

## Officer Report On Planning Application: 19/00544/OUT

<b>Proposal :</b>	Outline planning application for the erection of a pair of semi-detached houses with gardens and parking
<b>Site Address:</b>	Land Adjoining 28 Eastfield, Martock TA12 6NW
<b>Parish:</b>	Martock
<b>MARTOCK Ward (SSDC Members)</b>	Cllr N Bloomfield Cllr L Clarke
<b>Recommending Case Officer:</b>	Stephen Baimbridge
<b>Target date :</b>	11th April 2019
<b>Applicant :</b>	SSDC
<b>Agent: (no agent if blank)</b>	Property Services Team SSDC, Council Offices, Brympton Way, Yeovil BA20 2HT
<b>Application Type :</b>	Minor Dwellings 1-9 site less than 1ha

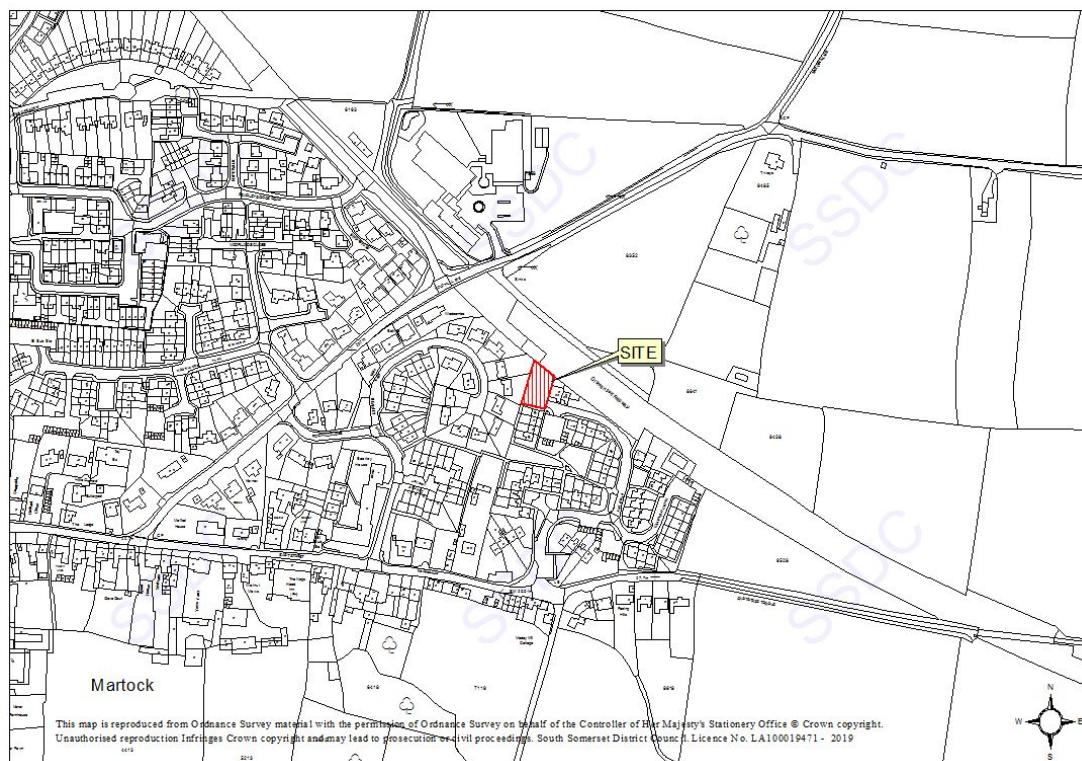
### REASON FOR REFERRAL TO COMMITTEE

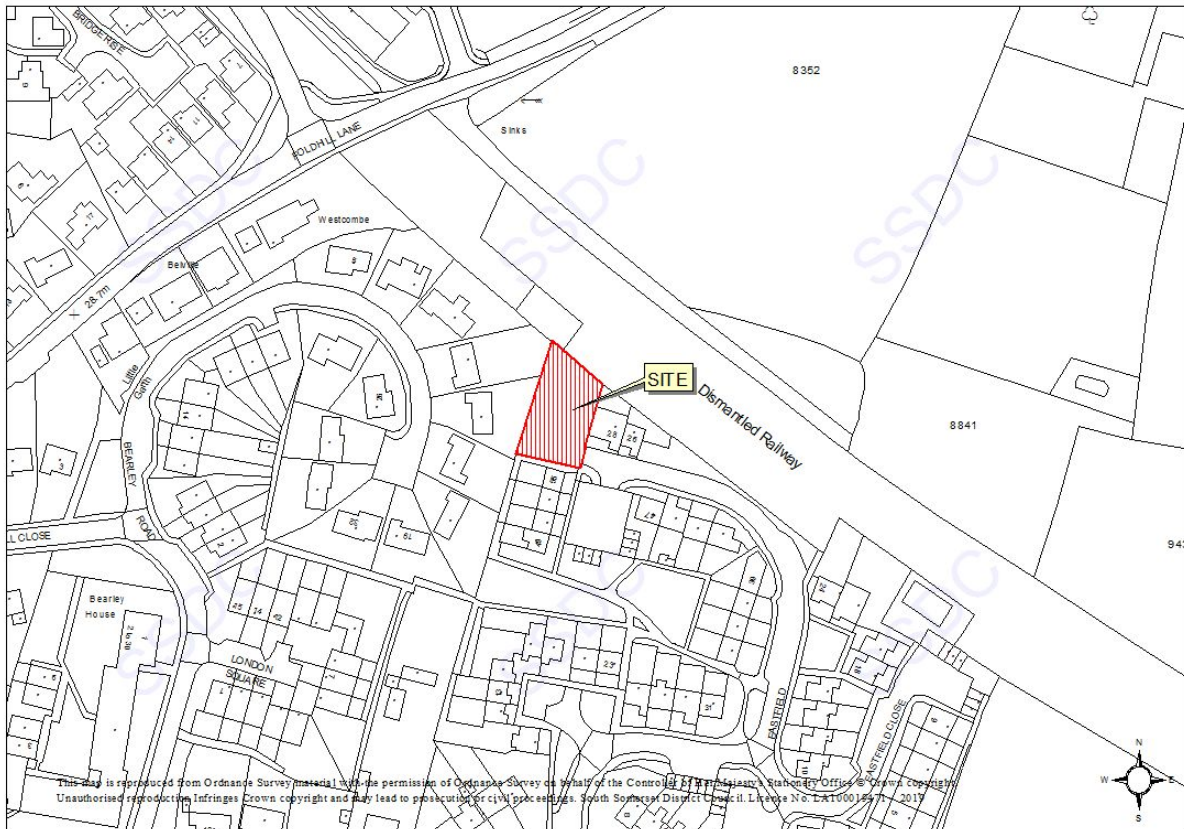
The application was referred to the Area North Committee as South Somerset District Council are the applicant. The Area North Committee of Wednesday 24th July 2019 resolved that the application be deferred for 4 months, for the following reason:

1. To explore alternative ways to dispose of the site, including offering it to Martock Parish Council.

The applicant has asked that the application return to the Area North Committee for a formal determination on the planning merits of the application.

### SITE DESCRIPTION AND PROPOSAL





The application site is located on Eastfield, in Martock, with the disused railway line to the north, residential properties of Eastfield to the east and south, and residential properties of Bearley to the west.

The application seeks for outline planning consent for the erection of a pair of semi-detached houses with gardens and parking. All matters are reserved except for the access.

## HISTORY

None relevant

## POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 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.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006 2028 (adopted March 2015).

### Policies of the South Somerset Local Plan (2006-2028)

Policy SD1 - Sustainable Development

Policy SS1 - Settlement Strategy

Policy SS2 - Development in Rural Settlements

Policy SS4 - District Wide Housing Provision

Policy SS5 - Delivering New Housing Growth  
Policy SS6 - Infrastructure Delivery  
Policy HG3 - Provision of Affordable Housing  
Policy HG4 - Provision of Affordable Housing - Sites of 1-5 Dwellings  
Policy EQ2 - General Development  
Policy EQ3 - Historic Environment  
Policy TA5 - Transport Impact of New Development  
Policy TA6 - Parking Standards

National Planning Policy Framework - March 2019

Planning Practice Guidance (PPG)

#### Other

Somerset County Council Parking Strategy (September 2013)

Somerset County Council Highways Development Control - Standing Advice (June 2017)

## **CONSULTATIONS**

**Martock Parish Council:** No objections.

**Highways Authority (Somerset CC):** Standing Advice applies.

**SSDC Highways Consultant:** No significant highways issues with this scheme. Ideally the driveway would be 6m wide rather than 5.5m but it should still be possible to turn in and out of the proposed parking spaces. If a 6m width can be provided I recommend the plans are altered accordingly. It would be useful to show the provision of a garden shed for each unit that could act as cycle parking/storage. A S.184 license will be required from SCC for the dropping of the kerb. The parking and turning area must be properly consolidated and surfaced (not loose stone or gravel) and measures must be implemented to ensure surface water does not discharge onto the public highway.

**South West Heritage Trust:** As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.

**Environmental Protection Unit:** The application site is within 250 metres of a suspected landfill site. The applicant/developers attention is drawn to the fact that there is the potential for production and migration of landfill gas. You are reminded that the responsibility for safe development rests with the owner and/or developer. Accordingly, the applicant/developer is advised to seek independent expert advice regarding the possibility of the presence, or future presence, of gas and whether any precautionary measures are necessary. The Council's Environmental Health service will make available to you, free of charge, any information or data that it has in relation to the land to which the application applies.

## **REPRESENTATIONS**

Five letters of contribution have been received, consisting of one letter of support, one letter of general observations, and three of objection. The letters can be found in full on the Council's website. The matters raised will be summarised into key themes:

- The site is a logical place to build
- The construction of additional houses for affordable rent is encouraged locally
- The vegetation on the western boundary is a degraded ancient hedgerow and a wildlife corridor.

- The hedge and the scrubland on the railway which should be protected.
- Previously informed the land was to be used as a community project
- Lack of parking
- Inconvenience of the construction and
- The proposed houses are not on the local plan
- Increased noise from the residents living there
- Loss of light
- Adversely affect property value
- Harm to biodiversity and ecology
- The turning bay will be lost
- Loss of parking
- Over-development of over populated area.
- Insufficient infrastructure, i.e. doctors surgery, the school, additional traffic flow
- Overlooking
- Are plans available?

## CONSIDERATIONS

### Principle of Development

Paragraph 11 of the NPPF explains that decision should apply a presumption in favour of sustainable development, and that for decision-taking that means:

- *approving development proposals that accord with an up-to-date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

Footnote 7, page 6, of the NPPF states that the policies which are most important for determining the application are out-of-date if "...for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites..."

The Council is currently unable to demonstrate that it has a 5 year supply of deliverable housing land. Therefore, the policies which are most important for determining this housing application must be considered out-of-date, and the application should be approved unless points i and ii apply.

According to the Supreme Court judgement, *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)*, "[i]f the policies for the supply of housing are not to be considered as being up to date, they retain their statutory force, but the focus shifts to other material considerations. That is the point at which the wider view of the development plan policies has to be taken.

The plot is an in-fill site located within a residential area of Martock - a Local Market Town suitable for housing growth. The application states that permission is sought for a pair of residential dwellings but it should be noted that scale is a reserved matter. Nevertheless, the physical size of the site limits the quantum of growth that would be acceptable and the applicant has been informed that no more than two dwellings would be acceptable at reserved matters stage. As such, notwithstanding objections

received about further growth in Martock, the inability of infrastructure to cope, and the non-allocation of this specific site in the Local Plan, the principle of residential development on this site is considered acceptable.

### **Visual Amenity**

Appearance is a reserved matter so cannot be judged at this stage. However, there is no reason to believe that residential development on this site would be demonstrably harmful, in accordance with policy EQ2.

### **Residential Amenity**

As appearance and scale are reserved matters, neither the positions of windows nor the bulk of the dwellings can be judged. Conversely, there is no reason to believe that appropriately designed residential development could not be provided on this site. Therefore, notwithstanding objections pertaining to noise, overlooking, and loss of light, the proposal is not considered to result in demonstrable harm to residential amenity, in accordance with policy EQ2.

### **Highway Safety**

The County Highway Authority states that its Standing Advice applies. The indicative plans show that six parking spaces can be achieved, which would allow for two dwellings of up to 4+ bedrooms each.

The Highway Consultant stated that there were no significant highway issues with this scheme. He considered that, ideally the driveway would be 6m wide rather than 5.5m but it was not absolutely necessary. It was also suggested that a garden shed for each unit be shown on the plans as cycle parking/storage. These matters were addressed through amended plans which widened the driveway and provided the outbuildings.

The loss of informal parking on the turning area is not considered to be demonstrably harmful to highway safety or the provision of parking locally.

A condition will be imposed to ensure that the access be properly consolidated and surfaced (not loose stone or gravel). It will not be conditioned that the parking spaces be consolidated as part of this application as the spaces could be subject to change through the reserved matters application. To ensure that the surface water from the hard surfacing does not drain onto the highway, drainage measures will be conditioned.

Therefore, notwithstanding the objections received, it is not considered that the proposal would prejudice highway safety, and it is considered to accord with policies TA5 and TA6 of the Local Plan.

### **Ecology**

An Ecological Appraisal has been submitted which found little evidence that the proposal would result in demonstrable harm to any protected species. Recommendations were made by the Ecologist which are proposed to be conditioned.

### **Contributions**

Policies HG3 and HG4 of the adopted South Somerset Local Plan requires either on site provision of affordable housing (schemes of 6 or more units) or a financial contribution towards the provision of affordable housing elsewhere in the district. Policy SS6 seeks contributions towards local infrastructure, such as sports, arts and leisure facilities.

In May 2016 the Court of Appeal made a decision (SoS CLG vs West Berks/Reading) that clarifies that Local Authorities should not be seeking contributions from schemes of 10 units or less. For affordable housing, the NPPF (2019) and the Planning Practice Guidance make clear that affordable housing should only be sought for all major residential development -i.e. schemes of ten dwellings or more, and/or sites of 0.5 hectares or more.

It is considered that whilst policies HG3, HG4, and SS6 are valid, the most recent legal ruling, and national policies, must be given significant weight and therefore it is not possible to seek an affordable housing or local infrastructure obligation from this development.

The development will be liable to pay the Community Infrastructure Levy (CIL) at reserved matters stage.

### **Conclusion**

The proposal would provide one pair of semi-detached dwellings in a sustainable location without causing demonstrable harm to the visual amenity, residential amenity, highway safety or ecology. As such, the proposal is in accordance with policies SD1, SS1, SS4, SS5, TA5, TA6, and EQ2 of the South Somerset Local Plan 2006-2028 and the aims and objectives of the NPPF.

### **RECOMMENDATION**

Permission be granted subject to conditions

01. The proposal would provide housing in a sustainable location without causing demonstrable harm to the visual amenity, residential amenity, highway safety or ecology. As such, the proposal is in accordance with policies SD1, SS1, SS4, SS5, TA5, TA6, and EQ2 of the South Somerset Local Plan 2006-2028 and the aims and objectives of the NPPF.

### **SUBJECT TO THE FOLLOWING:**

01. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

02. Application for approval of the scale, layout, appearance, and landscaping of the development, referred to in this permission as the reserved matters, shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92(2) of the Town and Country Planning Act 1990.

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

Drawing no. 1387-01A

Drawing no. 1387-20B

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

04. No dwelling hereby approved shall be occupied until the proposed access has been fully constructed with a consolidated surface (not loose stone or gravel) and in accordance with the details shown on the approved plan.

Reason: In the interests of highways safety and in accordance with policy TA5 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

05. Prior to commencement, details of an appropriate surface water drainage scheme shall be submitted to and agreed in writing by the Local Planning Authority. Prior to first occupation, the drainage scheme shall be fully provided in accordance with the details agreed and shall be retained and maintained thereafter.

Reason: In the interests of proper surface water drainage, in accordance with policy EQ1 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

06. There shall be no external lighting installed at the site without the prior written consent of the Local Planning Authority. Prior to the erection, installation, fixing, placement and/or operation of any external lighting on the site (including on any of the buildings themselves), details of such external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowl of all external lights to the buildings and any other parts of the application site edged red (as indicated on the approved Site Location Plan) and the hours at which such lighting is to be operated.

The external lighting shall thereafter be carried out in accordance with the approved details (unless the Local Planning Authority gives prior written approval to any subsequent variations), and shall thereafter be retained in that form.

Reason: All bats are afforded protection under the Habitats Regulations 2017 by which populations are to be maintained at Favourable Conservation Status as defined under Article 1 of the Habitats Directive 1992. Lacking evidence to the contrary it must be assumed the boundary hedgerows and trees forms part of the habitat available to maintain local bat populations. Bat species are adversely affected by the introduction of artificial lighting on commuting routes, which in effect can cause severance between roosts and foraging areas. A dark boundary area will also help maintain other light sensitive species on site and contribute towards conserving biodiversity.

07. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority by the ecologist

Reason: In the interests of nesting wild birds and in accordance with policy EQ4 of the Local Plan and the provisions of the NPPF.

08. The area of scrub shall only be removed under the supervision of an experienced ecologist to ensure no badger setts have been excavated or are at risk of disturbance from site operations. Written confirmation will be provided to confirm that no badgers will be harmed and/or that there are appropriate measures in place to protect any possible badger interest on site. Should a badger sett be found and at risk of disturbance, suitable mitigation may include the creation of artificial setts elsewhere prior exclusion of badgers (under licence from Natural England) before sett destruction.

Reason: To ensure that important biodiversity is conserved and in accordance with Local Plan Policy EQ4, plus National Planning Policy Framework paragraphs 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

09. During construction of the development hereby permitted:

- open pipework greater than 150 mm outside diameter shall be blanked off at the end of each working day; and
- for any trenches uncovered overnight, the creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavations, or by using planks placed into them at the end of each working day.

Reason: To ensure that important biodiversity is conserved and in accordance with Local Plan Policy EQ4, plus National Planning Policy Framework paragraphs 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

10. Grassland on site shall be maintained at a short sward until works on site are completed. This will keep the suitability of habitat for reptiles low and reduce risk of reptiles moving onto the site. Evidence of this in the form of photos will be sent to the local planning authority.

Reason: Reptile species are afforded protection from intentional and reckless killing or injury under the Wildlife and Countryside Act 1981 (as amended). Outside the period from April to October these species are likely to be in torpor or hibernation when disturbance is likely to pose a risk to survival.

11. The area of scrub will be removed under the supervision of an experienced ecologist to assure no activities harming reptiles are undertaken. Written confirmation will be provided to confirm that no reptiles will be harmed and/or that there are appropriate measures in place to protect any possible reptile interest on site.

Reason: Reptile species are afforded protection from intentional and reckless killing or injury under the Wildlife and Countryside Act 1981 (as amended). Outside the period from April to October these species are likely to be in torpor or hibernation when disturbance is likely to pose a risk to survival.

12. A fingertip search by a licenced ecologist be undertaken of the area of scrub being removed. Should any evidence of nesting dormice be found, works would have to stop and a European protected species licence applied for. Removal of the scrub shall only commence following the grant of the licence and with the agreement of a licenced ecologist.

Reason: Dormice are afforded protection under the Conservation of Habitats and Species Regulations 2017 which includes making it illegal to cause kill or injure dormice and destroy, damage or disturb resting places and from intentional or reckless disturbance to individual dormice under the Wildlife and Countryside Act 1981 (as amended). To ensure the development contributes to the Government's target of no net biodiversity loss and to provide gain where possible as set out in the National Planning Policy Framework; Local Policy; and the council's obligations for biodiversity under the Natural Environment and Rural Communities Act 2006.

13. Prior to occupation of the housing hereby permitted -
  - Any new fencing shall have accessible hedgehog holes created, measuring 13cm x 13cm, to allow the movement of hedgerows into and out of the site;
  - Two integrated bee bricks (<https://www.nhbs.com/bee-brick> or similar) shall be built into the external wall space of the new housing. The bricks will be placed one meter above ground level on a south facing aspect, vegetation must not block the entrance holes; and
  - A bird box, such as a Schwegler brick nest box, shall be installed on one of the proposed properties.



Reason: To ensure the development contributes to the Government's target of no net biodiversity loss as set out in the National Planning Policy Framework; South Somerset District Council Local Plan - Policy EQ4 Biodiversity; and the council's obligations for biodiversity under the Natural Environment and Rural Communities Act 2006. To ensure the success of mitigation measures are sustained for the duration of the development and that there is no net biodiversity loss in the long term as per Government and local minerals planning policy. Furthermore, the recently updated National Planning Policy Framework states in section 15, paragraph 170, that "Planning policies and decisions should contribute to and enhance the natural and local environment by: ... d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

**Informatives:**

01. There will be an expectation that the reserved matters scheme include the following:

- The hedgerow on site should be reinforced with a variety of native species, evidence of how this will be achieved should be submitted in writing to the local planning authority.
  - All new shrubs should be high nectar producing to encourage a range of invertebrates to the site, to provide continued foraging for bats. The shrubs must also appeal to night-flying moths which are a key food source for bats. The Royal Horticultural Society guide, "RHS Perfect for Pollinators, [www.rhs.org.uk/perfectforpollinators](http://www.rhs.org.uk/perfectforpollinators)" provides a list of suitable plants both native and non-native.
  - Where the landscaping scheme allows, all new trees planted on site should be from local native stock, such as field maple, ash, hornbeam, dogwood, spindle and beech.
-