, mature and protected trees (given their siting within the Conservation Area). It is felt that given the marginal increase in bed spaces and parking spaces that the increase in traffic movements would be negligible. In order to secure compliance with visibility requirements the removal of the trees and the natural stone retaining wall to create an engineered highways access solution would be far more harmful to the setting and Conservation Area than the current situation.

It is considered the proposal complies with policies TA5 and TA6 of the Local Plan plus the SCC Parking Strategy.

Trees and Ecology

The plans indicate the removal of several small trees which lie outside the Conservation Area but also a large Western Red Cedar tree located on the southwest corner of the building located inside the Conservation Area. It is suggested that this tree is causing some concern with regards to the structure and is now too large for its context. Irrespective of whether this development goes ahead or not it is requested that the tree be felled. It is not protected individually only by its location in the Conservation Area. This application offers the opportunity to replace it with another tree. The applicant has suggested a 'Liquidambar Styraciflua'. The loss of the tree has been accepted by the Council's Tree Officer and the replacement plus its specification is as advised by the Tree Officer. Given the context, in that the site, particularly the frontage is well treed and given the structural issues it is felt a replacement is the best way forward.

It is considered the proposal complies with policy EQ5 of the Local Plan.

Ecology

The application is supported by a Building Assessment and Bat Survey. The report sought to assess the potential for the building to support roosting bats and/or nesting birds. An emergence survey was also undertaken.

The report concludes there are no roosts but that bats forage in the area. Suitable pre-demolition advice is given and mitigation and enhancement recommendations are made. These matters will be secured by condition. SSDC's Ecologist has not raised any issues.

It is considered the proposal complies with policy EQ4 of the Local Plan.

Conclusion

The concerns of local residents are acknowledged. It is considered however that whilst the outlook from some properties will change it has been concluded after assessment that demonstrable harm would not result that would warrant withholding planning permission, given the merits of the scheme and the need it fulfils.

SECTION 106 PLANNING OBLIGATION

There are no requirements to secure any mitigation or planning obligations via Section 106 of the Act.

RECOMMENDATION:

Grant planning permission for the following reason:

01. Notwithstanding the objections raised the proposal seeks a well-designed extension to a building of some historic interest safeguards the setting of the adjacent Conservation Area and does not cause demonstrable harm to residential amenity or highway safety in accordance with the National Planning Policy Framework, the Somerset County Council Parking Strategy and policies SD1, SS1, HG6, EQ2, EQ3, EQ4, EQ5, TA5 and TA6 of the South Somerset Local Plan (2006-2028).

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 be carried out in accordance with the following approved plans and documents:
 - a) Site Location Plan, Drawing No. 3666/08
 - b) Proposed Site Plan, Drawing No. 3666/07 Rev A
 - c) Proposed Basement and Ground Floor Plan, Drawing No. 3666/04 RevA
 - d) Proposed First Floor Plan, Drawing No. 3666/05 RevA
 - e) Proposed Second Floor Plan, Drawing No. 3666/06 RevA
 - f) Proposed Elevations, Drawing No. 3666/09
 - g) Proposed Elevations, Drawing No. 3666/10 RevA
 - h) Proposed Site Sections, Drawing No. 3666/11
 - i) Proposed External Materials, Drawing No. 3666/12Reason: For the avoidance of doubt and in the interests of proper planning.
03. The development hereby approved shall not be used other than for those activities which fall within the definition of a Residential Institution (Use Class C2) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
Reason: Any change would require the Local Planning Authority to reassess parking, planning obligations and residential amenity issues to accord with policies EQ2 and TA6 of the South Somerset Local Plan.
04. Save for demolition, no works shall be carried out unless the following details have been submitted to and approved in writing by the Local Planning Authority:
 - a) specific materials to be used for the external walls and roofs:
 - b) materials to be used for rainwater goods and window dressings (lintels, cills);
 - c) the design (including joinery details where appropriate), type of material, plus proposed colour and finish of all windows and doors plus recesses:

- d) details of eaves/verges;
 - e) location and design details of all vents, flues and meter boxes; and
 - g) the specific surfacing materials of all areas of hardstanding, incl. driveways.
- Once agreed the scheme shall be carried out in accordance with those details unless further agreement is reached with the Local Planning Authority.

Reason: To maintain the character and appearance of the area to accord with policy EQ2 and EQ3 of the South Somerset Local Plan.

05. The four windows on the east elevation serving the dining/living room and servery on the first floor shall be installed/modified in a manner to ensure they are fixed units (not openable) and fitted with obscure glass to their lower halves. The end of corridor glazing at first floor level between Studios 20 and 21 shall be fitted with patterned/frosted glazing in accordance with details to be submitted to the Local Planning Authority prior to installation.

The stated windows/works shall be permanently retained and maintained in this fashion thereafter. The prescribed works shall be undertaken prior to the first occupation of the extension hereby approved.

Reason: In the interests of residential amenity to accord with policy EQ2 of the South Somerset Local Plan.

06. Prior to installation of any external additional external lighting, the details of such be submitted to and approved in writing by the Local Planning Authority. Such lighting where necessary shall include appropriate mitigation in terms of shrouding/direction and detail how it preserves bat foraging corridors.

Reason: In the interests of visual amenity to accord with policy EQ2, EQ3 and EQ4 of the South Somerset Local Plan.

07. The development (particularly including any site clearance) shall not commence until a 'Biodiversity Enhancement Plan' has been submitted to, and approved in writing by the Local Planning Authority. The plan shall include details of measures for the enhancement of biodiversity. The agreed plan shall be implemented in full within 12 months from the commencement of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the protection and conservation of protected and 'priority species' in accordance policy EQ4 of the South Somerset Local Plan, and to ensure compliance with the Wildlife and Countryside Act 1981 and the Habitats Regulations 2010, and for the enhancement of biodiversity in accordance with the NPPF.

08. Prior to the felling of any tree within the Conservation Area a scheme of compensatory planting shall have been submitted to and approved by the Local Planning Authority. All planting comprised in the approved details of landscaping shall be carried out in the first planting season following receipt of the written approval by the Local Planning Authority, and any trees which within a period of ten years from having been planted 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: To integrate the development into its environs and build on local character to comply with policies EQ2, EQ3, EQ4 and EQ5 of the South Somerset Local Plan.

Informatives:

01. With regard to Condition 08 the applicant is advised that such a scheme shall include locations, numbers of individual species, sizes at the time of planting and whether container-grown or cell-grown. The installation details regarding ground preparation, staking, tying, guarding and mulching shall also be included in the scheme.

Agenda Item 12

Exclusion of the Press and Public

The Committee is asked to agree that the following item (agenda item 13) be considered in Closed Session by virtue of the Local Government Act 1972, Schedule 12A under paragraph 3: "Information relating to financial or business affairs of any particular person (including the authority holding that information)." It is considered that the public interest in maintaining the exemption from the Access to Information Rules outweighs the public interest in disclosing the information.

Agenda Item 13

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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