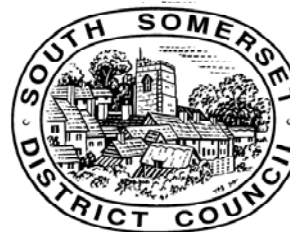


# South Somerset District Council

## Notice of Meeting



# Area West Committee

*Making a difference where it counts*

## Wednesday 16th February 2011

### 5.30 pm

## Henhayes Centre, Off South Street, Crewkerne Somerset TA18 8DA

(Please note change of venue - see location plan overleaf)

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The public and press are welcome to attend.

Disabled Access is available at this meeting venue.



If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, **Andrew Blackburn** on Yeovil (01935) 462462  
email: [andrew.blackburn@southsomerset.gov.uk](mailto:andrew.blackburn@southsomerset.gov.uk)

This Agenda was issued on Monday, 7th February 2011

*Ian Clarke, Assistant Director (Legal & Corporate Services)*

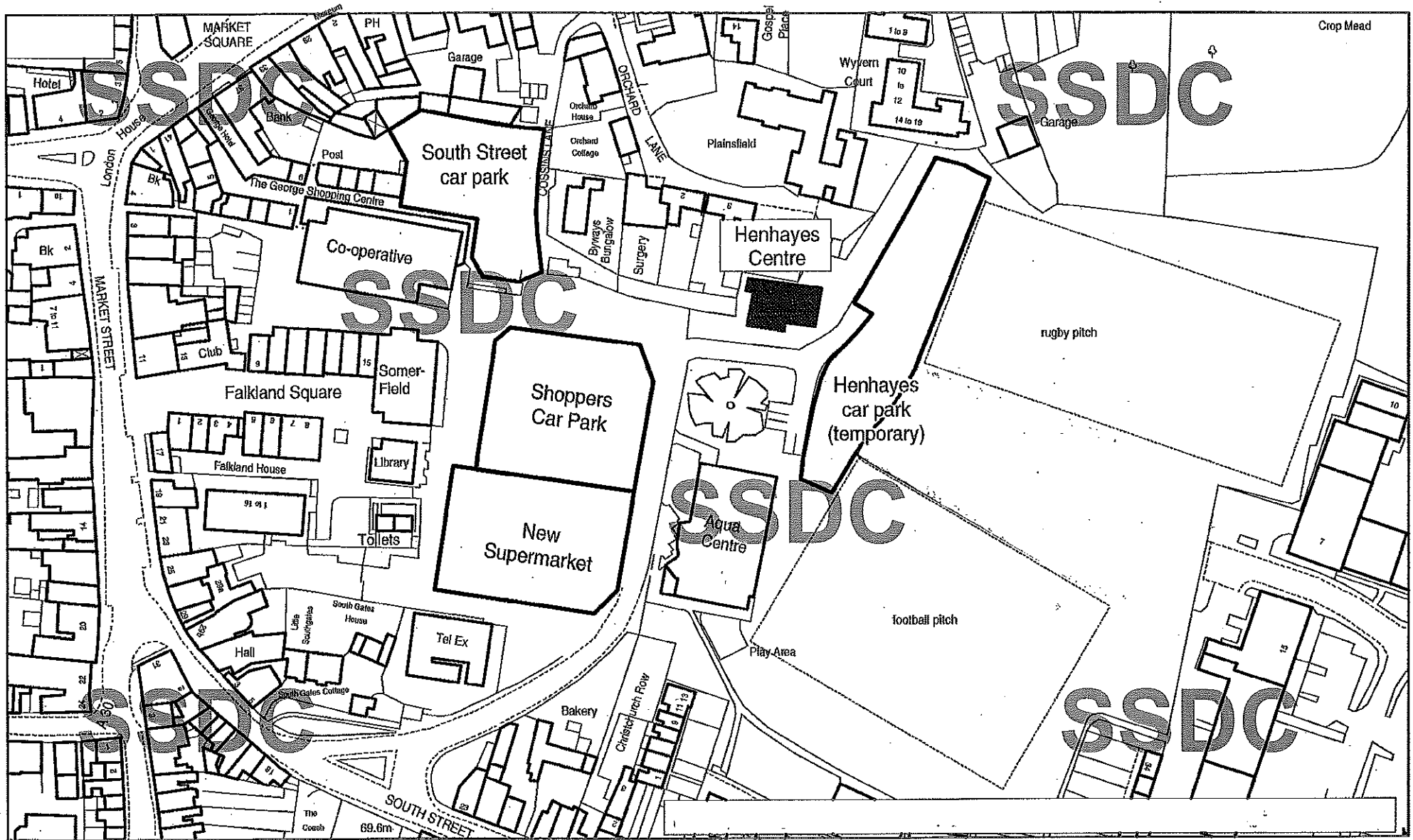


2007-2008  
Neighbourhood and  
Community Champions:  
The Role of Elected Members  
2006-2007  
Improving Rural Services  
Empowering Communities  
2005-2006  
Getting Closer to Communities

This information is also available on our  
website: [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk)



INVESTOR IN PEOPLE



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## Area West Membership

**Chairman:** Kim Turner  
**Vice-Chairman:** Michael Best

Simon Bending  
David Bulmer  
Geoff Clarke  
Carol Goodall  
Jenny Kenton

Nigel Mermagen  
Robin Munday  
Ric Pallister  
Ros Roderigo  
Dan Shortland

Angie Singleton  
Andrew Turpin  
Linda Vjeh  
Martin Wale

### Somerset County Council Representatives

Somerset County Councillors (who are not already elected District Councillors for the area) are invited to attend Area Committee meetings and participate in the debate on any item on the Agenda. **However, it must be noted that they are not members of the committee and cannot vote in relation to any item on the agenda.** The following County Councillors are invited to attend the meeting:-

Councillor Cathy Bakewell, Councillor John Dyke, Councillor Anne Larpent and Councillor Jill Shortland.

### South Somerset District Council – Corporate Aims

**Our key aims are:** (all equal)

- Increase economic vitality and prosperity
- Enhance the environment, address and adapt to climate change
- Improve the housing, health and well-being of our citizens
- Ensure safe, sustainable and cohesive communities
- Deliver well managed cost effective services valued by our customers

### Scrutiny Procedure Rules

Please note that 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.

### Consideration of Planning Applications

Members of the public are requested to note that the Committee will break for refreshments at approximately 6.45 p.m. Planning applications will not be considered before 7.00 p.m. The public and representatives of Parish/Town Councils will be invited to speak on the individual planning applications at the time they are considered. Anyone wishing to raise matters in relation to other items on the agenda may do so at the time the item is considered.

### Highways

A representative from the Area Highways Office will be available half an hour before the commencement of the meeting to answer questions and take comments from members of the Committee. Alternatively, they can be contacted through Somerset Highways direct control centre on 0845 345 9155.

### Members Questions on Reports prior to the Meeting

Members of the Committee are requested to contact report authors on points of clarification prior to the Committee meeting.

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## 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”. Members of the public can view the council’s Executive Forward Plan, either online or at any SSDC council office, to see what executive/key decisions 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 3 minutes on agenda items; and
- see agenda reports.

Meetings of the Area West Committee are held monthly at 5.30 p.m. on the 3<sup>rd</sup> Wednesday of the month in venues throughout Area West.

Agendas and minutes of Area Committees are published on the Council’s website [www.southsomerset.gov.uk](http://www.southsomerset.gov.uk)

The Council’s Constitution is also on the web site and available for inspection in council offices.

Further information about this Committee can be obtained by contacting the agenda co-ordinator named on the front page.

### Public Participation at Committees

This is a summary of the Protocol adopted by the Council and set out in Part 5 of the Council’s Constitution.

#### 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

Comments about planning applications will be dealt with at the time those applications are considered, rather than during the Public Question Time session.

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

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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 3 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/Agent  
County Council Division Member  
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.

The same rules in terms of public participation will apply in respect of other agenda items where people wish to speak on that particular item.

### **If a Councillor has declared a personal and prejudicial interest**

Under the new Code of Conduct, a Councillor will be afforded the same right as a member of the public, except that once the Councillor has addressed the Committee the Councillor will leave the room and not return until after the decision has been made.

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# Area West Committee

Wednesday 16th February 2011

## Agenda

### *Preliminary Items*

1. **To approve as a correct record the minutes of the previous meeting held on 19th January 2011**
2. **Apologies for Absence**
3. **Declarations of Interest**

In accordance with the Council's Code of Conduct, which includes all the provisions of the statutory Model Code of Conduct, Members are asked to declare any personal interests (and whether or not such an interest is "prejudicial") in any matter on the agenda for this meeting. A personal interest is defined in paragraph 8 of the Code and a prejudicial interest is defined in paragraph 10. In the interests of complete transparency, Members of the County Council, who are not also members of this committee, are encouraged to declare any interests they may have in any matters being discussed even though they may not be under any obligation to do so under the code of conduct.

### ***Planning Applications Referred to the Regulation Committee***

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

Cllr Mike Best  
Cllr Kim Turner  
Cllr Linda Vijeh

Where planning applications are referred by this Committee to the Regulation Committee for determination, in accordance with the Council's Code of Practice on Planning, 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**

This is a chance to ask questions, make comments and raise matters of concern.

Parish/Town Councils may also wish to use this opportunity to ask for the District Council's support on any matter of particular concern to their Parish/Town.

Anyone wishing to raise matters in relation to items on the agenda may do so at the time the item is considered.

**5. Chairman’s Announcements**

*Page Number*

***Items for Discussion***

<b>6. Budget Monitoring Report for the Period Ending 31<sup>st</sup> December 2010 (Executive Decision).....</b>	<b>1</b>
<b>7. Equalities Update Report .....</b>	<b>6</b>
<b>8. Carbon Reduction Projects – How the Council’s Carbon Targets are Being Met .....</b>	<b>20</b>
<b>9. Area West Committee - Forward Plan .....</b>	<b>22</b>
<b>10. Reports from Members on Outside Organisations .....</b>	<b>25</b>
<b>11. Feedback on Planning Applications referred to the Regulation Committee .....</b>	<b>26</b>
<b>12. Planning Appeals.....</b>	<b>27</b>
<b>13. Planning Applications .....</b>	<b>39</b>
<b>14. Date and Venue for Next Meeting .....</b>	<b>40</b>

**THE SCHEDULE OF PLANNING APPLICATIONS APPEARS AFTER PAGE 38.**

<p><b>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.</b></p>
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Area Committee West – 16th February 2011

## 6. Budget Monitoring Report for the Period Ending 31<sup>st</sup> December 2010 (Executive Decision)

Chief Executive: Mark Williams, Chief Executive  
 Assistant Director: Donna Parham (Finance and Corporate Services)  
 Service Manager: Amanda Card, Finance Manager  
 Lead Officer: Catherine Hood, Corporate Accountant  
 Contact Details: catherine.hood@southsomerset.gov.uk or 01935 462157

### Purpose of the Report

The purpose of this report is to update members on the current budgetary position of the Area West Committee as at the end of December 2010.

### Public Interest

This report gives an update on the financial position of Area West Committee half way through the financial year 2010/11.

### Recommendations

Members are recommended to:

- (1) review and comment on the current financial position of the Area West Budgets;
- (2) approve the transfer of £3,000 from the unallocated capital balance to the capital programme to fund the pedestrian link in Crewkerne.
- (3) approve the transfer of £1,000 from the unallocated capital balance to the capital programme to fund the completion of the play area in Snowdon Park, Chard.

## REVENUE BUDGETS

### Background

Full Council in February 2010 set the General Revenue Account Budgets for 2010/11 and delegated the monitoring of the budgets to the four Area Committees and District Executive. Area West now has delegated responsibility for the Area West development revenue budgets, which include revenue grants and regeneration, the Area West Capital Programme and the Area West Reserve.

### Financial Position

The table below shows the position of revenue budgets as at 31st December 2010. This includes transfers to or from reserves.

	£
<b>Approved base budget as at Feb 2010 (Original Budget)</b>	<b>446,580</b>
Budget Carry forwards	20,680
Staff turnover savings	(7,580)
<b>Revised Budget as at 31st December 2010</b>	<b>459,680</b>



A summary of the revenue position as at 31<sup>st</sup> December 2010 is as follows:

Element	Original Budget	Revised Budget	Y/E Forecast	Favourable Variance	Adverse Variance	%
	£	£	£	£	£	
<b>Development</b>						
Expenditure	414,160	437,080	437,080			-
Income	(45,050)	(50,050)	(49,000)		1,050	2.1%
<b>Projects</b>						
Expenditure	95,000	129,780	129,780			-
Income	(87,800)	(122,580)	(122,580)			-
<b>Grants</b>						
Expenditure	70,270	65,450	65,450			-
Income	0	0	0			-
<b>Group Total</b>						
Expenditure	579,430	632,310	632,310			-
Income	(132,850)	(172,630)	(171,580)		1,050	0.6%
<b>Net Expenditure</b>	<b>446,580</b>	<b>459,680</b>	<b>460,730</b>		<b>1,050</b>	<b>0.2%</b>

### Budget Virements

Under the Financial Procedure Rules the Strategic/Assistant Directors and managers can authorise virements within each individual service of their responsibility (as defined by Appendix B of the Annual Budget Report) and up to a maximum of £25,000 between services within their responsibility providing that the Assistant Director (Finance & Corporate Services) has been notified in advance. All virements exceeding these limits need the approval of District Executive. All virements between different services, irrespective of value, need approving by District Executive. Area Committees can approve virements between their reserves and budgets up to a maximum of £25,000 per virement and £50,000 in any one financial year, provided that all such approvals are reported to the District Executive for noting. (In accordance with the constitution).

No virements have taken place since the last report.

### AREA RESERVE

The position on the Area West Reserve is as follows:

		£
<b>Position as at 1<sup>st</sup> April 2010</b>		<b>57,840</b>
Less amounts transferred for use in 2010/11:		0
<b>Current balance in Reserve at 31<sup>st</sup> December 2010</b>		<b>57,840</b>
Less amounts allocated:		
Underwrite Community Grants	(40,500)	
Christmas town centre parking	(3,000)	
Provision for Street Market improvements (some contribution agreed in principle – subject to detail)	(14,340)	
		(57,840)
<b>Uncommitted balance remaining</b>		<b>0</b>

## CAPITAL PROGRAMME

The revised capital programme for this financial year and beyond is attached following this report together with a progress report on each scheme either Area or District Wide that are current within Area West. The estimated spend on the West Capital programme in 2010/11 is £18,693 and a further £12,500 for future years. In addition there is £5,660 approved in principle for the current year with a further £20,000 approved in principle for future years. There is also a balance of £88,948 that is unallocated as detailed below.

<b>Schemes</b>	<b>Provision 2010/11 £</b>	<b>Estimated Spend 2010/11 £</b>	<b>Future Spend £</b>
Markets Improvement Group	5,660		
Iminster Community Office			20,000
Unallocated Capital Reserve		41,340	47,608
<b>TOTALS</b>	5,660	41,340	67,608

A pedestrian link in Crewkerne linking two shopping areas has recently been completed with £10,000 of the cost being met from the Market Town Vision capital budget. It is recommended that members agree to fund the remaining balance of £3,000 from the unallocated capital balance.

To allow completion of the play area in Snowdon Park, Chard a contribution of £1,000 is requested from the unallocated capital balance.

The balance on the unallocated capital balance would reduce from £88,948 to £84,948 if the above were agreed.

If members would like further details on any of the Area West budgets or services they should contact the relevant budget holder or responsible officer.

### Corporate Priority Implications

The budget is closely linked to the Corporate Plan.

### Carbon Emissions & Adapting to Climate Change Implications (NI188)

There are no implications currently in approving this report.

### Equality and Diversity Implications

When the Area West budget was set any savings made included an assessment of the impact on equalities as part of that exercise.

**Background Papers:** *Financial Services Area West budget file*

AREA WEST CAPITAL PROGRAMME 2010/11 - 2015/16

	2010/11 Estimate Spend	Actual Spend to 31/12/2010	2010/ 11 Remaining Budget	Future Spend	Responsible Officer (s)	Responsible Officers Comments	
						Action taken to Control Slippage	Performance Against Targets
	£	£	£	£			
<b>Health and Well Being</b>							
The Neroche Project	6,000	0	6,000		A Gillespie		
Local Improvement Community Forums 2008 Chard	5,000	5,000	0	0	A Gillespie		Forum held April 2009 final grant now paid
Pavilion Extension Forton Rangers Football Club	0	0	0	12,500	L Pincombe	Budget monitoring report June 2010 indicated that a revised grant application for this project would be needed as it will differ from that originally approved (in April 2007)	Project will be delayed until at least 2012/13.
Flood Lighting in Happy Valley, Crewkerne	8,000	8,000	0		A Gillespie		Agreed at Area West Committee 18.8.2010
<b>Total Health and Well Being</b>	<b>19,000</b>	<b>13,000</b>	<b>6,000</b>	<b>12,500</b>			
<b>Environment</b>							
<b>Total Environment</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>			
<b>Economic Vitality</b>							
Snowdon Park - Mitchell Gardens Play Area	19,693	21,614	(1,921)		R Parr	A contribution will be made from revenue play area/youth development budget	
Snowdon Park - Mitchell Gardens Section 106 contribution	(15,000)	(15,000)	0		A Gillespie		
Contribution from Residents Association	(5,000)	(5,000)	0		A Gillespie		
<b>NET cost of Chard The Mintons</b>	<b>(307)</b>	<b>1,614</b>	<b>(1,921)</b>	<b>0</b>			
Pedestrian Link - Crewkerne		3,000	(3,000)		A Gillespie	To be funded from unallocated capital.	
<b>Total Economic Vitality</b>	<b>(307)</b>	<b>4,614</b>	<b>(4,921)</b>	<b>0</b>			
<b>Total West Capital Programme Approved in Detail</b>	<b>18,693</b>	<b>17,614</b>	<b>1,079</b>	<b>12,500</b>			

**Approved in Principle and Unallocated**

Ilminster Community Office	0	0	0	20,000	A Gillespie		
Area West Markets Improvement Group (Nov 2010 committee)	5,660		5,660		A Gillespie		
Unallocated Programme	41,340	0	41,340	47,608	A Gillespie		Additional £50k awarded in Feb 2009 for allocation in 2009/10 & 2010/11. Additional £25k awarded in Feb 2010 for allocation in 2010/11.
<b>Total Approved in Principle and Unallocated</b>	<b>47,000</b>	<b>0</b>	<b>47,000</b>	<b>67,608</b>			

**Summary**

Reserve Schemes (Approved in Principle and Unallocated)	47,000	0	47,000	67,608			
West Capital Programme	18,693	17,614	1,079	12,500			
<b>Total Programme to be Financed</b>	<b>65,693</b>	<b>17,614</b>	<b>48,079</b>	<b>80,108</b>			

**Corporate Capital Programme Schemes in Area West**

Community Play Scheme 2006 bid	50,000	3,000	47,000	82,000	R Parr		Redstart Park Chard £49K consultation and design is complete, construction due to start in January 2011. Blackdown View Ilminster £28k, Packers Way Misterton £25k & Furzehill Chard £30K making a total of £82K due in future years.
Youth Facilities Development 2006 bid	0	0	0	20,000	R Parr	A letter was sent to the relevant parishes in November 2010 setting out the outline grant offer and setting out a timeframe for projects to be completed or funds may be re-allocated.	Combe St Nicholas PC £5k, Broadway PC £5k, Misterton PC £5k & West & Middle Chinnock PC £5K (all future years)
Multi Use Games Areas	35,000	18,000	17,000	35,000	R Parr		Crewkerne TC 35K started and expected to be complete by end of financial year. Ilminster TC £35K (future year)
Grants to Parishes with Play Area	25,000	6,300	18,700	25,000	R Parr		Jocelyn Park Chard & Merriott completed, Happy Valley Crewkerne £37.5K less £25K playbuilder funding (current year) & Henhayes Crewkerne £12.5K & Forton Road Chard £12.5K (future years)




**AREA WEST CAPITAL PROGRAMME 2010/11 - 2015/16**

	2010/11 Estimate Spend £	Actual Spend to 31/12/2010 £	2010/ 11 Remaining Budget £	Future Spend £	Responsible Officer (s)	Responsible Officers Comments	
						Action taken to Control Slippage	Performance Against Targets

**Corporate Capital Programme Administered by Area West**

Market Town Vision - All Areas	93,000	25,745	<b>67,255</b>	162,000	A Gillespie	A Market Town Investment Group has been established with 11 Market Towns. Schemes are being worked on by this group.
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Key

- Delayed Projects 
- Projects in progress/likely to span further than current financial year 
- Projects Completed/ On course to be completed in current financial year 

Area West Committee – 16th February 2011

## 7. Equalities Update Report

*Strategic Director:* Rina Singh (Place and Performance)  
*Assistant Director:* Helen Rutter (Communities)  
*Lead Officer:* Jo Morgan, Community Cohesion Officer  
*Contact Details:* jo.morgan@southsomerset.gov.uk or 01935 462297

### Purpose of the Report

To provide members with information on the equalities work within SSDC and our duties under the new Equality Act.

### Public Interest

This report provides information on the Equality Act 2010, and how this will be implemented by the Council.

### Recommendation

This report is for information and comment.

### Background

#### Single Equality Scheme

'We remain committed to promoting equality, recognising and valuing diversity, and respecting the principles of human rights. The Single Equality Scheme presents our vision and approach to ensuring equal life chances for all.

We believe that everyone in our local communities has the right to be safe and protected from harm, to be treated fairly and with dignity, to live the life of choice, and to take an active part in the community. These fundamental principles of human rights are at the very core of our service delivery. This means that everyone should have equal access to our services and the right to be treated fairly by those services.

The Single Equality Scheme brings together the significant progress in equality and diversity that the district has achieved over the last three years and builds upon it. This means going beyond our legal responsibilities for equalities in the areas of service delivery, employment and working practices.' (Mark Williams Chief Executive, Tim Carroll Council Leader)

- The Single Equality Scheme, (SES), sets out our key equality objectives; the Equalities Action Plan sets out how we will meet those targets. The SES Action Plan is monitored by management board and scrutiny every six months.
- The SES was adopted by District Executive and Full Council in February 2010.

For more information:

<http://www.southsomerset.gov.uk/communities/equality-and-diversity/our-vision---single-equality-scheme>

## South Somerset Corporate Equalities Steering Group

In order for us to ensure that our services, strategies and policies are meeting the different needs of our local communities we carry out Equality Impact Assessments, (EIAs). The Equality Impact Assessments check that decisions and activities we undertake do not disadvantage different groups; currently consideration is given to disability, race, gender, age, rurality, religion and belief, gender reassignment and sexual orientation.

The Equality Impact Assessment process was subject to a managed audit carried out by the South West Audit Partnership. I am pleased to report that we achieved a 'comprehensive assurance' rating, a level not often awarded.

(Examples of how the EIAs and our equalities work have made a difference to our communities will be illustrated in a PowerPoint presentation.)

The South Somerset Corporate Equalities Steering Group (SSCESG) has the responsibility for overseeing the successful functioning of the Equality Impact Assessment process, and provides a steer in our approach to equalities work.

The SSCESG is now well established and is chaired by the Theme Advisor for Equality and Social Inclusion. The group has representation from a number of voluntary, community groups and equality strands.

### The Equality Framework for Local Government

A key tool for measuring our progress in mainstreaming equalities is the Equality Framework for Local Government, (EFLG) 2009. The framework concentrates on five areas of change management

- Knowing your community and equality mapping
- Place shaping, leadership, partnership and organisational commitment
- Community engagement and satisfaction
- Responsive services and customer care
- A modern and diverse workforce

The Framework comprises three levels of performance

- Developing - level 1
- Achieving - level 2
- Excellent - level 3

By completing the outcomes of the SES Action Plan, we aim to reach the Achieving level by 2011; it is envisaged that we will work towards becoming an Excellent authority in 2012.

### The Equality Act 2010

The Equality Act 2010, received Royal Assent in April 2010. The majority of the Act came into force in October 2010, and the rest will be implemented gradually over the next few years. The Act harmonises and extends existing equalities law. It aims to make it more consistent, clearer and easier to follow in order to make society fairer. The Act emphasises how central equalities considerations are to public service planning and delivery. It will be essential for all public bodies to consider and to document equalities issues at every decision that they take.

## Our responsibilities

As an organisation that provides a service to the public, the Act applies to SSDC in respect of all of our functions.

A public authority must, in the exercise of its functions, have due regard to –

- eliminate discrimination, harassment, victimization
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant characteristic and persons who do not share it

### We must –

- remove or minimize disadvantage suffered by persons who share a relevant protected characteristic or that are connected to that characteristic
- take steps to meet the needs of those persons
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low
- meet the needs of disabled persons, in particular, take steps that take account of disabled persons' disabilities
- tackle prejudice and promote understanding

## New aspects of the 2010 Act

The Equality Act 2010 brings together equality law by:

- Putting a new integrated **Equality Duty** on public bodies (April 2011)
- Using **public procurement** to improve equality
- Banning **age discrimination** outside the workplace (2012)
- Requiring **gender pay** and employment equality publishing (2013)
- Extending the scope to use **positive action**
- Strengthening the **powers of employment tribunals**
- Protecting **carers** from discrimination
- Clarifying the protection for **breastfeeding mothers**
- Banning discrimination in **private members' clubs**
- Strengthening protection from discrimination for **disabled people**
- Protecting people from **dual discrimination** - direct discrimination because of a combination of two protected characteristics

The SES has been written in line with the requirements of the Equality Act and the Equality Framework for Local Government, this includes identifying our key priority equality objectives and how we are going to meet them.

## Role of councillors

Councillors are an integral part of the equality and diversity process of the Council, playing a crucial role in meeting our responsibilities under the equalities legislation. Elected members represent residents from our local communities and can have a big impact on the equality of opportunity that residents experience through their everyday activities. This includes communicating with/about local people, meeting their needs and the Council's decision-making and scrutiny functions especially with regard to service provision.

## Training for staff and members

A planned programme of equalities training has been arranged for SSDC staff, to begin in the new year. This training was postponed from 2010 to ensure the public sector duties and responsibilities in the Equality Act 2010 were taken account of. Equalities training for newly elected Councillors will take place in July 2011, (although all members will be welcome to attend)

**Members should note the summary document** 'Equality Act 2010: What Do I Need To Know? A summary Guide For Public Sector Organisations' as background (attached at pages 11-19).

For further information:

[http://www.equalities.gov.uk/equality\\_bill.aspx](http://www.equalities.gov.uk/equality_bill.aspx)

<http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/>

## Equality Champions

An Equalities Champions Group has recently been set up. The group is made up of SSDC representatives from all Directorates and meets quarterly.

The objectives of the Equality Champions Group:

- To ensure effective and coordinated action on equalities
- To reduce disadvantage, discrimination and inequality
- To promote diversity and fairness

## Local Development Framework Consultation

Public engagement on the draft Core Strategy for the Local Development Framework has been co-ordinated by the four Area Development Teams in close working arrangements with the Community Cohesion Officer and Spatial Planning team. In designing the public engagement, the main focus has been on:

### 1) Young People

A series of events were held in November 2010 at schools and colleges. The method chosen was to meet with groups of young people and hold a structured discussion around the growth proposals overall, a more in-depth look at key policies areas and seek some specific feedback on local growth proposals in the catchment area of the school. Four such events were held:

- Ansford School, Castle Cary, 80 young people across Years 7, 8 and 9
- Bucklers Mead School, 30 pupils from Year 8
- Yeovil College, 15 pupils studying A-level geography
- Huish Episcopi Academy, Langport 30 pupils from Year 11

### 2) Black and Minority Ethnic Groups

This was arranged through the Somerset Black Development Agency and consisted of a discussion group held with 16 representatives from black and ethnic communities across South Somerset.



### 3) Gypsy and Travellers

A focus group was held with a group of gypsy and traveller representatives from across the district. Participants had been sent a copy of the summary leaflet in advance of the meeting and on the day there was a discussion about the housing needs of gypsy and traveller people and views were sought on the draft policy for gypsy and traveller development.

### 4) South Somerset Equalities Steering Group

A discussion group was held with representatives from the Corporate Equalities Steering Group, which includes disability groups, groups representing older/young people, faith groups, black and minority ethnic etc.

Each of these sessions have been written up and submitted as separate evidence as part of the consultation process.

### Financial Implications

There are no financial implications.

### Corporate Priority Implications

**Theme 4:-** Ensure Safe, Sustainable and Cohesive Communities

SSDC corporate plan key target areas:

4.16 Outcome: An empowered community where all people take part in shaping their neighbourhood. Measured by: Increasing % of people who feel that they belong to their neighbourhood (NI 2).

4.17 Increase % of people who believe people from different backgrounds get on well together in their local area.

4.18 Increase perceptions that people in the area treat one another with respect and consideration.

### Carbon Emissions & Adapting to Climate Change Implications (NI188)

None.

### Equality and Diversity Implications

The South Somerset Corporate Equalities Group were fully consulted in the preparation of this report.

**Background Papers:** *Equality Act 2010: What Do I Need To Know? A summary Guide For Public Sector Organisations*

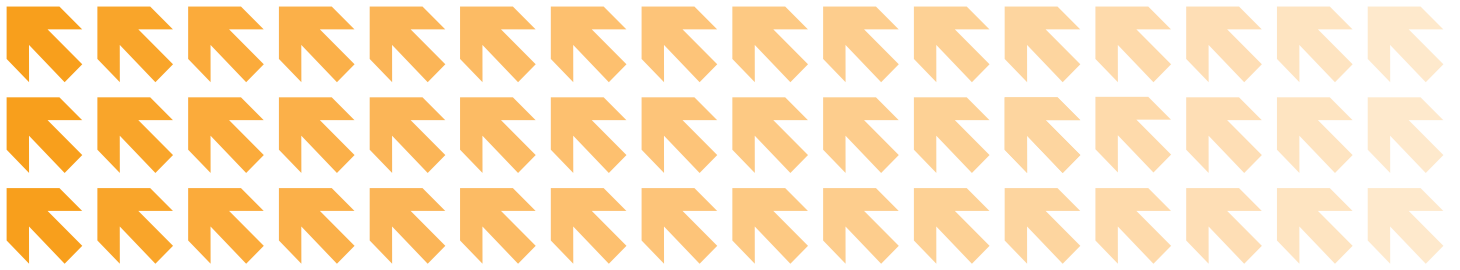


Government  
**Equalities** Office

Putting equality at the heart of government

# **EQUALITY ACT 2010: WHAT DO I NEED TO KNOW? A SUMMARY GUIDE FOR PUBLIC SECTOR ORGANISATIONS**

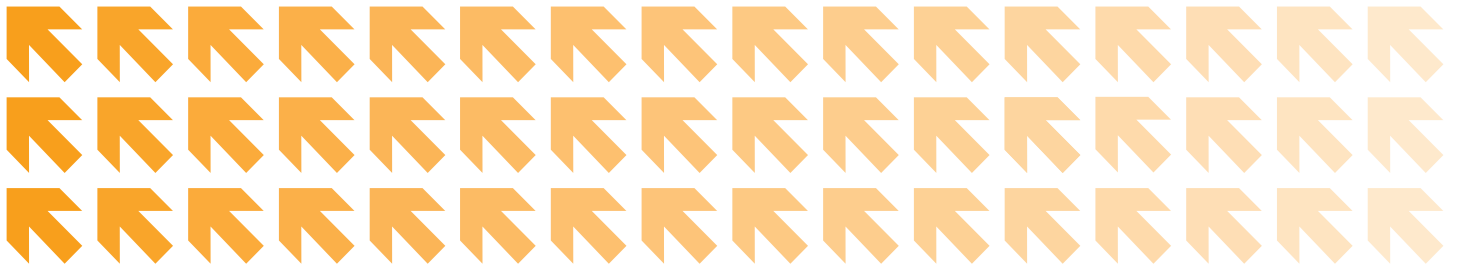




## Foreword

The Equality Act 2010 replaces the existing anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways to help tackle discrimination and inequality.

This summary guide is intended to help public sector organisations understand what the aspects of the Act coming into force in October 2010 mean for them.

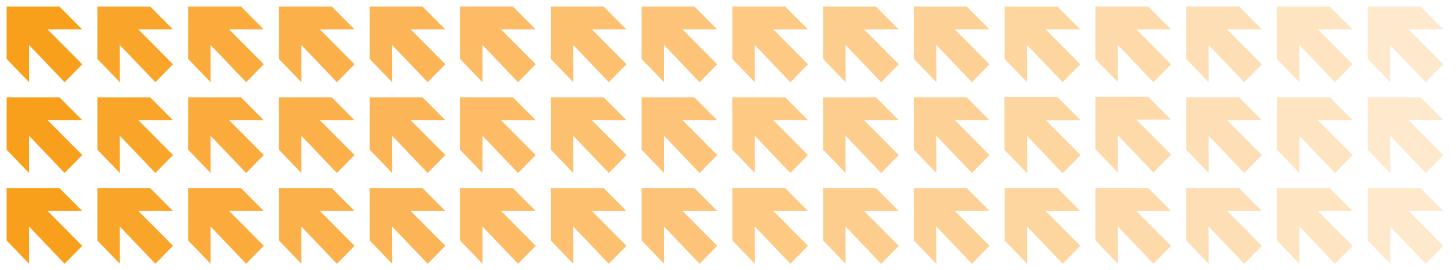


## Introduction

The Equality Act 2010 brings together, harmonises and in some respects extends the current equality law. It aims to make it more consistent, clearer and easier to follow in order to make society fairer. As a public sector organisation your responsibilities remain largely the same but there are some differences that you need to be aware of. These changes are summarised in table opposite.

There are other guides for employers, business and individuals. The guide for employers will help the public sector with employment issues.

This series of guides covers key changes that are coming into effect on 1 October 2010. The Equality Act also contains other provisions, including the new concept of dual discrimination, an extended public sector Equality Duty and a prohibition on age discrimination in services and public functions. The Government is looking at how the rest of the Act can be implemented in the best way for business, and will make an announcement in due course.



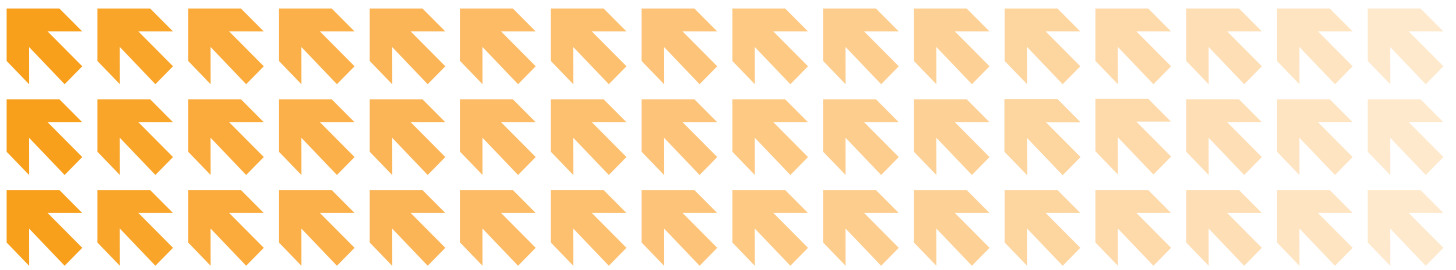
## What's new for the public sector – an overview

### Key

Characteristic covered in existing legislation – no changes	No change
Characteristic covered in existing legislation – but some changes	Changes
Characteristic not covered in existing legislation – now covered	New
Characteristic not covered in existing legislation – still not covered	No protection

	Disability	Gender reassignment	Pregnancy and maternity	Race	Religion or belief	Sex	Sexual orientation
Direct discrimination	Changes	No change	No change	No change	No change	No change	No change
Discrimination by association	New	New	No change	No change	No change	New	No change
Discrimination by perception	New	New	No change	No change	No change	New	No change
Indirect discrimination	New	New	No change	No change	No change	No change	No change
Harassment	Changes	Changes	No protection*	Changes	No protection*	Changes	No protection*
Victimisation	Changes	Changes	Changes	Changes	Changes	Changes	Changes
Positive action	Changes	Changes	Changes	Changes	Changes	Changes	Changes

\* Where there is no specific harassment protection, direct discrimination protection prohibits treatment such as bullying and harassment which results in a person being treated less favourably.



## Who has responsibilities

The Act applies to all organisations that provide a service to the public or a section of the public (service providers). It also applies to anyone who sells goods or provides facilities. It applies to all your services, whether or not a charge is made for them.

## Who is protected

The Act protects people from discrimination on the basis of 'protected characteristics' (these used to be called 'grounds'). The relevant characteristics for services and public functions are:

- disability (definition changed)
- gender reassignment (definition changed)
- pregnancy and maternity
- race – this includes ethnic or national origins, colour and nationality
- religion or belief
- sex, and
- sexual orientation.

### Disability (changed)

The protected characteristic of disability applies to a person who has a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

#### What has changed?

To qualify for protection from discrimination, a disabled person no longer has to show that their impairment affects a particular 'capacity', such as mobility or speech, hearing or eyesight.

For further details see the Disability Quick Start Guide.

### Gender reassignment (changed)

The protected characteristic of gender reassignment will apply to a person who is proposing to undergo, is undergoing or has undergone a process to change their sex.

#### What has changed?

To qualify for protection from discrimination a transsexual person no longer has to show that they are under medical supervision.

For further details see Gender Reassignment Quick Start Guide.

## What the law prohibits

### Direct discrimination

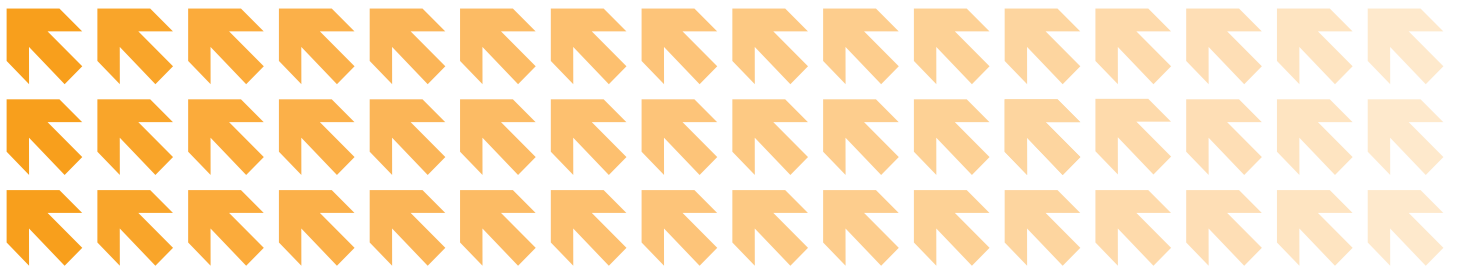
Direct discrimination in services and public functions happens when someone is treated less favourably than another person because of a protected characteristic.

#### What has changed?

Direct discrimination has been extended to cover disability.

### Example

A local authority advice centre refuses to provide advice that it would normally provide to a member of the public to Denise, a person with a learning disability, as staff assume that she will not be able to understand the advice because of her disability. This is direct discrimination.



Direct discrimination can also occur when a person is treated less favourably because of a protected characteristic even though that person does not have the characteristic. For example, it includes a person being treated less favourably because they are linked or associated with someone who has a protected characteristic.

### Example

Jonathan is the partner of Kate, who is a resident of a local authority care home. Jonathan decides to undergo gender reassignment and staff at Kate's care home discover this. As a result Kate is now treated less favourably by staff compared with other residents. This is discrimination because of association with a transsexual.

Direct discrimination also includes discrimination because a person is wrongly thought to have a particular protected characteristic or is treated as if they do.

### Example

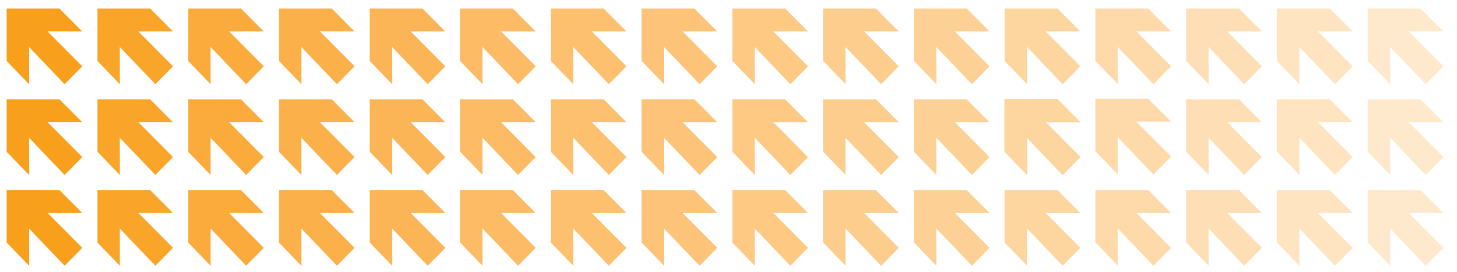
Sam is a local authority tenant who calls the local authority to query an electrical repair. Sam has a high voice and Bob, the engineer dealing with the query, thinks that Sam is a woman. Bob is very dismissive of Sam's query and refuses to explain the issue properly because he believes that a woman would not be able to understand it. This is sex discrimination against Sam because he has been wrongly perceived to be a woman.

### What has changed?

Previously protection extending wider than the person's own protected characteristic – such as protection from discrimination because of association and perception – applied only to race, religion or belief, and sexual orientation. Now it applies to sex, disability and gender reassignment as well.

### Indirect discrimination (extended to disability and gender reassignment)

Indirect discrimination happens when there is a rule, a policy or even a practice that applies to everyone but which particularly disadvantages people who share a particular protected characteristic. Indirect discrimination can be justified if it can be shown that the rule, policy or practice is intended to meet a legitimate objective in a fair, balanced and reasonable way. If this can be shown it will be lawful. When considering introducing a new rule or policy, you should first consider whether there is any other way to meet your objectives that would not have a discriminatory effect or that



is less likely to disadvantage people who have a protected characteristic. Remember that a lack of financial resources alone is unlikely to be a sufficient justification.

### **Example**

A local authority housing department has a policy of reminding tenancy applicants of forthcoming appointments by telephone. This puts deaf people who cannot use the telephone at a disadvantage, as they do not receive a reminder of their appointment. Unless the department can justify its policy of making contact only by telephone as being a proportionate means of achieving a legitimate aim, this is likely to amount to indirect discrimination.

### **What has changed?**

Indirect discrimination now applies to disability and gender reassignment as well as the other protected characteristics.

*Note:* Pregnancy and maternity is not covered but policies and practices that would put pregnant women and new mothers at a disadvantage could constitute unlawful indirect sex discrimination.

### **Harassment**

There is no specific prohibition on harassment related to religion or belief or to sexual orientation. However, if you harass someone because of their religion or belief or their sexual orientation, and consequently treat them less favourably than you would treat someone else, a court would count this as direct discrimination, which is unlawful.

### **Example**

Janice, a black woman is queuing at the Passport Office when she overhears two members of staff making racially abusive comments. As this conduct was unwanted by Janice and it made her feel humiliated and degraded, she can bring a claim of harassment.

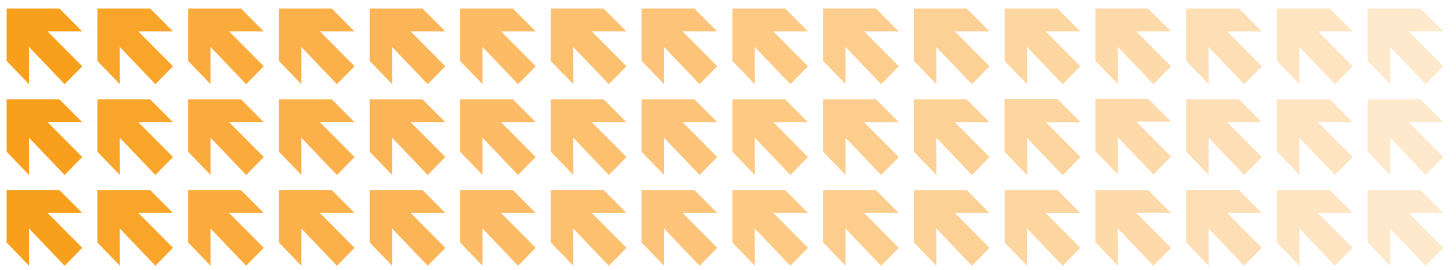
### **Victimisation**

Victimisation occurs when someone is treated badly because they have done something in relation to the Equality Act, such as making or supporting a complaint or raising a grievance about discrimination, or because it is suspected that they have done or may do these things. A person is not protected from victimisation if they have maliciously made or supported an untrue complaint.

### **Example**

Fabio makes a formal complaint against his Primary Care Trust because he feels that the Trust has discriminated against him because he is gay. The complaint is resolved through the organisation's grievance procedures. However, as a result of making the complaint Fabio is subsequently removed from his GP's list. This is victimisation.





### What has changed?

There is now no need for a victim to show that they have been less favourably treated than someone who has not made or supported a complaint under the Act. They need only show that they have been treated badly.

### Discrimination arising from disability

Discrimination arising from disability occurs when a disabled person is treated unfavourably because of something connected with their disability and this unfavourable treatment cannot be justified. Treatment can be justified if it can be shown that it is intended to meet a legitimate objective in a fair, balanced and reasonable way. If this can be shown then the treatment will be lawful.

This form of discrimination can occur only if the service provider knows or can reasonably be expected to know that the disabled person is disabled.

#### Example

Vikram, who has an assistance dog, is not allowed to enter his local mobile library because staff say there is not enough room for his dog. This may be discrimination arising from disability unless it can be justified (e.g. the dog poses a genuine health and safety risk as opposed to merely being inconvenient for staff).

## Other changes you need to know about

### Positive action

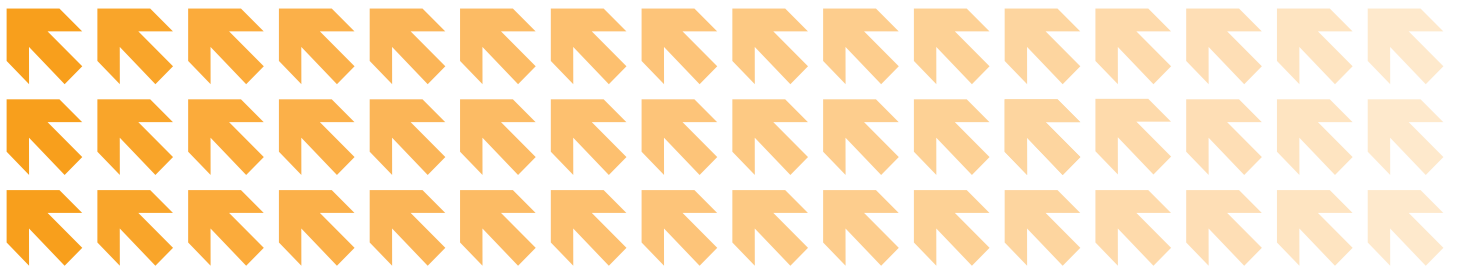
Some people with protected characteristics are disadvantaged or under-represented in some areas of life, or have particular needs linked to their characteristic. They may need extra help or encouragement if they are to have the same chances as everyone else. The new positive action provisions enable public sector organisations to take proportionate steps to help people overcome their disadvantages or to meet their needs.

Note:

- There is no requirement to take positive action
- There is no restriction on treating disabled people more favourably than non-disabled people. It is also permitted to take steps to meet the needs of people with a particular disability.

#### Example

A police force becomes aware of a series of homophobic incidents taking place locally, most of which seem to be going unreported. Following consultation with the local lesbian, gay and bisexual (LGB) community which reveals little confidence that any complaints raised will be investigated fully, the police force appoints a specific liaison officer to act as the first point of contact between the service and local LGB residents.



### *What has changed?*

These new provisions are simpler and clearer to use than the previous provisions, which were complicated and difficult to apply.

### **Breastfeeding mothers**

The Act has specifically clarified that it is unlawful to discriminate against a woman because she is breastfeeding.

This means that you need to allow women to whom you are providing goods, facilities or services to breastfeed if they so wish.

### **Example**

Julie is breastfeeding her baby in a court waiting room. The usher tells her to stop feeding the baby or go to the ladies' toilets to feed it in privacy. This is unlawful discrimination.

Area West Committee – 16th February 2011

## 8. Carbon Reduction Projects – How the Council’s Carbon Targets are Being Met

Strategic Director: Vega Sturgess (Operations and Customer Focus)  
 Assistant Director: Laurence Willis (Environment)  
 Service Manager: Andy Foyne, Spatial Policy  
 Lead Officer: Keith Wheaton-Green, Climate Change Officer  
 Contact Details: keith.wheaton-green@southsomerset.gov.uk or 01935 462651

### Purpose of the Report

To explain carbon reduction projects being brought forward to reduce the council’s carbon emissions.

### Public Interest

National government and residents of South Somerset expect the district council to lead by example in reducing energy bills from the council’s operations, saving money and reducing carbon emissions in the process. To this end, a Carbon Management Plan has been produced with a sequential list of energy saving and renewable energy projects. Some have been implemented, some are currently being progressed and others are at the investigation stage. The PowerPoint presentation to be given by the Climate Change Officer will detail these.

### Recommendation

That members note the carbon reduction projects being progressed.

### Background

A carbon reduction and climate change adaptation strategy can be found on the council’s website at: <http://www.southsomerset.gov.uk/media/89769/carbon%20reduction%20and%20climate%20change%20adapataion%20strategy%20march%202010.pdf>

During 2008 the council engaged with the Carbon Trust’s “Local Authority Carbon Management Programme”. We were supported to produce our Carbon Management Plan

[http://www.southsomerset.gov.uk/media/89772/website\\_carbon\\_management\\_plan\\_ssd\\_csiq.pdf](http://www.southsomerset.gov.uk/media/89772/website_carbon_management_plan_ssd_csiq.pdf) and guided to best practice carbon reduction projects.

### The Carbon Reduction Projects

These will be detailed in the presentation. They all relate to the council’s own operations.

### Financial Implications

There are no financial implications at this time.

**Corporate Priority Implications**

Theme 2: Enhance the Environment, Address and Adapt to Climate Change Target 2.14  
Reduce CO2 from SSDC operations. Deliver at least 4 projects / year reducing CO2 emissions by 12% by 2011/12.

**Carbon Emissions & Adapting to Climate Change Implications (NI188)**

The whole purpose of the carbon reduction projects is to reduce carbon emissions.

**Equality and Diversity Implications**

There are no implications.

**Background Papers:** *Carbon Management Plan*  
*Carbon Reduction and Climate Change Adaptation Strategy*

## Area West Committee – 16th February 2011

### 9. Area West Committee - Forward Plan

*Strategic Director:* Rina Singh (Place and Performance)  
*Assistant Director:* Helen Rutter (Communities)  
*Service Manager:* Andrew Gillespie, Area Development Manager (West)  
*Agenda Co-ordinator:* Andrew Blackburn, Committee Administrator, Legal & Democratic Services  
*Contact Details:* [andrew.blackburn@southsomerset.gov.uk](mailto:andrew.blackburn@southsomerset.gov.uk) or 01460 260441

#### **Purpose of the Report**

This report informs members of the proposed Area West Committee Forward Plan.

#### **Recommendation**

Members are asked to:-

- (1) comment upon and note the proposed Area West Committee Forward Plan as attached at pages 23-24;
- (2) identify priorities for further reports to be added to the Area West Committee Forward Plan.

#### **Forward Plan**

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

The forward plan will be reviewed and updated each month in consultation with the Chairman. It is included each month on the Area West Committee agenda and members may endorse or request amendments.

To make the best use of the Area Committee, the focus for topics should be on issues where local involvement and influence may be beneficial, and where local priorities and issues raised by the community are linked to SSDC corporate aims and objectives.

Councillors, service managers, partners and members of the public may request that an item is placed within the forward plan for a future meeting by contacting the agenda co-ordinator.

**Background Papers:** None.

Notes

- (1) Items marked in *italics* are not yet confirmed, due to the attendance of additional representatives.
- (2) Further details on these items, or to suggest / request an agenda item for the Area Committee, please contact the Agenda Co-ordinator; Andrew Blackburn, 01460 260441 or e-mail [andrew.blackburn@southsomerset.gov.uk](mailto:andrew.blackburn@southsomerset.gov.uk)
- (3) Standing items include:
  - a. Quarterly Budget Monitoring Reports
  - b. Reports from Members on Outside Organisations
  - c. Feedback on Planning Applications referred to the Regulation Committee
  - d. Chairman's announcements
  - e. Public Question Time

Meeting Date	Agenda Item	Background / Purpose	Link to SSDC Area & Corporate Priorities and National Indicators (NI)	Lead Officer
16th Feb. 2011	Equalities work within SSDC	A presentation on the role of the Community Cohesion Officer and the equalities work within SSDC	<b>SSDC corporate plan key target area 4.16</b> Outcome: An empowered community where all people take part in shaping their neighbourhood. Measured by: Increasing % of people who feel that they belong to their neighbourhood (NI 2). <b>4.17</b> Increase % of people who believe people from different backgrounds get on well together in their local area. <b>4.18</b> Increase perceptions that people in the area treat one another with respect and consideration.	Jo Morgan, Community Cohesion Officer
16th Feb. 2011	Carbon Reduction Projects	Presentation on carbon reduction projects and how SSDC carbon emission targets are being met.	<b>SSDC corporate plan key target area 2.13</b> Outcome: A low carbon council adapting to climate change. Measured by: Increasing residents' perception that SSDC leads by example in tackling climate change. <b>2.14</b> CO2 reduction from Local Authority operations.	Keith Wheaton-Green, Climate Change Officer
16th March 2011	Chard Regeneration Scheme including Key Site development	Report on Progress	<b>SSDC corporate plan key target area 1.9</b> Increase overall employment rate (Somerset resident population of working age). <b>1.11</b> Outcome: A vibrant and sustainable Yeovil, Market Towns and Rural Economy. Measured by: Increased local sustainability. <b>3.3</b> Increase the net additional homes provided. <b>3.5</b> Increase the supply of ready to develop housing sites.	Andrew Gillespie, Area Development Manager (West) Robert Murray, Economic Development Officer
16th March 2011	SSDC Streetscene Services	Service report on performance and priority issues in Area West	<b>SSDC key target area 2.8 (and NI195/196)</b> Improve street and environmental cleanliness by reducing levels of graffiti, litter, detritus, flytipping and flyposting	Chris Cooper, SSDC Head of Streetscene Services

<b>Meeting Date</b>	<b>Agenda Item</b>	<b>Background / Purpose</b>	<b>Link to SSDC Area &amp; Corporate Priorities and National Indicators (NI)</b>	<b>Lead Officer</b>
16th March 2011	Capital Grant Applications	To consider capital grant applications	<b>SSDC corporate plan key target area 4.22</b> Outcome: sustainable local communities. Measured by: Increasing those who participate in regular volunteering at least once a month (NI6). <b>4.23</b> Increase environment for a thriving third sector (NI7).	Andrew Gillespie, Area Development Manager (West) Zoë Harris, Community Regeneration Officer Area Development (West)
<b>20th April 2011</b>	Markets Improvements Action Plan	To agree the Markets Improvements Action Plan	<b>SSDC corporate plan key target area 1.11</b> promoting distinctive balanced local economies.	Zoë Harris, Community Regeneration Officer Area Development (West)
20th April 2011	Asset Management Strategy	To discuss with members the principles of the SSDC Asset Management Strategy including asset transfer and the checklist now available for use.	<b>Theme 5: Deliver well managed cost effective services valued by our customers.</b>	Donna Parham, Assistant Director (Finance and Corporate Services) Andrew Gillespie, Area Development Manager (West)
15th June 2011	Environmental Health Services	Service report on performance and priority issues in Area West	<b>Theme 3: Improve the housing, health and well-being of our citizens.</b>	Alasdair Bell, Environmental Health Manager
<i>Twice per year.</i>	<i>Crewkerne Community Planning Update</i>	<i>For Information</i>	<b>SSDC corporate plan key target area 4.16</b> Outcome: An empowered community where all people take part in shaping their neighbourhood. Measured by: Increasing % of people who feel that they belong to their neighbourhood (NI 2).	<i>Zoë Harris, Community Regeneration Officer Area Development (West)</i>
<i>Twice per year</i>	<i>Ilminster Community Planning Update</i>	<i>For Information</i>	<b>SSDC corporate plan key target area 4.16</b> Outcome: An empowered community where all people take part in shaping their neighbourhood. Measured by: Increasing % of people who feel that they belong to their neighbourhood (NI 2).	<i>Zoë Harris, Community Regeneration Officer Area Development (West)</i>

Area West Committee – 16th February 2011

## **10. Reports from Members on Outside Organisations**

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

Members are asked to notify the Chairman before the meeting if they wish to make a report.

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Area West Committee – 16th February 2011

**11. Feedback on Planning Applications referred to the Regulation Committee**

There is no feedback to report on planning applications referred to the Regulation Committee.

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Area West Committee – 16th February 2011

## 12. Planning Appeals

*Strategic Director:* Rina Singh (Place and Performance)  
*Assistant Director:* Martin Woods (Economy)  
*Service Manager:* David Norris, Development Manager  
*Lead Officer:* David Norris, Development Manager  
*Contact Details:* david.norris@southsomerset.gov.uk or 01935 462382

### 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.

### Report Detail

#### Appeals Lodged

##### Written Representation

**Chard** – The formation of a vehicular access and hardstanding (Revised Application), Woodbury, 75 Crimchard – Mr. & Mrs. Mervyn Powell – 10/02181/FUL.

##### Informal Hearing

**North Perrott** – The erection of a log cabin for use as manager's accommodation for holiday lodges and coarse fishing lakes (Revised Application), Watermeadow Fisheries, North Perrott Road – Nigel Pike – 10/03512/FUL.

**Hinton St. George** – The use of land for 2 no. private gypsy/traveller pitches and associated works, land OS 4154, Merriott Road – Ms. R. Cathcart – 10/03055/FUL.

#### Appeals Dismissed

**Chard** – Residential Development on land rear of The Phoenix Hotel and car park, Fore Street – Ashdown Investors Ltd. – 10/00093/OUT.

Officer's recommendation – Approval.  
Committee decision (16th June 2010) – Refusal.

The Inspector's decision letter and decision on an application for costs made by the applicant (award refused) are attached at pages 27-30.

**Haselbury Plucknett** – Application to vary condition no. 02 of planning approval 08/03912/S73 dated 4/12/2008 to include alcoholic drinks to be sold, Bay Tree Farm, Claycastle – Eden4flowers.co.uk Ltd. – 10/03089/S73.

Delegated Decision – Refusal.

The Inspector's decision letter is attached at pages 31-33.

**West Crewkerne** – Application for a certificate of lawfulness for proposed use of land for the siting of a mobile home for use ancillary to main dwelling, Court Farm House, Clapton Road, Clapton – Mr. John Williams – 10/01444/COL.

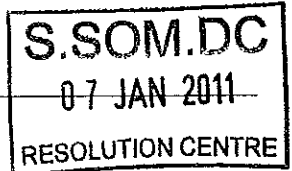
Delegated Decision – Refusal.

The Inspector's decision letter is attached at pages 34-36.

### **Appeals Withdrawn**

**Misterton** – The erection of 100 no. dwellings together with associated roads, parking, sub-station, open space and affordable housing provision, Bradfords Site, Station Road – Betterment Properties (Wey) Ltd. – 08/04348/FUL.

**Background Papers:** *Application files – 10/02181/FUL, 10/03512/FUL, 10/03055/FUL, 10/00093/OUT, 10/03089/S73, 10/01444/COL & 08/04348/FUL.*



## Appeal Decision

Site visit made on 2 November 2010

**by Olivia Spencer BA BSc DipArch RIBA**

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

Decision date: 5 January 2011

**Appeal Ref: APP/R3325/A/10/2135041**

**Land to the rear of The Phoenix Hotel, Fore Street, Chard, Somerset TA20 1PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Ashdown Investors Ltd against the decision of South Somerset District Council.
- The application Ref 10/00093/OUT, dated 4 January 2010, was refused by notice dated 8 July 2010.
- The development proposed is residential development works.

### Application for costs

1. An application for costs was made by Ashdown Investors Ltd against South Somerset District Council. This application is the subject of a separate Decision.

### Decision

2. I dismiss the appeal.

### Preliminary matters

3. The application that led to this appeal was made in outline with access to be considered at this stage and all other matters reserved for later consideration.
4. A section 106 unilateral undertaking to provide affordable housing and to make contributions towards transport and leisure facilities has been submitted by the appellant.

### Main Issues

5. The main issues are firstly the effect of the proposed development on the character and appearance of the Chard townscape and secondly, the effect on highway and pedestrian safety.

### Reasons

#### *Character and appearance*

6. The Phoenix Hotel occupies one of a number of long narrow plots fronting Fore Street. Extensions, outhouses and more recent building have typically extended development deep into these plots. This is an historic pattern typical of the Conservation Area in which they lie. At the Phoenix Hotel this includes new dwellings laid out along almost the full length of the plot. The courtyard

- however also provides access to a detached house and to the appeal site both of which lie to the north, beyond the Conservation Area boundary.
7. The entrance from Fore Street is narrow and the proportions of the courtyard and the buildings lining it to either side are modest. The form and scale is of a traditional mews. Both the illustrative drawings and the size of the appeal plot suggest that the proposed development in contrast would be of a more substantial nature. In my view this would be an unexpected and jarring addition to the traditional courtyard that would in effect extend it awkwardly and very substantially beyond the hotel and the narrow entrance from Fore Street.
  8. That the scale of development would be a matter for consideration at the reserved matters stage and that density could be controlled by conditions does not allay my concern that the extension of residential development in this manner, substantially beyond the courtyard, could be successfully achieved without harm to the established character and appearance of this part of the town.
  9. The development would be sufficiently far from the Phoenix Hotel itself to ensure that its setting is preserved. The courtyard however forms part of the Conservation Area and contributes to its historic character and appearance. In eroding the character and appearance of the courtyard the proposal would thus fail also to preserve the character and appearance of the Conservation Area.
  10. On the basis of the information before me and on my own observations at the site visit I conclude therefore that the proposed development would fail to preserve or complement the character and appearance of the Chard townscape contrary to Policy ST6 of the South Somerset Local Plan (LP) 2006.

*Highway and pedestrian safety*

11. The appellant has indicated that the development could be laid out in such a way as to prevent on-site car parking. The site is close to town centre facilities, services and bus routes and many residents may choose not to own a private car. There are public car parks close by as well as some on-street parking, and I have seen nothing to suggest that prevention of parking in places where it would cause a hazard to traffic could not be enforced. I thus have no reason to conclude that an absence of on-site parking would give rise to significantly increased hazards on surrounding roads.
12. That said I turn now to consideration of the impact on the Phoenix courtyard. The appellant has suggested that fire engines could get close to the site through Essex Close. I understand no agreement has however been reached with the Council to provide access to the site from the east. All access to the site would be through the courtyard. In this respect the proposed development would contrast markedly with the development for 12no. dwellings granted planning permission on the adjoining site to the south which will have an entrance through its eastern boundary wall. Whilst vehicle access to the appeal site itself may be restricted, given the distance from Fore Street it is very likely that delivery and service vehicles, taxis, visitors and residents who do own vehicles will wish to bring them into the courtyard at times, particularly if they have goods, shopping etc to deliver.
13. Visibility at the entrance to the courtyard is poor and the entrance itself is narrow. And even where the courtyard opens out to the rear of the hotel,

manoeuvring space is limited. The Council granted planning permission for a total of 5no. dwellings at the rear of the hotel in 2008 and 2010 adding to traffic generation within the courtyard. The proposed development would place a further burden on the access. Notwithstanding the comments made by the Highway Authority, I consider the cumulative impact of traffic generated by the consented development together with that now proposed would give rise to an increased danger to pedestrians within the courtyard and to road users at the entrance.

14. Therefore whilst I find no harm arising from the lack of on-site parking, I conclude that the proposed development would have a detrimental effect on the safety of pedestrians within the Phoenix courtyard and on the safety of road users in Fore Street contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 2000.

### **Unilateral undertaking**

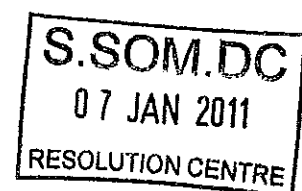
15. The Council has requested the provision of affordable housing, contributions towards sport and leisure facilities and contributions towards improvements to the traffic signalling system at the junction of the A30/A358 in the centre of Chard. In respect of the first two of these, reference is made to Local Plan Policies. I have seen no copies of these. Nor I have seen any evidence to indicate a local need for affordable housing or the nature, adequacy or accessibility of local sport and leisure facilities. On the basis of the information before me I cannot therefore conclude that the sums sought in respect of these items are necessary to make the development acceptable in planning terms, directly related to the development or fairly and reasonably related in scale and kind.
16. With regard to the requested contribution towards the traffic signalling system, a little more detail has been provided. However, as set out by the Council contributions are calculated on the basis of dwelling numbers rather than vehicle movements generated. It seems to me that occupiers of a dwelling within a car free development would be likely to make fewer car journeys than those occupying housing with on-site parking and I am not convinced therefore that the contribution would be fairly and reasonably related in scale to the development proposed.
17. I conclude therefore that the contributions sought do not meet the tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010. For this reason and having regard also to the concerns raised as to the validity of the submitted undertaking and in particular the lack of a seal, I have not taken the undertaking into account in coming to my decision.

### **Conclusion**

18. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Olivia Spencer*

INSPECTOR





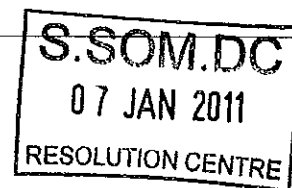
## Costs Decision

Site visit made on 2 November 2010

by **Olivia Spencer BA BSc DipArch RIBA**

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

Decision date: 5 January 2011



### **Costs application in relation to Appeal Ref: APP/R3325/A/10/2135041 Land to the rear of The Phoenix Hotel, Fore Street, Chard, Somerset TA20 1PH**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Ashdown Investors Ltd for a full award of costs against South Somerset District Council.
- The appeal was against the refusal of planning permission for residential development works.

#### **Decision**

1. I refuse the application for an award of costs.

#### **Reasons**

2. The application that led to the appeal was in outline with scale a reserved matter. Density too could potentially be controlled by imposition of a condition. Whether the development would respect the character and appearance of the area in accordance with development plan policy is nevertheless a valid issue. Planning authorities are not bound to accept the recommendations of their officers but should produce relevant evidence to support their decision. The evidence provided on this matter was limited but sufficient, together with observations at the site visit, for me to reach a conclusion on the matter. Further very little of the appellant's appeal statement was taken up with addressing this and I do not consider that on its own it would thus have given rise to any significant expense. The evidence in support of the reasons for refusal related to parking and highways matters was more robust.
3. I have set out in the appeal decision the reasons why other planning permissions granted by the Council do not provide a justification for the proposed scheme and why notwithstanding the opportunity to impose conditions the appeal should be dismissed.
4. Matters raised in respect of both the main issues were very largely a matter of judgement. That the authority in these circumstances reached a different view to that of its officers is not unreasonable and I consider evidence has been provided to support those judgements.
5. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in circular 03/2009 has not been demonstrated and that an award of costs is not therefore justified.

*Olivia Spencer*

INSPECTOR



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## Appeal Decision

Site visit made on 11 January 2011

by **Roger Pritchard MA PhD MRTPI**

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

Decision date: 20 January 2011

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**Appeal Ref: APP/R3325/A/10/2138863**

**Bay Tree Farm, Claycastle, Haselbury Plucknett, Crewkerne, Somerset, TA18 7PE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Edens4flowers.co.uk Ltd. against the decision of South Somerset District Council.
  - The application Ref 10/03089/S73, dated 26 July 2010, was refused by notice dated 22 September 2010.
  - The application sought planning permission for the change of use of a wooden barn for use as packing/dispatching of flowers for web based business without complying with a condition attached to planning permission Ref 08/03912/S73, dated 4 December 2008.
  - The condition in dispute is No 2 which states that: *'The subject land, including any buildings thereon, shall be used for an internet flower delivery business and for no other purpose (including any other purpose in Class B1 or B8 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) and no other associated goods other than flowers, floral displays, stuffed toy figures, chocolates, balloons, food or jewellery shall be dispatched from the premises.'*
  - The reason given for the condition is: *'To ensure that the business is restricted to the terms and goods defined in the application and that the business does not evolve into a business which would have the potential to cause nuisance by reason of noise, general disturbance and traffic generation to residential residents in the area in accordance with Policy ST5 of the South Somerset Local Plan.'*
- 

### Decision

1. I dismiss the appeal.

### Main Issue

2. I consider the main issue to be whether the variation of the disputed condition would result in material harm to the living conditions of the occupants of neighbouring residences.

### Reasons

3. The appeal site comprises a barn, granted permission in 2003 for a change of use for the packing and distribution of flowers sold through the web (Ref 03/01862/ COU). There have a number of applications to vary the conditions originally placed on that permission. The latest of these, to which the application before me refers (Ref 08/03912/S73), varies condition No. 05 of a



previous permission (Ref 07/02210/COU) – which permits more than one collection from the premises on three days per year – but carries forward all those previous conditions that apply to the use so far as they continue to be applicable.

4. The appeal site is in an isolated location on the western edge of the village of Haselbury Plucknett. Access is via a narrow lane that proceeds west through the village before reaching the A3066. There is no footway and the junction with the A3066 has poor visibility. Nevertheless, it provides the only link into the national highway network via the A30. (Access from the site to the east is via very narrow lanes which commercial traffic would find virtually impossible to use.)
5. I have no doubt that the business on the appeal site had enjoyed significant commercial success since first being established. This is demonstrated by the number of applications made by the appellants to relax conditions imposed on the original permission and their submission referring to major national companies in this field with whom they appear to be seeking to compete. This supplemented by evidence from local residents which points to a growing intensification and diversification of the on-line business. I was particularly referred to the web sites, eden4gifts and the planned eden4wine, which raise questions as to whether the appellants' future business model will be limited to the dispatch of flowers with which other goods are included or to widen the on-line operations to the sale of a wider range of stand-alone goods.
6. I acknowledge that this is a relatively small site, occupied by a small building. However, the success of the business occupying it seems to me to depend very much on increasing the throughput of goods. Such increases pose issues in relation to the suitability of this location, both in terms of greater traffic volumes that would lead to both a greater risk to the safety of highway users in the vicinity and a deterioration in environmental conditions for neighbours and the wider village.
7. The appellants suggest that the proposed variation before me represents only a small change. I accept that the other conditions attached to permission (Ref 08/03912/S73) would continue to apply to the use of the site. Those conditions restrict the nature of the use and should provide a range of safeguards that limit traffic generation, as well as other potential environmental impacts on neighbours, such as noise.
8. Nevertheless, I am conscious that the sensitivity of the site and the difficulty of the access to it is such that even small increases in activity may result in significantly magnified problems. Although I note that the Highway Authority has not formally objected to the variation of condition 02, it has consistently expressed concerns about the standard of the approach roads and their suitability for HGVs. I share this concern as well as accepting that there would be more general environmental harm from increased activity on, and to and from, the site.
9. In coming to this view, I have reflected on the comments made by my colleague in 2005 (Appeal Ref APP/R3325/A/04/1169249) both in relation to the general impact of the business and the case for extending the range of associated goods to include wine and champagne. If anything, the expansion of the business has added weight to the concerns he expressed at the time about the vulnerability of the surrounding area and the risks associated with widening the raft of products sold from the site. I note that he was concerned

with a proposal that would have had a throughput of 4-5 cases of wine, whilst the appellants are now suggesting a storage capacity of 18 cases. I see nothing to cause me to disagree with his conclusions in respect of adding alcoholic beverages to the list of goods that can be sold from the site. On the contrary, subsequent developments seem to me to reinforce them.

10. I have also considered the appellant's suggestion that objections could be overcome by a condition that limited the storage of alcoholic beverages to a caged area restricted in size. Apart from my feeling that the size of such an area may be less significant than the throughput of goods (reflecting the point I have made in paragraph 6), I consider such a condition would, in practice, be almost impossible to monitor or enforce. Nor would it have any impact on the throughput of stock which, as I have suggested above, is likely to be the far more significant issue. It would therefore fail the tests put forward in Circular 11/95, *Use of Conditions in Planning Permissions*.
11. I therefore conclude that to vary condition 02 of permission Ref 08/03912/S73 as proposed by the application would be contrary to Policy ST6 of the adopted South Somerset Local Plan as it would result in unacceptable harm to the residential amenity of adjacent properties.

### **Conclusion**

12. For the reasons given above I conclude the appeal should be dismissed.

*Roger Pritchard*

INSPECTOR



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## Appeal Decision

Site visit made on 11 January 2011

by **Roger Pritchard MA PhD MRTPI**

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

Decision date: 1 February 2011

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**Appeal Ref: APP/R3325/X/10/2138801**

**Court Farm House, Clapton, Crewkerne, TA18 8PU**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr John Williams against the decision of South Somerset District Council.
  - The application Ref 10/01444/COL, validated on 26 April 2010, was refused by notice dated 30 July 2010.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is the use of land for the siting of a mobile home for use ancillary to main dwelling.
- 

### Decision

1. I dismiss the appeal.

### Procedural Matters

2. The copy of the application available to me was not dated. However, I have used the date on which the Council validated the application, which is also the date quoted in the appeal application.
3. Some initial confusion seems to have arisen between the applicant and the Council over where the mobile home was to be positioned. A revised plan, dated 17 November 2010, indicated both the actual location of the mobile home and the location which the appellant suggests the Council originally considered was proposed. My site visit confirmed that the location of the mobile home, which is in position, is as indicated on the drawing to which I refer above and as also indicated on the coloured map attached to the appeal. Moreover, the Council confirmed to me that this was the basis on which it had taken its decision to refuse a certificate.
4. In refusing to grant a certificate, the Council cited two reasons. The first was that the mobile home was not within the residential curtilage of Court Farm House. The second was that the mobile home would not constitute permitted development under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended ('the GPDO') as it was not for a purpose incidental to the enjoyment of the dwellinghouse.

5. However, whilst mobile homes may be 'structures' as defined in the Caravan Sites and Control of Development Act 1960 (and subsequent amending legislation), they do not necessarily constitute 'buildings' as defined in the Town and Country Planning Act 1990. The appellant emphasises that the mobile home at Court Farm House falls within the definition of a 'caravan' as set by the 1960 Act and its successors. Although it has had any wheels removed, the mobile home is, in my view, transportable and of a form and size that one regularly sees being moved on the public highway.
6. I conclude that, as a matter of fact and degree, the mobile home at Court Farm House is not a building within the definition set by the 1990 Act. It does not therefore constitute operational development and Class E of the GPDO cannot apply. The issue is whether the stationing of the mobile home represents a change to residential use that requires planning permission or whether it falls within the exception to the definition of development set out in Section 55(2)(d) of the 1990 Act. The tests for this exception are similar to those for permitted development under Class E, i.e. that its use is within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such.

### **Main Issue**

7. I consider that the main issue is whether the Council's decision to refuse to grant a lawful development certificate was well-founded.

### **Reasons**

#### *The curtilage of Court Farm House*

8. In respect of the first part of the exception set out in section 55(2)(d), the Oxford English Dictionary defines 'curtilage' as 'A small court, yard, garth or piece of ground attached to a dwellinghouse and forming one enclosure with it, or so regarded by the law; the area attached to and containing a dwellinghouse and its outbuildings.'
9. The characteristics of a curtilage were reviewed in *McAlpine v SSE* [1995] JPL 843, which has been referred to by the Council. They are that it is confined to a small area about a building, that there needs to be 'intimate association' with other land undoubtedly within the curtilage, and that physical enclosure is not necessary. Nevertheless, assessment of curtilage in any particular case is largely a matter of fact and degree.
10. The land on which the mobile home is stationed is to the north east of the farmhouse. It forms a raised area, surfaced by hardcore and 3 to 4 metres above the farmhouse's floor height. Apart from the mobile home, the land is occupied by a large shipping container – said by the appellant to be used as a workshop, a lawnmower store, and a fruit cage. The mobile home is positioned towards the north eastern edge of the raised area and is around 30 metres from the nearest elevation of the farmhouse. Conifer hedges up to 4 metres in height both screen the mobile home from the farmhouse and, on the other side, from the open ground that rises to the north. Vehicular access is provided by a separate spur that takes off from the main access road to the house and runs along the north west boundary of the property.
11. The appellant states that the land has been part of the domestic garden of Court Farm House for over 25 years. However, it does not have the appearance of a garden. The overall impression is of a yard area,

predominantly hard surfaced, that is physically and functionally separate from the farmhouse and the area immediately adjacent to it. The mobile home is not obviously visible from the farmhouse and the land on which it is stationed has an independent vehicular access (which must have been used to bring the mobile home on to the site).

12. As a matter of fact and degree, I consider that the land on which the mobile home is stationed does not meet the characteristics of curtilage as defined in the *McAlpine* case when related to Court Farm House. In particular, it is not intimately associated with the area immediately around the farmhouse that does bear all the characteristics of a domestic garden. It is physically separated from Court Farm House and is different in appearance and character. It does not therefore fall within the curtilage of Court Farm House.

*Purposes incidental to the enjoyment of the dwellinghouse*

13. My conclusion in paragraph 12 would bring the stationing of the mobile home within the definition of development as set out in section 55(1) of the 1990 Act, irrespective of the purposes to which it will be put.
14. Nevertheless, the appellant asserts that the mobile home is incidental to the purposes of Court Farm House. He has given assurances in respect of how the mobile home would be used and commented that it will lack certain amenities normally expected of a separate residential unit, such as an oven. Nor will it be separately metered.
15. However, although the mobile home was not fully fitted out at the time of my site visit, its scale and form is such that I consider it capable of functioning as a separate residential unit. Whatever the appellant's current intentions, it could easily be so converted in the future. It seems to me to be entirely different in purpose from the buildings and structures that might normally fall under Class E of the GPDO or the more general exception to the definition of development provided by section 55(2)(d) of the 1990 Act that should be applied here.
16. I therefore conclude that the stationing of the mobile home does not represent a purpose incidental to the enjoyment of Court Farm House as such.

**Conclusion**

17. For the reasons given above I conclude, on the evidence available to me, that the Council's refusal to grant a lawful development certificate in respect of the stationing of a mobile home at Court Farm House was well-founded and that the appeal should not succeed. In coming to this conclusion, and for the avoidance of doubt, I should explain that the planning merits of any future development are not an issue for me to have considered and my decision rests on the facts of the case and relevant planning law.

*Roger Pritchard*

INSPECTOR

Area West Committee – 16th February 2011

### 13. Planning Applications

*Strategic Director: Rina Singh (Place and Performance)*  
*Assistant Director: Martin Woods (Economy)*  
*Service Manager: David Norris, Development Manager*  
*Lead Officer: David Norris, Development Manager*  
*Contact Details: david.norris@southsomerset.gov.uk or 01935 462382*

The schedule of applications is attached following page 38.

The inclusion of two stars (\*\*) as part of the Assistant Director's (Economy) recommendation indicates that the application will need to be referred to the 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 Regulation Committee even if it has not been two starred on the agenda.

#### **Human Rights Act 1998 Issues**

*The determination of the applications which are the subject of reports in the schedule are considered to involve the following human rights issues:-*

*Article 8: Right to respect for private and family life*

- (i) Everyone has the right to respect for his private and family life, his/her home and his/her correspondence.*
- (ii) There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.*

*The First Protocol*

*Article 1: Protection of Property*

*Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interests and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*

*Each report considers in detail the competing rights and interests involved in the application. Having had regard to those matters in the light of the convention rights referred to above, it is considered that the recommendation is in accordance with the law, proportionate and both necessary to protect the rights and freedoms of others and in the public interest.*

**Background Papers:** *Individual planning application files.*

Area West Committee – 16th February 2011

**14. Date and Venue for Next Meeting**

The next scheduled meeting of the Committee will be held at the Guildhall, Fore Street, Chard on Wednesday, 16th March 2011 at 5.30 p.m.

## Planning Applications – February 2011

**Members to Note:**

*The inclusion of two stars (\*\*) as part of the Assistant Director's (Economy) recommendation indicates that the application will need to be referred to the 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 Regulation Committee even if it has not been two starred on the agenda.*

Page	Ward	Application	Proposal	Address	Applicant
1	Eggwood	10/03910/S73	Application to vary condition No. 37 of decision notice 07/02775/FUL to delete requirement to erect replacement factory accommodation prior to the occupation of any of the 52 No. dwellings	Merriott Plastics Ltd Tail Mill Lane Merriott	Mr Ian Low
32	Blackdown	10/03766/COU	The change of use of land for the hire and storage of motor homes	Emerald Farm Poltimore Lane Combe St Nicholas	Ms Sarah Foord
39	Ilminster Town	10/03965/FUL	Alterations, the erection of a single storey and two storey extensions and conversion of existing building into a single dwellinghouse	Building East of 22 Winterhay Lane Ilminster	Mr Steven Crabb
44	Parrett	10/05077/S73	Application to remove conditions 18 and 19 of decision 03/02274/FUL (regarding holiday restriction/ownership)	The White Horse North Street Haselbury Plucknett	P J and J S Howard



## Area West Committee – 16th February 2011

### Officer Report on Planning Application: 10/03910/S73

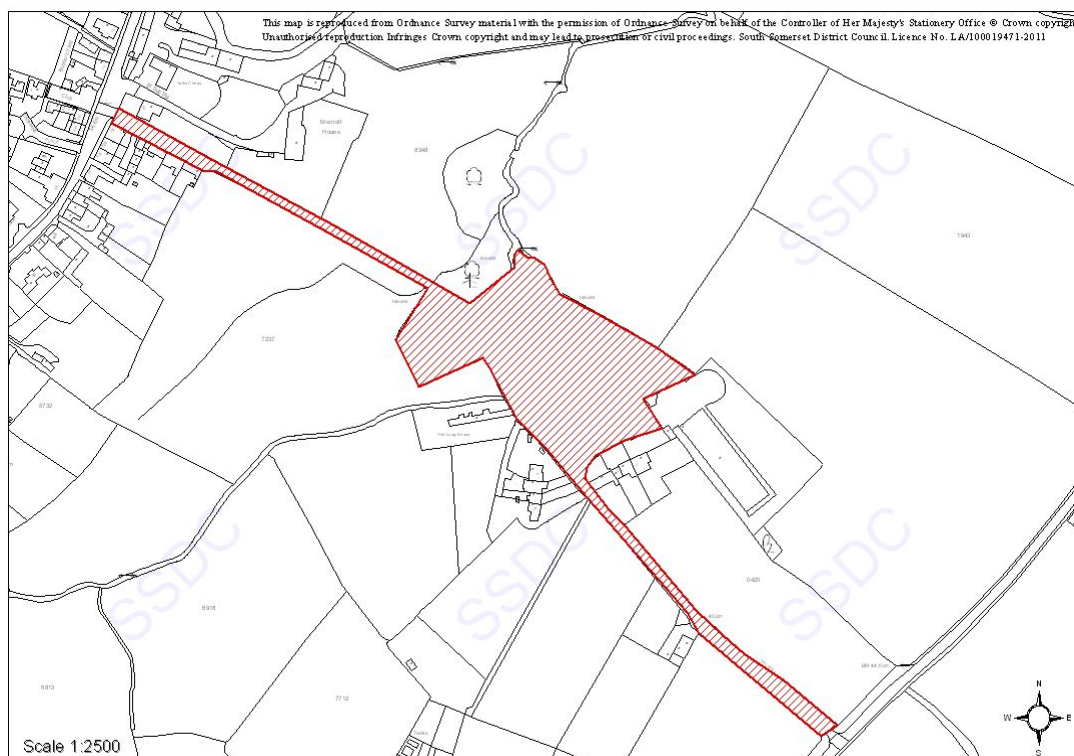
<b>Proposal:</b>	Application to vary condition No. 37 of decision notice 07/02775/FUL to delete requirement to erect replacement factory accommodation prior to the occupation of any of the 52 No. dwellings (GR 344885/112382)
<b>Site Address:</b>	Merriott Plastics Ltd Tail Mill Lane Merriott
<b>Parish:</b>	Merriott
<b>EGGWOOD Ward (SSDC Member)</b>	Mr S Bending (Cllr)
<b>Recommending Case Officer:</b>	Dave Norris Tel: 01935 462382 Email: david.norris@southsomerset.gov.uk
<b>Target date:</b>	13th January 2011
<b>Applicant:</b>	Mr Ian Low
<b>Agent: (no agent if blank)</b>	Mr Adrian King Currie and Brown Widnell Poseidon House Neptune Park Maxwell Road Plymouth Devon PL4 0SN
<b>Application Type :</b>	Major Dwlgns 10 or more or site 0.5ha+

#### REASON FOR REFERRAL TO COMMITTEE

This application has been referred to the Area West committee with the agreement of the Ward Member and the Area Chair on the basis that the proposal seeks to amend an approval that was previously given by the committee.

The report and minutes from the 2008 committee are attached for members' convenience.

#### SITE DESCRIPTION AND PROPOSAL



Merriott Plastics is a well established company that specialises in supplying plastic mouldings and is currently located within a range of buildings on the southern edge of Merriott, known as Tail Mill. The Merriott enterprise currently employs 68 staff but forms part of a bigger national company.

The Tail Mill complex lies within a small valley with land rising away from the village to the north and east across open countryside. A large section of the site is located within the designated Merriott Conservation Area and the original historic factory buildings are listed. Part of the site also falls within the Flood Risk Area.

The site is accessed from Tail Mill Lane, a private road that links the A356 with the village. The well-used walker's route, the Parrett Trail also runs along Tail Mill Lane into the village.

This application seeks to vary an approval that was granted by the Area West Committee in 2008. The development of 52 dwellings (39 conversions and 13 new build) was accepted on the basis that it secured the future of the business and safeguarded an important range of listed buildings. Furthermore, the area of new build was located on previously developed land and was fairly well related to the village facilities.

This application seeks to remove an obligation from that permission that secured the erection of an extension to the factory building prior to any dwelling being occupied. The applicant has stated that it is no longer viable to meet this requirement and instead is proposing to keep the business in the area by moving to a site in Crewkerne. The applicant has stated that he has taken a 20 yr lease on a 4400 sq m industrial building at the end of Blacknell Lane and at the time of writing this report it is evident that an element of Merriott Plastics is already occupying the building.

## **HISTORY**

The Tail Mill site has a long and complex history dating back nearly 30 years. The previous report (attached) provides more detail however for the purposes of this application it is only necessary to look at the most recent applications.

07/02775/FUL (subject of this application) - permission granted in Sept 2009 for the conversion of existing factory into 39 units and erection of 13 dwellings together with alterations and improvements to highways. Requirement to enter into a legal agreement to ensure that:

- i) highway works are carried out
- ii) extension to factory (approved under 07/02464/FUL) is completed before any dwelling is occupied (subject of the current application)

07/02464/FUL - Erection of extension to and upgrade of modern factory building together with highway works. Approved Aug 2008.

09/03742/S73 - Variation of condition 2 of planning approval 07/02464/FUL to reduce the amount of highway works that are required in connection with the new factory building. Approved January 2010.

## **POLICY**

It is considered appropriate to only include those policies that are directly relevant to the application to vary the condition. All other policies are referred to in the attached report.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

## Relevant Development Plan Documents

South Somerset Local Plan (adopted April 2006)

Policy ST3: Control over development in the countryside

Policy ST4: Conversion of buildings

## Policy-related Material Considerations

PPS's/PPG's

PPS3- Housing

PPS4- Planning for Sustainable Economic Growth

PPS5- Planning for the Historic Environment

PPS7- Sustainable Development in Rural Areas

South Somerset Sustainable Community Strategy

Goal 5 - High Performance Local Economy

## **CONSULTATIONS**

### *Parish Council*

Recommend that the application be declined and condition 37 be kept as development of works still important for employment to village, bringing people in to the parish.

### *Local Highway Authority*

No observations.

### *Economic Development*

I'm comfortable with the variations and would quite positively support this application from an Economic Development perspective.

It would be quite difficult/ unreasonable to insist that the Mill building should be retained as workspace. The cost of upgrading the building into an acceptable standard for modern workspace is quite prohibitive. I would concur with the DV view that conversion to dwellings is probably the only viable way of upgrading the building to a fully usable condition. The costs associated with the restoration of such building and the erection of an extension will be considerable and probably not recoverable in an acceptable timeframe for a business plan. It would be quite difficult to envisage the long-term future of the existing business as secure if it remains on this site.

The relocation of this 'local' business to Crewkerne is acceptable and sustainable. The Merriott site facilitates a move to Crewkerne that safeguards and maintains local employment. Whilst not relevant to the application, I would say that the business would be a welcome addition to the Blacknell Lane environs.

I support the application to vary the conditions.

### *Environmental Protection Unit*

No observations.

### *Council Engineer*

No comments.

## REPRESENTATIONS

The application has been advertised and a site notice posted. 2 letters have been received from neighbours making the following points:

- no real objection to the lifting of the requirement to build a new factory building
- Consider that the access/highway improvements that were originally required are still necessary
- Highway demands would be exacerbated should the applicant lease or sell the remaining factory building
- disappointed that the extra number of dwellings (52) was agreed only on the basis that it facilitated the building of the new factory building. The original lower number (43) was far more appropriate for this area.

## CONSIDERATIONS

The principle of the redevelopment of this site was accepted by members back in 2008. The application for residential development was supported on the basis that it would safeguard the future of Merriott Plastics and preserve the character of this very important range of listed buildings. The issues of flooding, highway safety, design etc. were all properly considered at the time and were found to be acceptable and the applicant is not proposing to change the scheme other than to remove the requirement to erect the additional factory building. It is therefore necessary for members to focus on the key issue; does the relocation of Merriott Plastics from Merriott to Crewkerne justify this level of development?

The applicant has submitted a justification as to why it is no longer viable to erect the additional factory building and it is considered to be appropriate to reproduce this in the report.

'We wish to remove the condition that requires us to re-provide the factory on site before we can occupy any of the residential units. Our client has entered into a lease and will be permanently re-locating the factory off site in Crewkerne. This decision has been unavoidable because:-

- a) It is not possible to continue with operations in the existing facility through the winter
- b) The reduction in anticipated residential values has created a situation where there would be a significant shortfall in the development value of the site and this would not provide sufficient funds to provide a new factory on the site.

Notwithstanding, in order to repay the borrowings and fund the relocation and then carry out works to protect the listed buildings it is necessary to proceed with the residential development that we have approval for as soon as possible.

With regards to the existing contemporary factory building, which was to be extended, we would propose to retain this in its current state and use category. The building will most probably be used as an overflow storage facility in association with the relocated factory. We trust that in the context of our proposals for the factory the requirement to create a discreet access road to this facility will no longer be necessary.

We are aware that the existing consent is based upon the financial enablement of the re-provision of the factory and accordingly we set out on the attached paper and appendices our financial justification for the implementation of the approved scheme without the requirement to reduce the number of units proposed or without any additional conditions or contributions.'

The applicant has also submitted details of a survey he has carried out to try and ascertain whether those employed at the factory do actually live within the village. The information shows that 10 out of a total of 68 employees live within Merriott, with the majority of staff living in Yeovil, Crewkerne or surrounding areas. The information demonstrates that the relocation of the business to Crewkerne will result in a reduction in commuter miles.

The District Valuer has been asked to look at this application to assess whether the relocation of the factory and the cost of development (including conversion of listed buildings): a) can justify this level of development and (b) is there sufficient profit to allow the council to seek any planning obligations.

A detailed report has been submitted by the District Valuer that compares the costs of the development and relocation of factory against the likely value of the completed development. Lengthy negotiations have taken place and the final outcome is that the District Valuer is satisfied that the level of development that is being proposed is justified to enable the conversion of the listed buildings and the relocation of the factory and that there is insufficient 'viability' to reasonably ask for any planning contributions.

The District Valuer has suggested that an overage/review clause be included within the 106 to allow a reassessment of the viability of the scheme. It is considered that this review should take place 3 years after the date of consent and every subsequent 3 years until the completion of the development. The inclusion of this clause is justified on the basis that even a modest improvement in the housing market would mean that significant funds would be available for Section 106 contributions.

Although this application seeks to remove the requirement to build a new factory building on the site, the applicant has stressed that they do intend to retain the existing modern factory building. This is a large structure (1315 sq m) and the applicant is intending to use this as ancillary storage for the relocated factory. Should Merriott Plastics no longer require this facility then it would be available to any other businesses that may wish to move to the area.

Adjoining residents have highlighted the issue of the highway improvements that were required by the previous planning consent. The necessary works were:

- new junction at junction of Tail Mill/A356
- improvements to condition of Tail Mill Lane
- upgrading of southern end of Tail Mill to accommodate HGV's
- scheme to include measures to prevent HGV's accessing factory from the Merriott side
- creation of a footpath alongside Tail Mill Lane.

The applicant has not applied to vary these requirements at this time and as such the consent would be the subject of an amended S106 agreement that continues to secure these works. The applicant has questioned the need to provide the access road to serve the factory and although there may be an argument for not doing this, it does not form part of this application.

## **Summary**

The Tail Mill site is familiar to many members because of its long planning history and the lengthy discussions that have taken place in trying to balance the needs of the business against the needs of the local economy in terms of trying to retain this important local employer. Added to this is the need to ensure that the historic mill buildings are properly safeguarded against further deterioration.

The principle of redeveloping the Tail Mill site has been established for many years on the basis that the historic buildings are no longer suitable for modern day industry and therefore the only other realistic use for them is as residential dwellings. Furthermore, the redevelopment was justified on the basis that the business would be retained in Merriott, thereby securing an important employment opportunity. For commercial reasons, the erection of a new factory at Tail Mill is no longer viable and as such the business is moving to an existing employment site within 2.5 miles and therefore does secure the jobs within the area.

## **RECOMMENDATION**

That members approve this application subject to the successful completion of a legal agreement that secures the highway improvements that were approved as part of planning

application 02/01696/FUL and 07/02775/FUL together with a mechanism that allows for a re-valuation of the site to take into account changing conditions within the housing market.

## **JUSTIFICATION**

The variation of the condition is considered to be acceptable as the business has been retained within the locality and the future of this important range of listed buildings will be secured. The financial justification for this level of development has been robustly assessed as has the potential for securing planning contributions and it is considered that the applicant has demonstrated that this amount of development is necessary to secure the buildings and fund the relocation of the business to Crewkerne. All of the other issues were taken into consideration at the time of the approval of the original application (07/02775/FUL).

## **SUBJECT TO THE FOLLOWING:**

1. 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.

2. No dwelling shall be occupied unless those buildings that are not identified for retention have been wholly removed, in accordance with a scheme that shall have first been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To safeguard the character and appearance of the area and safeguard amenity and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

3. The areas allocated for parking on the submitted plans shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby approved.

**Reason:** In the interests of highway safety and to accord with TP7 of the South Somerset Local Plan 2006.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) no garage shall be erected on the application site without the express grant of planning permission in respect thereof.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

5. No development approved by this permission shall be commenced until a detailed scheme for improved flood conveyance under the Tail Mill Lane (to the north west of the development site) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before any dwelling is occupied and shall thereafter be permanently maintained.

**Reason:** The proposals for the development on the western side of the site depend on this to reduce flood levels in the vicinity and ensure the development is safe. and to accord with advice contained within PPS25.

6. No works shall commence unless details of the internal floor levels of the residential units have been submitted to and approved in writing by the Local Planning Authority. Floor levels shall be set at least 300mm above the relevant 1 in 100 year including climate change flood level, as given in Table 4.2 of the Flood Risk Assessment.

**Reason:** To protect the development from flooding and to accord with advice contained within PPS25.

7. No development approved by this permission shall be commenced until a scheme for flood resilience in the design and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before any dwelling is occupied and shall thereafter be permanently maintained.

**Reason:** To reduce the impact of any flooding on the development and to accord with advice contained within PPS25.

8. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable Drainage Principles and shall not result in an increase in the rate &/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.

**Reason:** To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water management and to accord with advice contained within PPS25.

9. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable Drainage Principles and shall not result in an increase in the rate &/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.

**Reason:** To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water management and to accord with advice contained within PPS25.

10. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the local planning authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

1. A desk study identifying:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.

3. The results of the site investigation and risk assessment (2) and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.

4. A verification report on completion of the works set out in (3) confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Any changes to these agreed elements require the express consent of the local planning authority.

**Reason:** To prevent pollution of controlled waters and to accord with EP5 of the South Somerset Local Plan 2006.

11. No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

**Reason:** To prevent pollution of the water environment and harm to amenity and to accord with ST6, EU4 and EU5 of the South Somerset Local Plan 2006

12. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

**Reason:** To prevent pollution of the water environment and to accord with EU7 of the South Somerset Local Plan 2006.

13. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

**Reason:** To prevent pollution of the water environment and to accords with EU6 of the South Somerset Local Plan 2006.

14. No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

**Reason:** In the interests of sustainable development and prudent use of natural resources and to accord with ST8 of the South Somerset Local Plan.

15. The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

16. No development shall take place unless details of all windows, doors, fascias, soffits, downpipes, rainwater goods, chimneys and other external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

17. No works shall be carried out to the doors and windows of the existing buildings that are to be converted unless details of any repairs or refurbishment have been submitted



to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved plans unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modifications) no fences, gates or walls shall be erected on the site without the prior express grant of planning permission.

**Reason:** To safeguard the character and appearance of the area and to accord with EH1, ST5 and ST6 of the South Somerset Local Plan.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows, including dormer windows, or other openings (including doors and vents) shall be formed in the building, or other external alteration made without the prior express grant of planning permission.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

20. All new external walls and alterations and making good to existing walls shall be constructed and carried out in matching natural materials (including the matching of pointing and coursing) samples of which shall have been submitted to and approved in writing by the Local Planning Authority before any of the development hereby permitted is commenced.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

21. The windows comprised in the development hereby permitted shall be recessed in accordance with details to be submitted to and approved in writing with the Local Planning Authority before any work on the development hereby permitted is commenced.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

22. Before any of the development hereby permitted is first occupied provision shall be made for combined radio, TV aerial and satellite facilities to serve the development and no individual external radio, TV aerial or satellite dish or aerial shall be fixed on any individual residential property or flat or other unit of living accommodation or on any wall or structure relative thereto without the prior express grant of planning permission.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

23. Details of the surface treatment for all open areas on the site shall be submitted and approved in writing by the District Planning Authority before any development is commenced on site and the development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

24. Details to provide for the supply of an adequate and clean drinking water supply to all dwellings shall be agreed in writing by the District Planning Authority before any work is commenced on site. Such agreed supply shall be connected to the dwellings before they are first occupied.

**Reason:** In the interests of public health and to accord with EU4 of the South Somerset Local Plan 2006.

25. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The scheme of landscaping shall include details of the protection of trees and hedgerows alongside the access road, details of additional planting alongside the access road and details of the treatments of all boundaries.

**Reason:** In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

26. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the details that are required to be submitted and approved in accordance with condition 24 of this approval.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

**Reason:** In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

27. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to any of the dwellings (including enlargement/extension of roofs) without the prior express grant of planning permission.

**Reason:** In the interests of neighbour and visual amenity and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

28. The scheme hereby granted consent shall not be carried out otherwise than in complete accordance with the submitted plans and specifications and revised scheme. In the event that the work is not completed strictly in accordance with such approved plans and specifications, or shall become impracticable for whatever reason, work shall thereupon cease and only be recommenced if and when Listed Building Consent shall have been obtained in regard to a further amended scheme of works which renders completion of the scheme practicable.

**Reason:** In the interests of clarity.

29. No works shall be commence on site unless a detailed submission has been submitted to and approved in writing by the Local Planning Authority giving details of the wildlife mitigation measures as identified in the ecology survey dated August 2007. The submission shall give details of the location of the appropriate measures together with an implementation programme and a future management plan. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** For the protection of legally protected species and to accord with EC8 of the South Somerset Local Plan 2006.

30. No works shall commence unless a scheme for the management of the Mill Pond have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of clearance, restoration and planting together with an implementation programme. The development shall thereafter be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and biodiversity and to accord with EH1, ST5 and ST6 of the South Somerset Local Plan 2006.

31. No dwelling shall be occupied unless provision has been made for waste and recycling collection, details of which shall have been submitted to and approved in writing by the Local Planning Authority. The provision shall be carried out fully in accordance with the approved details and permanently maintained unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of amenity and to accord with ST6 of the South Somerset Local Plan 2006.

32. No works shall commence upon the conversion of the buildings unless details of all staircases and handrails have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.

**Reason:** In the interests of the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

33. No works shall commence on the conversion of the buildings unless details of all works to floors, ceilings, walls and all other internal structural alterations have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In the interests of the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

34. No works shall commence on the conversion of the buildings unless a scheme of external works required for each building has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide photographic records of the existing situation together with plans and specifications for the required

works. The works shall thereafter be carried out in accordance with the approved plan unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

35. No development shall be undertaken until a scheme for the provision and implementation of a trash screen to be constructed on Goulds Brook upstream of the mill has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the residential development is first commenced and shall thereafter be permanently maintained.

**Reason:** In the interests of flood prevention and to accord with advice contained within PPS25.

36. No development shall be undertaken unless details for the provision of a strip of land to allow maintenance of the watercourses has been submitted to and approved in writing by the Local Planning Authority. The agreed area of land shall be permanently kept clear of obstruction and the ground level shall not be increased unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To allow maintenance works to be carried out in the interests of the prevention of flooding in accordance with advice contained within PPS25.

37. No dwelling shall be occupied unless a scheme that secures permanent maintenance of flood defences, screens and culverts on the site has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied unless the approved scheme has been fully implemented.

**Reason:** To alleviate the potential for flooding and to accord with advice contained within PPS25.

## Previous Officer report to Area West Committee – 16th January 2008

Agenda 16/1/2008

**OFFICER: Dave Norris 01935 462382**

**APPL.NO: 07/02775/FUL APPLICATION TYPE: Full Application**

**PARISH: Merriott WARD: EGGWOOD**

**DESCRIPTION: Conversion of existing factory buildings and erection of new dwellings to form 52 units together with alterations/improvements to access road and junction and other associated works (GR: 344886 / 112383)**

**LOCATION: Merriott Plastics Ltd Tail Mill Lane Merriott Somerset TA16 5PG**

**APPLICANT: Mr Ian Low**

**AGENT: Alun Sherwood Heighway Field Associates 3 Cathedral Close Exeter Devon EX1 1EZ**

**DATE ACCEPTED: 20 June 2007**

### REASON FOR REFERRAL TO COMMITTEE:

Members will recall that this application was deferred by the Area West Committee at the September 2007 meeting to allow adequate time for certain issues to be clarified. The three issues were:

- Confirmation of the views of the Environment Agency
- Financial justification for additional dwellings
- Acceptability of amended plans

### LOCATION:

The Tail Mill complex lies within a small valley with land rising away from the village to the north and east across open countryside. A large section of the site is located within the designated Merriott Conservation Area and the original historic factory buildings are listed. The site also falls within the Flood Risk Area.

The site is accessed from Tail Mill Lane, a private road that links the A356 with the village. The well-used walkers' route, the Parrett Trail also runs along Tail Mill Lane into the village.

### PROPOSAL:

Planning permission was granted earlier this year for the erection of a large factory extension together with the conversion of the listed building into 33 residential units together with 10 new houses. This application was submitted in 2002 but due to lengthy legal agreements the decision was not issued for 4 years. The approval for this development was given on the basis that the residential development would allow the factory to fund a purpose built factory thereby helping the viability of the enterprise. It was also considered that the conversion works would safeguard the listed buildings as they were (and still are) in need of maintenance. The approval was accompanied by a legal agreement that amongst other items, required:

- the factory to be built prior to the occupation of any dwelling
- new junction at junction of Tail Mill/A356
- improvements to condition of Tail Mill Lane
- upgrading of southern end of Tail Mill to accommodate HGV's
- scheme to include measures to prevent HGV's accessing factory from the Merriott side
- creation of a footpath alongside Tail Mill Lane

This application seeks to amend the previous approval and increase the number of dwellings on the site. The revised scheme proposes an increase in the number of conversions to 39 units and increase the new build dwellings to 13. This scheme is therefore proposing 52 units, an increase of 9 on the previous scheme. The application was accompanied by a Flood Risk Assessment, Design and Access Statement, Ecology Report and other associated documentation including a financial justification. An application for listed building consent has also been submitted.

## Previous Officer report to Area West Committee – 16th January 2008

Following the last committee amended plans have been received that address the issues of the impact of the conversions works on the character and fabric of the listed building. These plans have also taken into account the concerns about the height of some of the new build units and has reduced the amount of taller dwellings to that as approved by the previous scheme.

A separate approval has recently been granted for the revised positioning of the factory extension. This approval was granted subject to a condition that required the developer to enter into a 'fresh' S106 agreement that will ensure that those requirements specific to the new factory will be carried out.

### PLANNING HISTORY:

The application site has a very complex planning history. The previous occupants, Merriott Moulding Ltd, submitted an outline application in 1990 for the erection of 36 new dwellings and the conversion of the mill buildings into 43 units together with the erection of a replacement factory. The housing element of that scheme was intended to partially finance the relocation of the works into the new factory building. The siting of the new factory building and the conversion of some of the buildings was agreed in principle by the Council after a Committee site meeting in 1991.

A number of subsequent proposals were submitted between 1991 and 1993 that reduced and revised the housing layout and numbers. In 1992 the Council produced a Development Brief for the site, which set out clear development guidelines for both the new factory building, and the residential development.

In 1993 the Council resolved to grant permission for the erection of 30 dwellings, the conversion of existing buildings into 21 dwellings and the erection of a new factory subject to the completion of a detailed Section 106 Agreement, which included the occupation of the factory, highway improvements, traffic calming measures, landscaping and reclamation and management of the pond. Negotiations commenced on that Agreement but they were never completed and the application was subsequently withdrawn.

In March 2000 the historic core of buildings on the site was included on the Statutory List of Buildings of Special Architectural and Historic Interest. The list description concludes by saying the following: "Tail Mill is a highly significant site in the history of the Somerset sailcloth industry, dating from the early 19th century. It is an evolved integrated textile factory, retaining characteristic structures from all periods of its development, including ancillary structures used for secondary and finishing processes. These, together with its mid 19th century weaving shed, and the very clear evidence of both water and steam power provision form an unusually complete and coherent survival, which despite 20th century alterations clearly demonstrates the major phases of development of a significant branch of the textile industry of South West England."

The most recent approval is referred to in the 'proposal' section. This consent for the factory and 43 units was issued approximately 12 months ago and will be extant for a further four years.

### POLICIES:

The starting point for the Committee in considering this application and the related Listed Building application are the duties concerning Conservation Areas and Listed Buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990. These are as follows:

Section 66: LPA shall have special regard to the desirability of preserving listed buildings or keeping any features of special architectural or historic interest

Section 72: The LPA shall pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area

### Regional Spatial Strategy

Vis 1: Expressing The Vision  
VIS 2: Principles for future development  
HO6: Housing Types and Density  
EN3: Historic Environment

## Previous Officer report to Area West Committee – 16th January 2008

EN4: Quality in the Built Environment  
TRAN1: Reducing the Need to Travel

Somerset and Exmoor National Park Joint Structure Plan Review

Policy STR1: Sustainable development - development to be of high quality, good design and reflect local distinctiveness - give priority to the continued use of previously developed land and buildings.

Policy STR6: Development outside towns, rural centres and villages should be strictly controlled and restricted to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel.

Policy 9: Setting, local distinctiveness and variety of buildings and structures of architectural or historic interest should be maintained and where possible enhanced. The character or appearance of Conservation Areas should be preserved or enhanced.

Policy 19: In rural areas provision should be made for development that creates or enhances local employment.

Policy 49: Proposals for development should be compatible with existing transport infrastructure or if not provision should be made for improvements to infrastructure to enable development to proceed. In particular development should:

- Provide access for pedestrians, people with disabilities, cyclists and public transport
- Provide safe access to roads of adequate standard within the route hierarchy.

Policy 50: Provide access for pedestrians, people with disabilities, cyclists and public transport

Policy 60: Areas vulnerable to flooding should continue to be protected from development that would cause a net loss of flood storage area or interrupt free flow of water.

South Somerset Local Plan

Policy ST3: Control over development in the countryside

Policy ST4: Conversion of buildings

Policy ST5: Quality of development

Policy ST6: Landscape and Architectural Design

Policy ST7: Outdoor play space

Policy EC3: Landscape Protection

Policy EC7: Habitat protection

Policy EC8 : Protected species

Policy EH1: Conservation Areas

Policy EH3: Listed Buildings

Policy EH5: Development proposals affecting setting of Listed Buildings

Policy ED5: Contaminated land

Policy EP1: Noise Sensitive Development

Policy EP5: Contaminated land

Policy EU1: Renewable energy

Policy EU5: Flooding

Policy EU4: Water Supply

Policy EU6: Watercourse protection

Policy ME4: Extensions to existing commercial uses outside settlements

Policy HG4: Density

Policy CR2: Open space provision

Policy CR9: Rights of way

National Planning Guidance

PPS3: Housing

PPS7: Countryside

PPS9: Biodiversity/ecology

## Previous Officer report to Area West Committee – 16th January 2008

PPG13: Transport  
PPG15: Historic Environment  
PPS24: Pollution Control  
PPS25: Flooding

### CONSULTATIONS:

#### *Merriott Parish Council:*

The council oppose this application to build an additional 9 dwellings at Tail Mill for the following reasons:

- No clear business case has been demonstrated in this environmentally sensitive area, which is outside of the development limit. The original case for 43 dwellings was narrowly passed on the basis that the new units were needed to ensure the viability of the factory. Since then the value of housing has far outstripped the rise in construction costs we see no commercial justification.
- The area falls within a medium-high flood risk area and would have to pass an exception test.
- Tail Mill Lane is narrow, single tracked and without pavement. Pedestrians use the lane frequently and walk children to and from school. An additional nine dwellings would
- impose an unacceptable strain on the already existing traffic problems. There is insufficient provision for parking and parking in the lane will block access.
- houses already approved constitutes an over-development and there is no provision for amenities or gardens. 9 further dwellings will exacerbate the problem.
- Concerns about on-going lack of maintenance of listed mill building.

#### *Economic Development Officer:*

Merriott Plastics employs 60 people, of which the majority live in either Merriott or Crewkerne. Only one person commutes more than 10 miles to work. A large proportion of the workforce has been with Merriott Plastics or their predecessor Merriott Mouldings for a very long time. The order books are currently very active, with some solid long-term contracts, which provides stability for the business. No longer is there a reliance on one customer for their work, reducing the risk of a poor debt or failed contract de-stabilising the business.

Having read the application and business plan, I concluded that the additional income that the proposed extra dwellings would provide will ensure the business is financially stable. I enquired what future there is for the business in Merriott if the additional residences were not approved. The response received stated quite clearly that the cashflow for the business was then a lot tighter and would probably restrict future investment in machinery and plant. An alternative could be to move the whole business to a sister company in Rochester, Kent, which would in turn create redundancies for the Merriott based employees.

A suggestion from the Economic Development service, which you may wish to consider is to make it a requirement for the new industrial building to be developed and occupied with expected highways and access improvements before any work is started on the residential development.

In summary, the additional dwellings would provide economic stability for the business, which should ensure it remains located in Merriott for many more years.

Following the last meeting the Economic Development Manager has further investigated the viability issue and has made the following comments:

'Members raised a question when this application was last presented in September 07. The following answer was sought through the applicants' agent.

An explanation was invited as to why there is a financial need to provide nine additional homes on the site, over and above the 43 residential dwellings already approved, particularly bearing in mind that property values have risen significantly in the period from 2002 - 2007.



## Previous Officer report to Area West Committee – 16th January 2008

In response, the agent informed that the original application did not have a cost model. There had been no financial provision for the Section 106 works, which have taken a considerable time to finalise and agree. Also the full extent of the flood alleviation and Defra requirements had not been appreciated.

In the five years since the original approval, the Economic Development Team Leader is informed that the cost of financing this scheme has risen by 20% and construction costs by 35%. The applicant's agent provided evidence that verifies the accuracy of this information through both the Bank of England and Building Cost Information Service.

The applicant's agent also pointed out the change in development guidance during the period in favour of smaller, cheaper properties.

In response to the question asking for confidence that this proposed increase in the number of dwellings will not be surpassed in the future by an application for yet more dwellings based on the financial needs not having been fully understood. The Economic Development Team Leader can report that he has in writing a statement that 'there is no intention to seek further expansion within the footprint of the existing buildings'

### *Environment Agency:*

At the time of the previous approval the Environment Agency did not object to the scheme provided that certain conditions were attached to any permission. The Agency have subsequently changed their requirements and as a result of this originally objected to this scheme. These objections were on the basis that the development may cause contamination problems in the area during construction. There were also concerns that the Flood Risk Assessment that was submitted by the applicant also did not meet with the EA's requirements. There was also an 'in principle' objection to any development within a Flood Zone if the applicants had not satisfied the EA that the development met the requirements of the tests contained within PPS25 (national planning guidance).

Since the last committee meeting the developer's agents have been involved in negotiations with the EA and as a result they have withdrawn their objections to the scheme. They are now satisfied that the development will not exacerbate flooding issues in the area and will not result in a danger to residents. The EA have however requested that certain conditions be attached to any permission and these are included at the end of the report.

### *Highway Authority:*

Raise no objection provided that the improvements that were required as part of the previous approval are the subject of a supplemental legal agreement. Do not consider that the 'uplift' of nine units would warrant any further works other than those required by the previous consent.

### *Landscape Officer:*

- Concerns about the lack of amenity space within the development.
- Details required about the treatment of the approach road.
- A detailed landscape management plan is required for the residential area including details of new hard and soft landscaping and treatment of mill pond.
- Concerns about the 3-storey dwellings need to be overcome.

### *Conservation Officer:*

At the time of writing the original report negotiations were currently ongoing to overcome the areas of contention. These include:

- scale of new dwellings
- details of some of the alterations required by the conversions
- retention of some of the historic features
- absence of some drawings

## Previous Officer report to Area West Committee – 16th January 2008

Since the last committee further negotiations have taken place and amended drawings have been received that overcome the concerns that were initially raised. The key area of change is the reduction in scale of the dwelling at the rear of the new build element. It was considered that the amount of 3 storey dwellings did not sit comfortably in this prominent, semi-rural location and the applicants have now conceded this point and as a result are proposing to substitute some of these units with traditional 2-storey cottages.

The Conservation Manager is now satisfied with the proposed scheme however he has requested that a significant amount of conditions are included within the consent to ensure that the character and fabric of the historic buildings is protected.

### *Environmental Protection Unit:*

Adequate water supply should be available. An investigative report shall be carried out to assess land contamination issues.

### *Principal Engineer:*

Conditions required relating to protection/improvements to watercourse. Floor levels to be agreed. Flood protection measures to be approved. Compensatory storage measures to be agreed.

### *Council's Ecologist:*

Following the receipt of a survey in relation to bats and other protected species the ecologist is content that an appropriate condition can be added to the consent to ensure that the necessary mitigation is carried out.

### *Natural England:*

Bat survey to be carried out prior to consent being granted.

### *Wessex Water:*

The existing water supply should be sufficient to serve all of the dwellings and the existing public sewerage is also sufficient provided that surface water is excluded. Surface water disposal should be agreed with the Environment Agency.

### *Somerset Industrial Archaeological Society:*

No objections as we believe the conversion is sympathetic. Would request that the previous conditions be imposed.

### *English Heritage:*

The scheme is not significantly different from that previously approved and therefore do not wish to intervene.

## OTHER REPRESENTATIONS:

12 letters have been received from nearby properties making the following points:

- additional impact upon village facilities
- do not believe that existing approval does not generate sufficient funds to make factory extension viable bearing in mind increase in house prices
- the area is a flood zone
- road will not withstand traffic
- who will reinforce boundary wall
- site outside development boundary
- no on-street parking
- poor public transport
- impact upon nationally important Parrett Trail

## Previous Officer report to Area West Committee – 16th January 2008

- applicant may come back for even more dwellings
- listed building needs improving
- hope road wont become a rat-run. Traffic calming required
- verges should be retained
- A356 speed limit should be lowered to 40mph
- No affordable homes
- Lack of amenity space
- Density is out of character

### CONSIDERATIONS:

Members are reminded that a detailed consent exists for 43 units on this site and that the key consideration for this scheme is whether the additional 9 units are justified and whether they will have a detrimental impact.

*Principle:* The application site is located outside of the development limits of Merriott and is therefore assessed against countryside policies i.e. development is strictly resisted unless there is a clear justification. At the time of the previous application the Area West committee considered, that on balance, the retention of a significant local employer, together with the safeguarding of an important historic building justified development in this location. The applicant has submitted information that he believes demonstrates that the 9 additional units are necessary to provide the income to fund the extension to the factory. Furthermore the applicant has stated that financial lenders are unwilling to provide a loan on the basis of the profit that will be generated by the 43 units and that 52 units will provide sufficient value to satisfy the risks identified. Members will see from the Economic Development Manager's comments that he is satisfied that the applicants have demonstrated that there is a clear need for these 9 additional units to make the scheme viable. Aside from the principle of the additional dwellings, the conversion of the listed buildings into apartments is considered to be the only realistic future use for the building and plans have demonstrated that this can be achieved at the same time as protecting its historic character. The additional 6 converted units appears, subject to details being agreed, to be acceptable and makes effective use of the buildings and provides a wider range of dwelling size. Members should also bear in mind that this is a 'brownfield' site that is not remote from the village and that the additional units will be located within the same area as previously approved.

*Impact upon the Listed Building/Conservation Area:* As has already been stated, the safeguarding of the important mill building and associated structures was one of the reasons why the previous permission was granted. The Mill is a very important building that is both architecturally and historically significant. Currently the building is of no real benefit to the business and its maintenance is therefore not a priority. Consequently the condition of the building is worsening and requiring an ever increasing amount of finance to restore it to the appropriate standard. Therefore, finding an appropriate future use for these buildings accords with government advice.

The Conservation Manager raises no objections to the principle of the development and considers that the number of units will not be to the detriment of the character and setting of the listed building - subject to the submission of amended details.

The density of the housing is not considered to be inappropriate for Merriott, especially the Lower Street area, which is characterised by groups of buildings. The form of the new dwellings is also considered to be acceptable, using simple traditional designs and materials.

Negotiations have taken place since the last committee and these have resulted in a variety of amendments. The key area of change is the reduction in scale of the dwelling at the rear of the new build element. It was considered that the amount of 3 storey dwellings did not sit comfortably in this prominent, semi-rural location and the applicants have now conceded this point and as a result are proposing to substitute some of these units with traditional 2-storey cottages. As a result of this the Conservation Manager does not object to the scheme and recommends appropriate conditions to safeguard the historic buildings.

## **Previous Officer report to Area West Committee – 16th January 2008**

### *Highways:*

The Highway Authority have assessed this application in relation to the planning permission that was granted earlier this year. They are firmly of the opinion that the additional nine units will not create an unacceptable situation and they consider that the required works required under the S106 from the previous consent will be adequate to mitigate the impact of this scheme.

### *Affordable housing/planning contributions:*

Policies contained within the adopted Local Plan require the planning authority to secure a planning contribution to mitigate the impact of the development. Such contributions normally take the form of affordable housing, play areas, community facilities etc and these costs are absorbed by the developer. If members do accept that the proposal for 52 units is justified in terms of safeguarding the factory then it is considered inappropriate to require such contributions as the applicant believes that 52 is the minimum number of units that will produce the required financial return. If the developer was required to provide 35% of units for affordable housing then it follows that the number of units required would increase substantially.

The Landscape Officer has also referred to the lack of defined amenity space in the locality. This concern is understandable however it is important to bear in mind that no such provision was included in the previous scheme and this application is for the same site area.

It is also important to bear in mind that there is a recently approved permission for 43 units and that the additional 9 units would not in themselves generate any requirement for affordable housing etc. The developer is also required to carry out significant highway works as part of any approval.

### *Ecology:*

Following the last committee a wildlife survey has been carried out and addresses the ecologists concerns about the impact of the development upon wildlife and more particularly bats. This survey has addressed the nature of the conflict and has made recommendations that will avoid an adverse impact. Furthermore, it will be necessary for the applicants to obtain a separate licence from DEFRA before any work can be carried out that will impact upon the bats.

### *Flooding Issues:*

At the time of the previous approval the Environment Agency were satisfied that provided appropriate conditions were imposed, the development would not be at risk from flooding or create flooding issues elsewhere. Furthermore the issue of contaminated land was to be addressed through relevant conditions.

Since the approval the Environment Agency's requirements have become more rigorous and there are other tests that have to be satisfied.

Following the last meeting the applicants have been involved in detailed discussions with the Environment Agency and they have now issued a letter stating that they withdraw their objections to the proposal provided that conditions are imposed. They are satisfied that the Exceptions and Sequential tests have been addressed and that the development will not create additional problems in the locality.

### *Neighbour Amenity:*

It is considered that the proposed dwellings will not have a significant impact upon the amenity of neighbouring properties. The increase in units from 43 to 52 will result in additional activity but it is not considered that this will cause any demonstrable harm to the locality. The new dwellings are some distance from other properties whilst the conversions will not have any additional impact on adjoining properties than already created by the factory use.

## Previous Officer report to Area West Committee – 16th January 2008

### Summary

It is considered, on balance, that the creation of 3 additional new builds and 6 additional conversions is acceptable. The applicant has put forward a case explaining that the previous scheme was not viable and did not provide sufficient profit to make it an attractive enough scheme to achieve financial support. This case has been assessed by an independent assessor and the Economic Development Manager and they believe that the applicant's assertions appear to be sound.

As the site straddles a high risk flood zone it was necessary for the Environment Agency to become involved and this has resulted in lengthy discussions. It is however now clear that they do not believe this development will exacerbate any problems.

The Highways Authority are satisfied that the 9 extra units will not warrant any additional improvements to those secured by the previous permission and therefore they raise no objections. The Conservation Manager is also generally content that the scheme will preserve the character of the buildings and Conservation Area as well as finding a new use for these historically important structures.

### RECOMMENDATION:

#### Application Permitted With Conditions

The application is recommended for approval subject to the attached list of conditions that will also ensure that the requirements of the previous S106 are still maintained.

The residential development of this site has been accepted by the District Council on the basis that it will provide funding for a modernised factory building that will contribute towards the vitality of this important local employer. It is considered that the applicants have demonstrated that the additional units are necessary to provide funding for the required works and that the increase in conversions and 3 additional new build on a brownfield site will not have an adverse impact upon the character of the Conservation Area.

The proposed development will also safeguard the character of this important group of listed buildings, will not be prejudicial to highway safety, amenity or ecology and will not create additional problems within the flood zone.

1. 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.

2. No dwelling shall be occupied unless those buildings that are not identified for retention have been wholly removed, in accordance with a scheme that shall have first been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To safeguard the character and appearance of the area and safeguard amenity and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

3. The areas allocated for parking on the submitted plans shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby approved.

**Reason:** In the interests of highway safety and to accord with TP7 of the South Somerset Local Plan 2006.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) no garage shall be erected on the application site without the express grant of planning permission in respect thereof.

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**Reason:** To safeguard the character and appearance of the area and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

5. No development approved by this permission shall be commenced until a detailed scheme for improved flood conveyance under the Tail Mill Lane (to the north west of the development site) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before any dwelling is occupied and shall thereafter be permanently maintained.

**Reason:** The proposals for the development on the western side of the site depend on this to reduce flood levels in the vicinity and ensure the development is safe and to accord with advice contained within PPS25.

6. No works shall commence unless details of the internal floor levels of the residential units have been submitted to and approved in writing by the Local Planning Authority. Floor levels shall be set at least 300mm above the relevant 1 in 100 year including climate change flood level, as given in Table 4.2 of the Flood Risk Assessment.

**Reason:** To protect the development from flooding and to accord with advice contained within PPS25.

7. No development approved by this permission shall be commenced until a scheme for flood resilience in the design and construction of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before any dwelling is occupied and shall thereafter be permanently maintained.

**Reason:** To reduce the impact of any flooding on the development and to accord with advice contained within PPS25.

8. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable Drainage Principles and shall not result in an increase in the rate &/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.

**Reason:** To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water management and to accord with advice contained within PPS25.

9. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved by the local planning authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

1. A desk study identifying:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and risk assessment (2) and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.

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4. A verification report on completion of the works set out in (3) confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Any changes to these agreed elements require the express consent of the local planning authority.

**Reason:** To prevent pollution of controlled waters and to accord with EP5 of the South Somerset Local Plan 2006.

10. No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

**Reason:** To prevent pollution of the water environment and harm to amenity and to accord with ST6, EU4 and EU5 of the South Somerset Local Plan 2006.

11. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

**Reason:** To prevent pollution of the water environment and to accord with EU7 of the South Somerset Local Plan 2006.

12. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.

**Reason:** To prevent pollution of the water environment and to accords with EU6 of the South Somerset Local Plan 2006.

13. No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

**Reason:** In the interests of sustainable development and prudent use of natural resources and to accord with ST8 of the South Somerset Local Plan.

14. The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

15. No development shall take place unless details of all windows, doors, fascias, soffits, downpipes, rainwater goods and other external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

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16. No works shall be carried out to the doors and windows of the existing buildings that are to be converted unless details of any repairs or refurbishment have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved plans unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modifications) no fences, gates or walls shall be erected on the site without the prior express grant of planning permission.

**Reason:** To safeguard the character and appearance of the area and to accord with EH1, ST5 and ST6 of the South Somerset Local Plan.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows, including dormer windows, or other openings (including doors) shall be formed in the building, or other external alteration made without the prior express grant of planning permission.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

19. All new external walls and alterations and making good to existing walls shall be constructed and carried out in matching natural materials (including the matching of pointing and coursing) samples of which shall have been submitted to and approved in writing by the Local Planning Authority before any of the development hereby permitted is commenced.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

20. The windows comprised in the development hereby permitted shall be recessed in accordance with details to be submitted to and approved in writing with the Local Planning Authority before any work on the development hereby permitted is commenced.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

21. Before any of the development hereby permitted is first occupied provision shall be made for combined radio, TV aerial and satellite facilities to serve the development and no individual external radio, TV aerial or satellite dish or aerial shall be fixed on any individual residential property or flat or other unit of living accommodation or on any wall or structure relative thereto without the prior express grant of planning permission.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

22. Details of the surface treatment for all open areas on the site shall be submitted and approved in writing by the District Planning Authority before any development is commenced on site and the development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard the character and appearance of the area and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

23. Details to provide for the supply of an adequate and clean drinking water supply to all dwellings shall be agreed in writing by the District Planning Authority before any work is



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commenced on site. Such agreed supply shall be connected to the dwellings before they are first occupied.

**Reason:** In the interests of public health and to accord with EU4 of the South Somerset Local Plan 2006.

24. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The scheme of landscaping shall include details of the protection of trees and hedgerows alongside the access road, details of additional planting alongside the access road and details of the treatments of all boundaries.

**Reason:** In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

25. In this condition 'retained tree' means an existing tree, which is to be retained in accordance with the details that are required to be submitted and approved in accordance with condition 24 of this approval.

a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

c) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

**Reason:** In the interests of visual amenity and to accord with ST5, ST6 and EH1 of the South Somerset Local Plan 2006.

26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to any of the dwellings (including enlargement/extension of roofs) without the prior express grant of planning permission.

**Reason:** In the interests of neighbour and visual amenity and to accord with ST5 and ST6 of the South Somerset Local Plan 2006.

27. No works shall commence on site unless a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of neighbour amenity and to accord with EP6 of the South Somerset Local Plan.

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28. The scheme hereby granted consent shall not be carried out otherwise than in complete accordance with the submitted plans and specifications and revised scheme. In the event that the work is not completed strictly in accordance with such approved plans and specifications, or shall become impracticable for whatever reason, work shall thereupon cease and only be recommenced if and when Listed Building Consent shall have been obtained in regard to a further amended scheme of works which renders completion of the scheme practicable.

29. No works shall be commence on site unless a detailed submission has been submitted to and approved in writing by the Local Planning Authority giving details of the wildlife mitigation measures as identified in the ecology survey dated August 2007. The submission shall give details of the location of the appropriate measures together with an implementation programme and a future management plan. The development shall thereafter be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** For the protection of legally protected species and to accord with EC8 of the South Somerset Local Plan 2006.

30. No works shall commence unless a scheme for the management of the Mill Pond have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of clearance, restoration and planting together with an implementation programme. The development shall thereafter be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity and biodiversity and to accord with EH1, ST5 and ST6 of the South Somerset Local Plan 2006.

31. No dwelling shall be occupied unless provision has been made for waste and recycling collection, details of which shall have been submitted to and approved in writing by the Local Planning Authority. The provision shall be carried out fully in accordance with the approved details and permanently maintained unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of amenity and to accord with ST6 of the South Somerset Local Plan 2006.

32. No works shall commence upon the conversion of the buildings unless details of all staircases and handrails have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance wit the approved details unless otherwise approved in writing by the Local Planning Authority.

**Reason:** In the interests of the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

33. No works shall commence on the conversion of the buildings unless details of all works to floors, ceilings, walls and all other internal structural alterations have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In the interests of the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

34. No works shall commence on the conversion of the buildings unless a scheme of external works required for each building has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide photographic records of the existing situation together with plans and specifications for the required works. The works shall thereafter be carried out in accordance with the approved plan unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard the character of the listed building and to accord with EH3 of the South Somerset Local Plan 2006.

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35. No development shall begin on site unless details of a scheme have been submitted to and approved in writing by the Local Planning Authority that will ensure that the requirements of the previous approval are fully adhered to:
- the highway works as required by the highway authority and approved as part of the previous application(02/01696/FUL) are fully carried out at the appropriate time
  - the factory building approved under planning reference 07/02464/FUL is fully constructed prior to the occupation of any dwelling approved as part of this application

**Reason:** To ensure that the appropriate infrastructure is in place and to ensure that the replacement employment floor space is provided so as to ensure the future viability of the business and to accord with ST10 of the South Somerset Local Plan.

## Previous Area West Committee Minutes – 16th January 2008

Committee Minutes 16/01/2008

### **07/02775/FUL (pages 18-33) – Conversion of existing factory buildings and erection of new dwellings to form 52 units together with alterations/improvements to access road and junction and other associated works (GR 344886/112383), Merriott Plastics Ltd., Tail Mill Lane, Merriott – Mr. Ian Low**

The Planning Team Leader (South/East) summarised the agenda report, which set out fully the details of this planning application. She referred to the previous scheme relating to this site having been granted permission in respect of the erection of a factory extension together with the conversion of the listed building into 33 residential units together with 10 new houses. She indicated that the approval was given on the basis that residential development would allow the applicants to fund a purpose built factory thereby helping the viability of the enterprise. She further commented that the previous approval was subject to a Section 106 planning obligation, details of which were set out in the agenda report.

In referring to the current application, the Planning Team Leader reported that in principle it was similar to the previous scheme but sought to increase the number of dwellings on the site by 9 by way of an additional 6 conversions and 3 new build. Reference was also made to the application being accompanied by a flood risk assessment, design and access statement, ecology report and economic justification for the scheme. She reiterated that there were listed buildings on the site for which an application for listed building consent had been submitted.

In referring to the consultation responses, which were set out in the agenda report, the Planning Team Leader particularly mentioned the response from the Environment Agency. She clarified that the Environment Agency had not raised an objection to the scheme but had recommended a list of conditions to be included in any permission. She reported, however, that concerns had been received from local residents that the conditions were not strong enough and their views had been supported by the Council's Engineer. Members noted that the recommended conditions were not as precise as those included in the previous approval and the Planning Team Leader recommended that the wording should be strengthened in consultation with the Council's Engineer.

The Planning Team Leader referred to the history of the site being complex, details of which were set out in the agenda report. She informed members of the material considerations to be taken into account in determining this application. Reference was made to the site being on previously developed land and although not remote was located outside the development limits of Merriott. She mentioned, however, that the principle of development had been established given the previous consent for 43 units. She mentioned that the Highway Authority had no objections subject to the improvements required for the previous scheme being implemented and to the Council's Ecologist having no objections subject to conditions. Reference was made to the applicant being an important employer and to his having supplied an economic justification for the 9 additional units, which had been accepted by Atis Real, independent assessors appointed by the Council. She further referred to the impact on the listed buildings and conservation area and indicated that since the Committee last considered this application at its meeting on 19th September 2007, amended plans had been received, which addressed the issues of the impact of the conversion works on the character and fabric of the listed buildings. The amended plans had also taken into account concerns about the height of some of the new build units and had reduced the amount of taller buildings to that approved by the previous scheme. The Planning Team Leader commented that the principle of preserving the character and fabric of the historic and listed buildings had been well established and it was important that the scheme enabled the protection of the listed buildings. She referred to this scheme being an enabling development to secure the factory building and the protection of the listed buildings, which together with the highway improvements, would be secured by the Section 106 planning obligation. In referring to affordable housing, the Planning Team Leader referred to the extant planning approval for 43 units and advised that the additional 9 units subject of this application would not in themselves generate any requirement for affordable housing. She further mentioned that the proposed dwellings would not have a significant impact upon the amenity of neighbouring properties.

In summary, she concluded that the application was considered to be acceptable and recommended that it be approved. She wished, however, to amend the recommendation as set out in the agenda to make it subject to the prior completion of a Section 106 planning obligation to cover the same items/issues as that relating to the previous planning permission and listed building consent issued on

## Previous Area West Committee Minutes – 16th January 2008

24th January 2007 and to no additional representations raising new and relevant issues being received in respect of the amended plans. She also recommended additional conditions relating to the amended plans and the amendment of the conditions relating to those matters raised by the Environment Agency as mentioned above.

The Economic Development Team Leader then referred to the summary statement in the agenda report that referred to his being satisfied that the applicants had demonstrated that there was a clear need for these 9 additional units to make the scheme viable. He indicated that this was not an accurate reflection of his views but rather he felt that this was a borderline case that on balance could be supported. He explained to members in detail the outcome of his further investigations into the economic justification for the scheme following on from concerns raised by members when the application was last discussed at the September 2007 meeting of the Committee. A summary of his comments was set out in the agenda report.

The officers then answered members' questions on points of detail regarding the proposals. Points raised included further questions on the economic justification for the scheme together with whether the Council could require any claw back as planning gain should any profit on the scheme go beyond that to secure the factory building and the protection of the listed buildings. Reference was also made to whether a small amount of affordable housing could be required and the Planning Team Leader indicated that since this was an enabling development it would not be appropriate bearing in mind that if such a requirement was insisted upon it would probably mean that there would be a need for more units to raise the necessary funding. She also indicated that recommended condition 15 could be amended to include a reference to chimneys and vents and condition 18 amended to include a reference to vents.

The Committee then noted the comments of Mr. C. Mayes, a parish councillor and resident of Tail Mill, in objection to the application. He expressed concern about the 9 extra dwellings and also commented that whilst the application went unresolved it could cause a problem with the sale of properties. He also referred to traffic and parking problems that may be caused by the proposals. If the application was granted he hoped that the conditions would be achievable and monitored.

Ms. G. Hickley spoke in objection to the application and referred to her property abutting Tail Mill Lane. She expressed concerns about flooding and the knock-on effect on existing dwellings. She also referred to the wall along her boundary with the lane and was concerned that if lorries used the access from the village side the wall may be damaged.

In response to comments made, the Planning Team Leader indicated that the Highway Authority had not raised any objections to the proposals and therefore it would be difficult to object against the additional units on highway grounds. She also reported that the flood risk assessment had looked at off-site risks. She reiterated that if the current application was approved, the conditions recommended by the Environment Agency should be made more precise in line with those on the extant permission.

Cllr. Simon Bending, ward member, expressed concern about the flood risk, especially given the conditions recommended by the Environment Agency and referred to the conditions on the earlier extant permission being quite precise. He mentioned that 52 dwellings represented a 6% increase in properties in Merriott, which he felt would impact on village facilities. He commented that any other development would be required to provide an element of social housing and he was disappointed that there was no such requirement being made for this scheme. In referring to the viability of the scheme he commented that he struggled to support the additional 9 dwellings and expressed his view that, upon looking at the figures, there was an overall profit element. He felt that there should be clear economic justification for the scheme. He also felt that the Section 106 planning obligation should be revisited with a view to including contributions to education, social services and social housing.

During the ensuing discussion, the view was expressed by a member that the margin of profit was a significant factor in considering this application. Although supporting the application in terms of it being an enabling development to fund the factory and protection of the listed buildings, it was not felt that there should be any further profit element.

A member suggested that further advice should be sought on the economic justification for the scheme, particularly on whether making a profit over and above that required to enable the provision of the factory building and the protection of the listed buildings was reasonable. It was also felt that Counsel's Opinion should be sought on whether the Council could claw back any profit over and

## Previous Area West Committee Minutes – 16th January 2008

above that required for the provision of the factory and protection of the listed buildings bearing in mind that this was an enabling development. Should Counsel agree that claw back of surplus profit was legitimate in this case it was felt that the application should be referred back to the Committee to enable that aspect to be considered further. If such action was not considered to be legitimate members felt that the application could be approved. Members concurred that any permission should include those additional details as recommended by the Planning Team Leader. The Committee also concurred with the comments of members that any permission should be subject to the amendment of condition 15 to include a reference to chimneys and vents and of condition 18 to include a reference to vents. The amendment of condition 35 to require that the factory building is fully constructed prior to the construction or conversion of any dwelling approved as part of this application was also agreed.

- RESOLVED:**
- (1) that further advice be sought from an independent financial assessor on the economic justification for the scheme, particularly on whether making a profit over and above that required to enable the provision of the factory building and the protection of the listed buildings was reasonable;
  - (2) that Counsel's Opinion be sought on whether the Council could claw back any profit over and above that required for the provision of the factory and protection of the listed buildings as planning gain bearing in mind that this was an enabling development;
  - (3) that should Counsel agree that claw back of surplus profit is legitimate the application be referred back to the Committee to enable that aspect to be considered further;
  - (4) that if claw back of surplus profit is not considered by Counsel to be legitimate planning permission be granted subject to:-
    - (i) the prior completion of a Section 106 planning obligation or a deed of variation (in a form acceptable to the Council's Solicitor) before the decision notice granting planning permission is issued, the said planning obligation to cover the same items/issues as the Section 106 planning obligation dated 24th January 2007 in relation to planning application no. 02/01696/FUL and listed building consent 02/01698/LBC;
    - (ii) no additional representations raising new and relevant issues being received in respect of the amended plans;
    - (iii) conditions 1- 35 as set out in the agenda report;
    - (iv) the amendment of conditions 5 - 13 relating to flood risk in order to strengthen the precise wording, such amendments to the wording to be delegated to the Head of Development and Building Control in consultation with the Environment Agency, Council's Engineer, Chairman of the Committee and ward member;
    - (v) the inclusion of an additional condition regarding the development being carried out in accordance with the amended plans received on 4th and 7th January 2008;
    - (vi) the amendment of condition 15 to include a reference to chimneys and vents and condition 18 to include a reference to vents;
    - (vii) the amendment of condition 35 to require that the factory building is fully constructed prior to the construction or conversion (rather than occupation) of any dwelling approved as part of this application (it being noted that the reference in the Section 106 planning obligation would also need to be amended to reflect this change).

(12 in favour, 0 against)

## Previous Area West Committee Minutes – 16th April 2008

*Committee Minutes 16/04/2008*

### **Conversion of Buildings into 39 Units and Erection of 13 New Dwellings – Land at Tail Mill, Merriott (App. No. 07/02775/FUL) (Agenda item 12)**

Reference was made to the confidential agenda report and the Planning Team Leader reported that the Committee, at its meeting on the 16th January 2008, had asked for an independent assessment to be made of this scheme to assess whether there was a clear justification for the increase in numbers of dwellings and whether there would be sufficient profit for the Council to require planning contributions.

The Planning Team Leader reported that he had referred the scheme to the District Valuer who had robustly assessed the financial details submitted by the applicant and used their own experience of the housing market and construction costs in order to make an informed recommendation. The District Valuer had also given an opinion as to the reasonableness of the applicant making a developer's profit from the site.

The Planning Team Leader further reported that the suggestion regarding the potential to claw back any further profit from the developer had also been discussed with the District Valuer who was of the view that this would be extremely difficult to achieve and would be a further potential risk for any lender.

Details of the conclusions of the District Valuer in respect of these matters were reported to the Committee. Having regard to those conclusions, the Planning Team Leader recommended that no planning contributions be sought from the applicant other than for highway works already agreed.

Members, having noted the District Valuer's assessment of the financial details submitted by the applicant, indicated that they were satisfied with the conclusions reached and agreed that no planning contributions should be sought from the applicant other than for highway works already agreed. On a separate issue relating to the conditions that were to be imposed in respect of flooding, the Planning Team Leader reported that discussions had taken place and it was considered that the conditions proposed were acceptable, however, they should be supplemented by additional conditions from the previous approval.

**RESOLVED:** that having noted the District Valuer's assessment of the financial details submitted by the applicant in respect of planning application no. 07/02775/FUL, no planning contributions be sought from the applicant other than for highway works already agreed.

(9 in favour, 0 against)

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Area West Committee – 16th February 2011

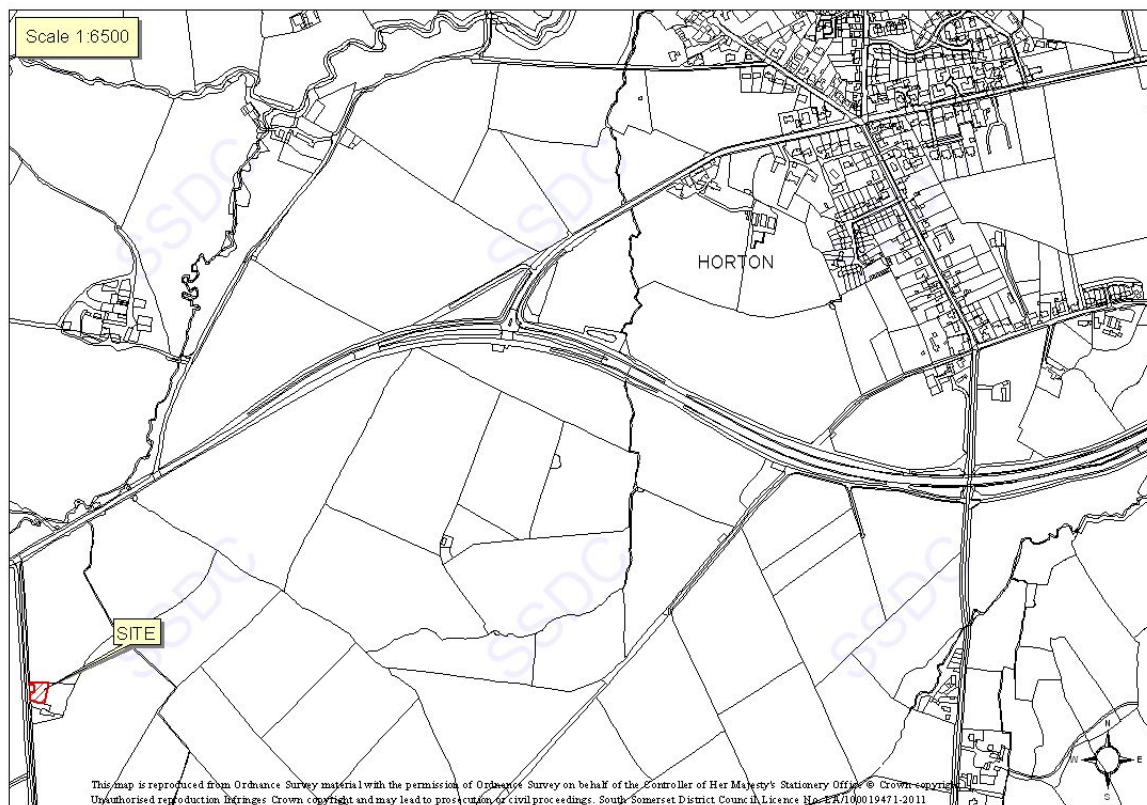
**Officer Report on Planning Application: 10/03766/COU**

<b>Proposal:</b>	The change of use of land for the hire and storage of motor homes (GR 330799/113872)
<b>Site Address:</b>	Emerald Farm Poltimore Lane Combe St Nicholas
<b>Parish:</b>	Combe St Nicholas
<b>BLACKDOWN Ward (SSDC Member)</b>	Mrs R Roderigo (Cllr)
<b>Recommending Case Officer:</b>	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
<b>Target date:</b>	8th November 2010
<b>Applicant:</b>	Ms Sarah Foord
<b>Agent: (no agent if blank)</b>	Mr PDM Carpendale, Brimble Lea and Partners Wessex House High Street Gillingham Dorset SP8 4AG
<b>Application Type:</b>	Other Change Of Use

**REASON FOR REFERRAL TO COMMITTEE**

The application is to be considered by Area West Committee at the request of Cllr Roderigo, with the agreement of the Area Chair, Cllr Turner. It is felt that the issues should be given further consideration by members.

**SITE DESCRIPTION AND PROPOSAL**







Emerald Farm is a smallholding located along Poltimore Lane, just to the south of the A303. The smallholding was formerly part of a larger farm comprising 36.2 acres, however the majority was tenanted leaving only 2.2 acres for the applicants use as a smallholding. The tenanted land has now been sold so the current holding of 2.2 acres is all that remains in the applicant's ownership. It is a relatively isolated site, within open countryside and beyond any defined development areas. Planning permission was granted in 2007 for the erection of a barn for the storage of a tractor, trailer, hay and straw, small machinery, pesticides and veterinary stores, all in relation to the smallholding and maintenance of the land and hedges. The barn is located along the roadside boundary and there is an area of hard standing to the front and sides of this building.

This application is made for the change of use of the area of hard standing for business purposes for the storage and hire of motor homes. The use has already been commenced and as such, this application is made retrospectively.

## HISTORY

08/04532/FUL: Demolition of a single storey extension and outbuilding, erection of a two storey rear extension, single storey side extension, front porch and conversion of attached stone outbuilding to garden room - Permitted with conditions.

07/04704/FUL: The erection of a timber framed structural agricultural building - Permitted with conditions.

## POLICY

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

## Relevant Development Plan Documents

Somerset and Exmoor National Park Joint Structure Plan:  
STR1 - Sustainable Development  
STR6 - Development Outside Towns, Rural Centres and Villages  
Policy 5 - Landscape Character

South Somerset Local Plan 2006:  
ST3 - Development Areas  
ST5 - General Principles of Development  
ST6 - The Quality of Development  
EC3 - Landscape Character

## Policy-related Material Considerations:

### PPS's/PPG's

Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 4: Planning for Sustainable Economic Growth  
Planning Policy Statement 7: Sustainable Development in Rural Areas

### South Somerset Sustainable Community Strategy

Goal 5 - A competitive, high performing economy that is diverse, adaptable and resource efficient.  
Goal 11 - Protection and enhancement of our natural environment and biodiversity.

## **CONSULTATIONS**

*Parish Council:* The Parish Councillors have no objections to this application.

*SSDC Technical Services:* No comment.

*Highways Agency:* From the information supplied in your letter, we are content that the proposal will not have any detrimental effect on the Strategic Road Network. On this basis, we offer no objections to the application, and a TR110 has been included with this letter to that effect. Also we note the proposed conditions limiting the number of vehicles on site and are in support of this.

*County Highway Authority:* The proposed development site lies remote from any Development Boundary Limits and is distant from services and facilities, whilst public transport services are infrequent. As a consequence, employees/customers of the new development are likely to be dependant on their private vehicles. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provisions of policies STR1 and STR6 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted: April 2000) and would normally receive a recommendation of refusal from the Highway Authority as a result. However, given the nature of the development it is considered that the principle of the development must mainly be a matter for the Local Planning Authority to determine.

It is noted that the Highway Agency have not raised an objection to the proposal as it is considered that the impact of the traffic movements associated with this development on the junction of Poltimore Lane with the A303 or on the free flow of traffic at this point is unlikely to be significant.

It was noted from my site visit that the existing access is poorly consolidated and as such loose material is currently being dragged on to the highway. The Highway Authority as part of this proposal would wish to see the access properly consolidated and surfaced (not loose stone or gravel) and adequate drainage provided so as to prevent the discharge of surface water on the highway.

The Highway Authority would also wish to see the visibility currently achieved to the south improved.

As a result, if the principle of the development is deemed acceptable then I would advise you that from a highway point of view there is no objection to the proposal. However, in the event of permission being granted I would recommend that the following conditions be imposed:

1. The access over at least the first 5.0m of its length, as measured from the edge of the adjoining carriageway, shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with details of which shall have been submitted to and approved in writing by the Local Planning Authority.
2. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.
3. There shall be no obstruction to visibility greater than 900mm above adjoining road level in advance of lines drawn 2.0m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43.0m both sides of the access. Such visibility shall be fully provided before the development hereby permitted is first brought into use and shall thereafter be maintained at all times.

Note: The alteration of the access and/or minor works will involve construction works within the existing highway limits. These works must be agreed in advance with the Highway Service Manager for the South Somerset Area at The Highways Depot, Houndstone Business Park, Yeovil, 08453 459155. He will be able to advise upon and issue/provide the relevant licences, necessary under the Highways Act 1980.

*SSDC Economic Development Manager:* I do worry that this application could be classed as development in the countryside, and almost certainly a change of use for the land in question.

I understand that the applicant holds just a few acres of land and redundant farm buildings. This makes it unlikely that a case for supporting a farming business can be made.

My main concerns would be:-

- Suitability of location for such a business. Demand is unlikely to be generated by either local or passing trade, so the issue of sustainability comes into question. There are many far more suitable sites in nearby urban areas where a business of this nature could be carried out.
- Setting a precedent. With many smaller farms being broken into even smaller holdings, there is danger of other prospective landholders citing this as a local exemplar for COU in unsustainable locations.

I suspect there will also be a host of other security, landscape and access issues that will need to be considered.

I am unable to support this application.

*SSDC Agricultural Development Officer: 19th October 2010:* As it's a clear COU, with no significant underlying farm business, I agree with David's comments on the application.

24th September 2010: I will need to know the scale of the underlying farm business to demonstrate that this is a farm diversification in support of the underlying farm business rather than a COU from Ag.

Plus have they looked at the implications for business rates in their proposal. Many farms who consider diversification into caravan/motor home storage, get their fingers burned with the hike in business rates and find that the proposal is no longer economically viable.

*SSDC Principal Landscape Officer:* I note that this application seeks a COU rather than proposes an agricultural diversification. As such, it would appear that farming is no longer the main enterprise at this holding, hence I assume policy ST3 applies, where 'development will be strictly controlled to that which ... maintains or enhances the environment ..' whilst the proposal before us intends to utilise the existing surfaced yard and building, the change from farming to a commercial use does not inherently add to or sustain the local environment, thus I am not convinced that policy ST3 is satisfied. There is also a potential for security fencing etc on the back of an approved commercial use, which would be at variance with local character. Regarding the existing building, should not the onus be on its agricultural redevelopment? I would also question if caravan storage is either an authentic agricultural diversification, or an appropriate use of farmland, in what is clearly a rural, agricultural landscape?

In visual terms, I note that the site does not enjoy robust enclosure, and the image on 'Google streetscene' bears out the potential visibility of the camper vans, which would be particularly evident in winter. There is minimal development presence in this locality, and camper vans are thus perceived as an intrusion within this open countryside, in a manner that is at variance with local landscape character, policy EC3. Consequently there is no landscape support for this proposal.

## **REPRESENTATIONS**

The application has been advertised by site notice for the requisite period. One letter of support was received from a contributor referring to themselves as part owners of the property at Emerald Farm. The following main points are as follows:

- The present registered use of the premises for free-range eggs and rare breed business is marginally economic and can only be realistically sustained with additional economic activity.
- The proposed business will provide additional part-time employment in a rural area with limited employment opportunities.
- The business will be beneficial to local tourism as van hire provides a service to those vacationing in the area and the Southwest of the country.
- The premises are ideally located for motor home operation being adjacent to the main trunk road, with easy access to the A303 and M5.
- Environmentally, the use of the site for motor homes will have little harmful impact due to low volumes of traffic locally. Furthermore, the visual impact will be minimal as a result of screening of the boundaries by existing hedges and proposed additional planting.

## **CONSIDERATIONS**

This application is made retrospectively to consider the retention of a business operation comprising the storage of motor homes on an area of hard standing at Emerald Farm. These motor homes are available for hire, usually with the hirer's own vehicle being left at the farm. During the tourist season (Easter to October) it is intended to store up to 8 motor homes on site, with no more than 5 being kept on site during the winter period.

The site is located off the A303, within open countryside and is bounded to the north, east and west by native species hedging. Despite the planting, the application site is visible from public vantage points beyond.

The main planning considerations in this case relate to the principle of development in the open countryside and the impact of the proposal on local landscape character.

## **PRINCIPLE OF DEVELOPMENT**

Local and national planning policies and guidance restrict development in the open countryside. Saved policy ST3 of the South Somerset Local Plan states that "outside the

defined development areas of towns, rural centres and villages, development will be strictly controlled and restricted to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel." Similarly, guidance within PPS4 states "local planning authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all. In rural areas, local planning authorities should strictly control economic development in open countryside away from existing settlements, or outside areas allocated for development in development plans."

The business in question is a new business being carried out by the applicant, who lives on site and runs a smallholding on the 2.2 acres of associated land. The smallholding supports an expanding free-range egg and rare breed business. Despite the presence of the other business, this application is not considered as a farm diversification scheme but as a separate enterprise in its own right and as a change of use of the land from agricultural to business use.

The site is in a relatively isolated location and is not well related to any rural settlements. It is considered to be an unjustified economic development in an unsustainable location, which is remote from existing settlements and local service centres. The applicant does highlight policy EC12 of PPS4, which states that "local planning authorities should support small-scale economic development where it provides the most sustainable option in villages, or other locations, that are remote from local service centres, recognising that a site may be an acceptable location for development even though it may not be readily accessible by public transport." The applicant feels that the nature of the business, which generally relies on holidaymakers driving to the site from outside of the district, means that wherever it is located customers will be travelling from afar and will not use public transport. As such, it is argued that the location close to the A303 is appropriate. While it is acknowledged that users may be tourists who are already using vehicles, it is still not considered that this makes the proposal any more acceptable. The enterprise is not of an agricultural nature and there is no overriding justification that its presence in a countryside location is essential.

The Council's Economic Development Manager was consulted during the application process and is unable to support the proposal. Economic Development are of the view that the business use is more suited to an existing business site in a nearby urban area, particularly as there is unlikely to be demand from either local or other passing trade. This also brings the question of sustainability into question and supports the view that there is no essential need for this business to be provided in a countryside location. Economic Development also raise a concern about setting a precedent for similar situations where smaller farms are broken up into even smaller holdings. The Council's Agricultural Development Officer agrees with these comments, particularly as there is no justification on agricultural grounds.

### **Landscape Character**

As well as concerns in regard to the location of this development and its sustainability, it is also considered to be at variance with local landscape character, in an area where development presence is minimal. The storage of mobile homes/caravans and any customer's vehicles would be viewed as out of keeping with and uncharacteristic of the surrounding landscape and consequently would fail to maintain or enhance the environment, causing unacceptable harm to the distinctive character and quality of the local landscape.

The site is fairly well visible from public views but the applicant has proposed to carry out additional planting to the field boundaries to prevent the site being visible from surrounding public vantage points and has also proposed conditions to limit the number of vehicles on site to 8 during the tourist season and 5 over the winter period. Despite these proposals, they are not deemed to make the proposal any more acceptable. Additional planting may reduce the visual impact but the vehicles will still be visible from the access points as a minimum and overall this still does not overcome the principle of development in this countryside location or the general landscape issues.

A point made by both the Economic Development Manager and the Council's Principal Landscape Officer is the matter of security. Such an enterprise could potentially be a target for crime/theft, particularly as a result of the isolated location and proximity to the A303. By approving the development, there is the potential for pressure to improve security, which in reality may only be achieved by the installation of security fencing, which could further detract from the landscape character of the locality. This is considered to further support the view that this type of enterprise is more suited to a purpose built business setting, within an existing settlement or rural centre.

While not the intention, mention has been given to the possibility of storing the vehicles within the existing agricultural building, if considered desirable by the Local Planning Authority. As the application site red line does not include the building in question, this should be considered in a new application but even so, this is not considered acceptable, as it also doesn't deal with the principle of development and it would take this building out of agricultural use, which it was approved for very recently.

## **CONCLUSION**

Overall, the change of use of land for the storage of mobile homes/caravans is considered to be an unjustified economic development in an unsustainable location, which fails to maintain or enhance the environment and causes unacceptable harm to the distinctive character and quality of the local landscape. As such, the retention of this business use is not considered to be acceptable and the recommendation to members is to refuse permission.

## **RECOMMENDATION**

Refuse.

## **FOR THE FOLLOWING REASON:**

1. The change of use of land for the storage and hire of motor homes is unacceptable, as it is an unjustified economic development in an unsustainable location, which is remote from existing settlements and local service centres. Furthermore, development of this form is out of keeping with and uncharacteristic of the surrounding area and consequently would fail to maintain or enhance the environment, having a detrimental impact on the distinctive character and quality of the local landscape. As such the proposal is contrary to the aims and objectives of PPS4, policies 5, STR1 and STR6 of the Somerset and Exmoor National Joint Structure Plan Review and saved policies ST3, ST5, ST6 and EC3 of the South Somerset Local Plan 2006.
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Area West Committee – 16th February 2011

**Officer Report on Planning Application: 10/03965/FUL**

<b>Proposal:</b>	Alterations, the erection of a single storey and two storey extensions and conversion of existing building into a single dwellinghouse (GR 335363/115044)
<b>Site Address:</b>	Building East of 22 Winterhay Lane Ilminster
<b>Parish:</b>	Ilminster
<b>ILMINSTER TOWN Ward (SSDC Members)</b>	Mrs. C Goodall (Cllr) Mrs. K T Turner (Cllr)
<b>Recommending Case Officer:</b>	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
<b>Target date:</b>	6th January 2011
<b>Applicant:</b>	Mr Steven Crabb
<b>Agent: (no agent if blank)</b>	Peter Smith Frontell House West Coker Hill Yeovil Somerset BA22 9DG UK
<b>Application Type:</b>	Minor Dwellings 1-9 site less than 1ha

**REASON FOR REFERRAL TO COMMITTEE**

The application is to be considered by Area West Committee at the request of Cllrs. Turner and Goodall, with the agreement of the Area Vice-Chair, Cllr Best. It is felt that the issues should be given further consideration by members.

**SITE DESCRIPTION AND PROPOSAL**



This application relates to a detached brick-built, former commercial building. It is now redundant from its original purpose and has for some time been used for domestic storage. The building and its curtilage are within the Ilminster defined development area. The site is accessed off Winterhay Lane, via an agricultural track, which leads to the fields beyond. This track also provides access to the neighbouring four terraced cottages, to the rear of the properties to the north, which front Winterhay Lane and to a recreation field immediately opposite the site.

The application is made to extend the building to the front and side and convert for use as a separate dwelling. The extensions are proposed to be constructed using brick of a similar appearance to the existing building and slates to match. The curtilage will be separated from the surrounding properties by a 1.8m timber fence.

## **HISTORY**

No relevant recent history.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

Relevant Development Plan Documents

Somerset and Exmoor National Park Joint Structure Plan:  
STR1 - Sustainable Development  
Policy 49 - Transport Requirements of New Development

South Somerset Local Plan 2006:  
ST5 - General Principles of Development  
ST6 - The Quality of Development  
EC8 - Protected Species

Policy-related Material Considerations:

PPS's/PPG's  
Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing

South Somerset Sustainable Community Strategy  
Goal 8 - Sustainably sited and constructed high quality homes, buildings and public spaces where people can live and work in an environmentally friendly and healthy way.  
Goal 11 - Protection and enhancement of our natural environment and biodiversity.

## **CONSULTATIONS**

*Town Council:* Recommend approval subject to the use of materials, including roof tiles, which fit in with the local street scene.

*SSDC Technical Services:* No comments.

*SSDC Environmental Protection Unit:* No objection on basis of submitted information, in relation to potential for contaminated land. No conditions requested.

*Natural England:* Based on the findings of the Ecological Survey undertaken by Michael Woods Associates, November 2010, I can confirm that Natural England has no objection to



the application in respect of species especially protected by law, subject to the following conditions:

The recommendations and bird and bat enhancement measures set out in section 7 of the Ecological Survey are completed in full. The completed approved enhancement measures will thereafter be retained. As recommended in the report, it is important that a pre-demolition inspection of the building by an appropriately experienced ecologist is undertaken, to confirm the continued absence of bats and nesting birds within the building.

*SSDC Ecologist:* I'm satisfied with the submitted Ecological Survey Report, which did not identify any significant constraints to the proposed development and concluded that there were unlikely to be any significant biodiversity/wildlife impacts. Section 7 of the report contains a number of recommendations regarding precautionary measures to employ in order to minimise risk of impact to any protected species that could potentially be encountered during works. It may be worth using an informative to bring attention to these.

*County Highway Authority:* The site is located within the development boundaries for Ilminster within close proximity of the local services and facilities of the settlement and as such there is no objection to the proposal in principle.

In detail, the Highway Authority has concerns relating to the proposed means of access to the site. The private track over the majority of its length is restricted in width to such an extent that two vehicles are unable to pass. This is also the case at its junction with Winterhay Lane and as such in the event of two vehicles meeting at this point manoeuvring on the highway is likely to take place with consequent additional hazards to all road users.

It is also noted that the visibility currently achieved by vehicles emerging from this side track on to Winterhay Lane is restricted due to the presence of boundary vegetation in connection with Nos 20 and 23 Winterhay Lane either side. It appears from the submitted block plan that this land is not within the control of the applicant and as such significant improvements are unable to be secured as part of this proposal.

As a result of the above limitations the Highway Authority would not wish to see a proposal that is likely to result in a significant increase in vehicular movements at this point. It is noted in the design and access statement that the current use of the building is storage in connection with the main dwelling and therefore the proposal to convert the building into a separate unit of residential accommodation is likely to result in this increase.

As a result, of the above I would recommend that the application be refused on highway grounds for the following reason:

1. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) and Policy ST5 of the South Somerset Local Plan since the increase in the use made of the sub-standard junction of the private track with Winterhay Lane such as would be generated by the proposed development, would be prejudicial to highway safety.

## **REPRESENTATIONS**

The application has been advertised by site notice for the requisite period. No responses have been received.

## **CONSIDERATIONS**

### **Principle of Development**

The application site is located within the development area of Ilminster and therefore the conversion of this building into a dwelling is generally acceptable provided that it is in accordance with other Development Plan policies and proposals.

The building is a former commercial property but has long since been redundant and has recently been used for domestic storage purposes. Referred to as 'The Old Dairy' or the 'Old Creamery', it is thought that this was the site of the original Horlicks Dairy. The building is of a traditional appearance and construction but is not listed.

The Town Council have supported the application subject to the materials, particularly roof tiles, fitting in with the local street scene. The proposed extensions are to the front and side and are proposed to be constructed using matching brick and slate so as to generally retain its existing character. In particular, the existing slates will be reused where possible and new ones will match. This is in keeping with the existing building and the adjacent properties, which also have slate roofs. Extension to the front of a building requires careful consideration so as to respect the general building lines and avoid having a detrimental impact on the overall appearance of the street scene. In this case, the property is located along a track off Winterhay Lane, in which are sited only the application site and four neighbouring terraced cottages. It is considered that protrusion to the front is acceptable in this case and does not detract from the setting of the locality. It would have been preferable to extend to the rear but the site is limited in size and it is accepted that the current proposal is the most efficient way to make use of the site.

It is regrettable that the front (north) elevation wasn't able to retain the more characteristic three centred windows but the need to extend to the front and provide additional openings makes this difficult. Overall, consideration has to be given to the fact that this is not a listed building and its demolition and replacement could also be acceptable in principle. It is considered that the proposal is the best option for the retention of a good quality local traditional building. The development is considered acceptable on design grounds and retains a sense of the character of this traditional building.

### **Residential Amenity**

The building is located at the end of the access track, with views over fields to the east, towards a recreation ground to the north and towards neighbouring properties to the south and west. The views to the west are directly towards the neighbouring property, no. 22 and no. 19 behind. There is only one ground floor opening proposed in this elevation, which will be created by altering an existing door. As this is at ground level, there are no concerns about the potential for overlooking. In the event of permission being granted, it would be appropriate to impose a condition restricting new openings from being made in this elevation.

The south facing elevation, looks out over part of the rear garden of no. 19 Winterhay Lane. The views however, are only over the far eastern edge of what is a large residential curtilage, stretching some way to the south. Any views will be limited and will not directly overlook the neighbouring dwellings themselves or private amenity spaces. As such, it is not considered that there will be any unacceptable harm caused to the residential amenity of neighbouring occupiers as a result of this development.

The building itself is sited at a good distance from its neighbours and will not cause any harm by way of overshadowing or overbearing impact.

### **Ecology**

An ecological survey has been provided with the application, as the proposal relates to the extension and alteration of a redundant building. The findings of the survey report no significant constraints to development but suggested measures to mitigate for the potential loss of habitat. Both the Council's Ecologist and Natural England support the findings and have raised no objection subject to conditioning the carrying out of the recommendations.

### **Highway Safety**

The County Highway Authority have raised concerns about the proposed development of this site. The track is restricted for most of its width, including the junction with Winterhay Lane, and does not allow two vehicles to pass. It is the view of the Highway Authority that two

vehicles meeting at this point would be likely to lead to manoeuvring on the highway, which could consequently lead to additional hazards for all road users. The Highway Authority are also concerned about the visibility achieved at the junction with Winterhay Lane as a result of the presence of boundary vegetation within the residential curtilages of neighbouring properties. As this land is outside the applicant's control, improvements will not be able to be secured at this point.

The existing use of the building is for domestic storage purposes so the development will lead to some increase in vehicular movements at this point. The Highway Authority would not wish to see an increase in movements due to limitations identified in relation to the existing means of access and have therefore recommended refusal of the application.

## **CONCLUSION**

Overall the proposed development of this site is considered to be acceptable in principle in all regards other than its impact on highway safety. The proposed extension will adequately respect the character and appearance of the property and its surroundings and is not considered to cause unacceptable harm to the residential amenity of the occupiers of neighbouring properties. However, the County Highway Authority have identified a risk to highway safety from increased vehicular movements, due to the restricted width of the access track and limited visibility at the junction with Winterhay Lane. As a result it is necessary to recommend refusal for the proposed development. The recommendation to members therefore, is to refuse planning permission.

## **RECOMMENDATION**

Refuse.

## **FOR THE FOLLOWING REASON:**

1. The proposal is contrary to Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted April 2000) and Saved Policy ST5 of the South Somerset Local Plan since the increase in the use made of the sub-standard junction of the private track with Winterhay Lane such as would be generated by the proposed development, would be prejudicial to highway safety.
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## Area West Committee – 16th February 2011

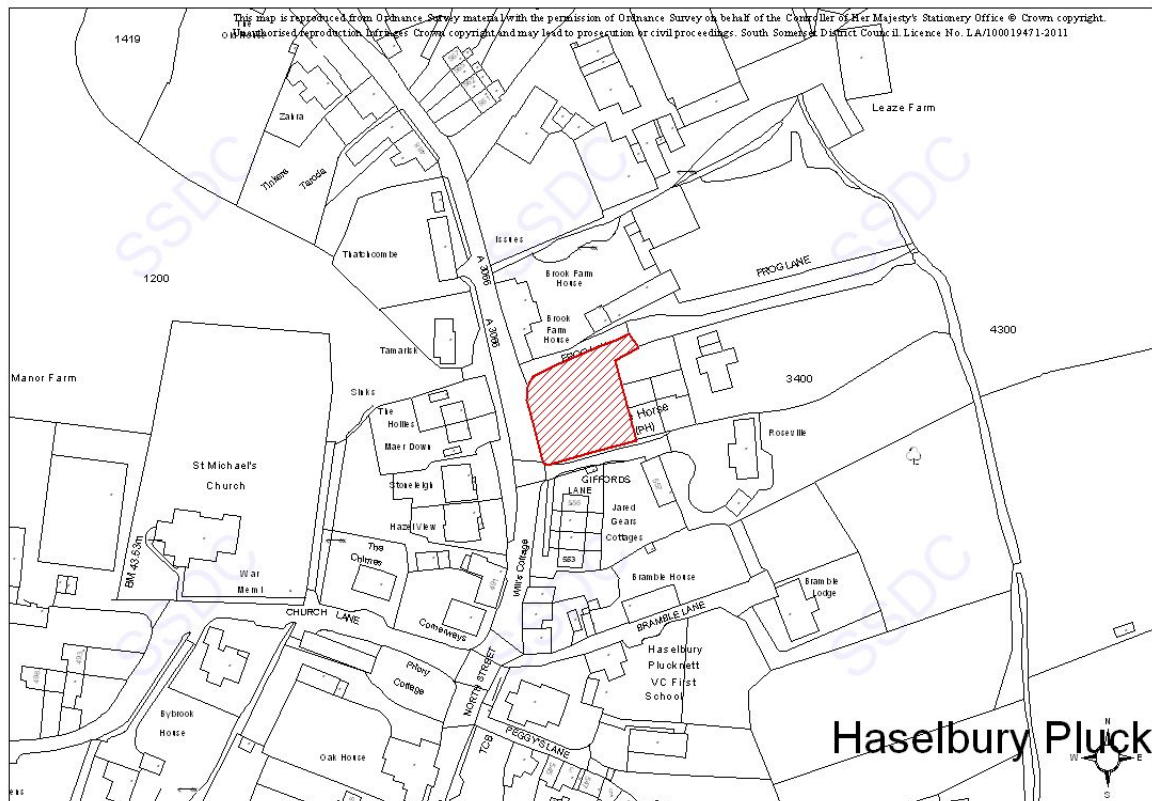
### Officer Report on Planning Application: 10/05077/S73

<b>Proposal:</b>	Application to remove conditions 18 and 19 of decision 03/02274/FUL (regarding holiday restriction/ownership) (GR 347254/110970)
<b>Site Address:</b>	The White Horse North Street Haselbury Plucknett
<b>Parish:</b>	Haselbury Plucknett
<b>PARRETT Ward (SSDC Member)</b>	Mr. R.J.T. Pallister (Cllr)
<b>Recommending Case Officer:</b>	John Millar Tel: (01935) 462465 Email: john.millar@southsomerset.gov.uk
<b>Target date:</b>	31st January 2011
<b>Applicant:</b>	P J And J S Howard
<b>Agent: (no agent if blank)</b>	Paul Dance Foxgloves 11 North Street Stoke Sub Hamdon Somerset TA14 6QR
<b>Application Type:</b>	Minor Dwellings 1-9 site less than 1ha

#### REASON FOR REFERRAL TO COMMITTEE

The application is to be considered by Area West Committee at the request of Cllr Pallister, with the agreement of the Area Chair, Cllr Turner. It is felt that the issues should be given further consideration, particularly as conditions 18 and 19 were originally imposed at the request of members of this Committee.

#### SITE DESCRIPTION AND PROPOSAL



The application relates to The White Horse, a public house at the centre of Haselbury Plucknett. The site is within the defined development area and conservation area.

Planning permission was granted in 2004, under 03/02274/FUL, for the reduction of the area of the pub used for an A3 use, conversion of part of the building into two flats and the erection of three dwellings. This was eventually approved following consideration at Area West Committee and a number of conditions were imposed, including the retention of the two flats within the same ownership as the public house and restrictions on the use solely for holiday accommodation. Permission was recently refused (10/01492/S73) for the removal of conditions 18 and 19 of permission 03/02274/FUL to allow the flats to be occupied other than as holiday-let accommodation and to allow them to be sold off separately from the ownership of The White Horse. The refusal was based on residential amenity grounds. Specifically, the Local Planning Authority raised concerns about the potential for disturbance to future occupiers of these flats as a result of generation of odours, noise and disturbance from the existing kitchen flue and activities associated with the use of the pub.

This application is a revised submission to remove conditions 18 and 19 of planning permission 03/02274/FUL. Additional information has been submitted to include measures to mitigate against potential disturbance to future residents.

## **HISTORY**

10/01492/S73: Application to remove conditions 18 and 19 of decision 03/02274/FUL (regarding holiday restriction/ownership) - Refused.

04/02728/FUL: Remove condition 18 of planning permission 03/02274/FUL - Application withdrawn.

04/01650/TCA: Notification of intent to fell 5 Leylandii trees (trees within a conservation area) - Permitted.

03/02274/FUL: Conversion of part of building to two flats, the erection of three dwellings and the retention of a reduced A3 (food and drink) area - Permitted with conditions.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and requires that decision must be made in accordance with relevant Development Plan Documents unless material considerations indicate otherwise.

### Relevant Development Plan Documents

Somerset and Exmoor National Park Joint Structure Plan:  
STR1 - Sustainable Development  
Policy 49 - Transport Requirements of New Development

South Somerset Local Plan 2006:  
ST5 - General Principles of Development  
ST6 - The Quality of Development  
EP9 - Control of Other Potentially Polluting Uses  
MS1 - Local Shopping and Services

### PPS's/PPG's

Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 4: Planning for Sustainable Economic Growth

### South Somerset Sustainable Community Strategy

Goal 5 - A competitive, high performing economy that is diverse, adaptable and resource efficient.

Goal 9 - A balanced housing market with a range of low carbon affordable housing with the flexibility to meet the changing needs of the population.

## CONSULTATIONS

*Parish Council:* Further to our meeting please find below planning comments on the above application:

### Condition 18

The Parish Councillors have considered the matter again and by majority vote do not object to the removal of this condition.

### Condition 19

The Parish Councillors object to the removal of Condition 19. There are concerns as to the future stability and use of the main pub/restaurant business should the flats be allowed to be sold off separately. The Parish Council does not want to see the closure of another business in the village.

*SSDC Technical Services:* No comments.

*County Highway Authority:* I refer to the above-mentioned planning application received on 30th December 2010 on which I have the following comments on the highway aspects of the proposal.

It appears that this current proposal is seeking to remove conditions 18 and 19 from the previous consent to enable the two existing units of holiday let accommodation, tied to the public house/ restaurant, to be sold off as two separate residential units.

In principle, the village of Haselbury Plucknett does not accommodate adequate services and facilities, such as, employment, health, retail and leisure, and the public transport services within the village are infrequent. As a consequence, occupiers of the new development are likely to be dependant on private vehicles for most of their daily needs. Such fostering of growth in the need to travel would be contrary to government advice given in PPG13 and RPG10, and to the provision of policy STR1 of the Somerset and Exmoor National Park Joint Structure Plan Review (Adopted: April 2000).

Notwithstanding the aforementioned comments, it is noted that the site is located within the development limits of Haselbury Plucknett, and as a consequence, there may be a presumption in favour of small-scale development in this location. Therefore, it must be a matter for the Local Planning Authority to decide whether the principle of development on this site outweighs the transport policies that seek to reduce reliance on the private car.

In detail, it appears from the design and access statement that the proposal is unlikely to impact upon the parking provision currently serving the public house/restaurant as the existing units of holiday let accommodation currently benefit from a parking space each.

The one area of concern is the means of access to the site. The access on to the A3066 is clearly substandard by reason of its restricted width not enabling two vehicles to pass and the limited visibility achieved by emerging vehicles to the north. The change of use of the existing units of holiday let accommodation to that of two dwellings is likely to result in an increase in the use of this access. However, given the level of movement currently generated from the site in connection with the existing public house/restaurant and other residential properties this increase is unlikely to be significant.

As a result, I would advise you that from a highway point of view there is no objection to the proposal.

*SSDC Conservation Officer:* If there is no external alteration, then no comment.

*SSDC Economic Development Manager:* My comments are made purely from an economic development perspective.

The application seeks to remove conditions relating to the holiday accommodation and the separation of their ownership from the main pub/restaurant business.

My main concern would have been that the removal of these conditions would have rendered the pub business unviable and create the risk of losing the facility from the village. But the trading accounts from the sample years provided (2008 and 2009) would support the view that the pub business generates sufficient trade to generate viable profits as a stand-alone business (i.e. without the holiday lets).

The gross income from the holiday lets appears to have generated 4% of total sales in 2008 and approx 10% of sales in 2009. When fixed overheads and associated costs are removed from these figures it can be said that the income from the letting accounts for only a minor part of the overall trade in either year (despite some declining sales in 2009) and that their loss would not jeopardise the viability of the main pub business.

I would not object to the removal of the conditions as I don't believe it would either reduce employment opportunity or place the existing facility at risk. I'm sure that if there are any wider planning issues, they will be commented on by appropriate officers

*SSDC Environmental Protection Unit:* Subject to the conditioning of the recommendations made in the report prepared by Anderson Mitchell dated the 12th November; I have no objections to this application.

## **REPRESENTATIONS**

The application has been advertised by press and site notice for the requisite period and three letters of support have been received from two local residents, making the following points:

- The imposition of conditions 18 & 19 on Planning Application 03/02274/FUL have made it impossible for the owners to maximise their potential income or to sell their property. The present restaurant and bar are important assets to the village and if the owners are unable to continue, through ill health, it will be greatly advantageous that a reduced sized property could be sold as a 'going concern'.
- The Parish Council objection to the removal of condition 19 seems to be totally contrary to their desire to keep the business trading. They appear to have backtracked from their previous decisions to maintain a viable business premises for the community.
- The village shop and post office having closed, the continuance of the White Horse is most important as a meeting place and facility in Haselbury Plucknett. The continued viability of the business will be supported by the removal of the conditions.

## **CONSIDERATIONS**

The original permission, 03/02274/FUL, was submitted with the intention of losing the entire public house however after a recommendation of refusal based on the potential loss of a local service, the application was amended to retain a reduced element of A3 (food and drink) area.

Among the conditions imposed on the permission were conditions 18 and 19, for which this application is made to remove. These were imposed at the time, as it was considered that the use of the flats as holiday accommodation would be vital to the overall viability of the business. It was also suggested that the units would not be suitable for permanent independent occupation, due to their limited facilities and specifications. Objections raised included the potential for noise disturbance from the pub/restaurant to adversely affect the residential amenity of any long-term-occupiers

In 2004, an application was made to remove condition 18, which restricted the use of the flats to holiday accommodation for periods not exceeding 4 weeks in total. The flats could then be let out as either holiday accommodation or as private rented accommodation in the

summertime. At the time a recommendation was made to approve this but subject to a Section 106 legal agreement restricting the use to holiday-let or short term tenancies and tying the flats into the same ownership as the pub. The applicant was not prepared to enter into such an agreement and the application was subsequently withdrawn.

At the time, the main concerns in regard to residential amenity were due to the potential impact of noise and other activities associated with the pub. Discussions in 2004, between planning officers and the applicant, appeared to be generally supportive of allowing short-term occupancy as well as holiday-let but it is interesting to note that the Council's Environmental Protection Unit were not involved in any discussions or consultations. The issue of retaining the flats within the ownership of the pub returns to the potential viability of the business without this extra income.

### **Viability of Business**

The Parish Council have no objections to the removal of condition 18, which requires the flats to be retained as holiday accommodation but have objected to the removal of condition 19, which would allow the properties to be sold off separately. Parish Councillors are concerned about the future stability and use of the pub/restaurant if the flats are sold off and do not want to see the closure of the business as a result.

The applicant has provided details with the most recent application to show that the business has been trading well, primarily as a restaurant, and as a profitable business it does not rely on the income from the flats to remain viable. Having considered the information there would appear to be merits in not requiring the flats to be retained under the same ownership, on viability grounds. The Council's Economic Development Team have been consulted as part of the application process and have raised no objections to the separation of the flats from the main business. This case was also accepted in the previous application, with refusal being made only on residential amenity grounds.

Aside from the main issues, it is also noted that government guidance advises against the imposition of conditions to control ownership in this way. Where there is a need to control ownership, this is usually achieved by way of a legal agreement. Despite this, it is still considered that the removal of condition 19 is acceptable on grounds of viability, whether the condition is reasonable or not.

### **Residential Amenity**

The previous application, 10/01492/S73, was refused, with the main concern being in relation to the impact on the future occupiers of these dwellings, if approval was granted for them to be occupied other than for holiday accommodation. The Council's Environmental Protection Officer objected to the recent proposal, not only with potential disturbance as a result of noise from activities of the pub/restaurant but also the potential impact of noise and odours from the existing kitchen flue, which is closely related to the flats.

This application is made following further discussions with the Environmental Protection Officer and with additional information submitted in the form of a noise and odour assessment, which includes recommendations to mitigate against impact on future occupiers of the flats. These recommendations include the provision of a silencer to the existing extract system, provision of secondary glazing, allocation of parking spaces immediately in front of the flats to the flats themselves and the improvement of the flue system, including increasing the height by 1m and improving filters. The Environmental Protection Officer has considered the findings of the report and subsequent recommendations and is satisfied that these should deal with the previous reasons for refusal, subject to a condition being imposed to include the recommendations in the report.

### **Other Issues**

In regard to overall facilities on site, both flats would appear to have acceptable levels of living space and access to outside private amenity areas. As such, it would appear to be



unreasonable to object on grounds other than impact as a result of the relationship between the business and the two flats.

There are a couple of listed buildings located to either side of the property, however the proposal will not have any impact on their setting as the only external works are likely to be the extension of the flue, which is located to the rear of the pub and not readily visible in the overall street scene. It is also noted that the private amenity space is already sub divided so there should be no further impact in this regard.

In terms of highway safety, the County Council Highway Authority have commented on the proposal and raise no objection. It is the Highway Authority's view that the existing access is substandard but the flats could potentially be occupied all year round so removing the requirement for retention as holiday accommodation is unlikely to result in significant additional traffic movements. As such, it is considered unreasonable to object on highway safety grounds. It is also noted that each flat has a space allocated to it so there is also unlikely to be any significant harm due to reduction of parking space available to the business.

## **CONCLUSION**

Overall, it is now considered that the proposed recommendations to mitigate against unacceptable harm to residential amenity deal with the previous reasons for refusal. As such the proposal is considered to be acceptable on both viability grounds and in regard to residential amenity. Therefore, the recommendation to members is to grant planning permission for the proposed removal of conditions 18 and 19, subject to the addition of a new condition in relation to necessary measures to mitigate against potential noise disturbance and odours.

## **RECOMMENDATION**

Grant consent.

## **JUSTIFICATION**

The proposed removal of conditions 18 and 19 of planning permission 03/02274/FUL is deemed to be acceptable, is not considered to adversely affect the viability of the business or cause any unacceptable harm to highway safety or residential amenity, in accordance with the aims and objectives of policies 49 and STR1 of the Somerset and Exmoor National Joint Structure Plan Review and saved policies ST5, ST6, EP9 and MS1 of the South Somerset Local Plan 2006.

## **SUBJECT TO THE FOLLOWING:**

1. The development hereby permitted shall be begun before the expiration of five 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.

2. The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

3. The use of the development hereby permitted shall not be commenced until the surfacing materials of the access drive and turning and parking areas have been

approved in writing by the Local Planning Authority and such areas properly drained, consolidated and surfaced in accordance with those approved details.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows, including dormer windows, or other openings (including doors) shall be formed in the building, or other external alteration made without the prior express grant of planning permission.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), there shall be no extensions to this building without the prior express grant of planning permission.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

6. Before the development hereby permitted is commenced details of the material and external finish to be used for all windows, doors, boarding and openings shall be approved in writing by the Local Planning Authority. Such approved details, once carried out shall not be altered without the prior written consent of the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

7. Before the development hereby permitted shall be commenced details of all eaves/fascia board detailing, guttering, downpipes and other rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. Such details once carried out shall not be altered without the prior written consent of the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

8. The windows comprised in the development hereby permitted shall be recessed in accordance with details to be submitted to and approved in writing with the Local Planning Authority before any work on the development hereby permitted is commenced.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

9. Before the development hereby approved is commenced, a sample panel of the local natural stonework, indicating colour, texture, coursing and bonding, shall be provided on site for inspection and agreed in writing by the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

10. All of the windows hereby approved shall be traditional side hung balanced casements (with equal sized panes of glass).

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

11. The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

12. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure the adequate archaeological investigation of this development site.

13. Before the development hereby permitted is commenced, foul and surface water drainage details to serve the development, shall be submitted to and approved in writing by the Local Planning Authority and such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

14. Before any of the development hereby permitted is commenced details of the internal ground floor levels of the building(s) to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

15. A local natural stone wall shall be erected along the road frontage of the site in a position to be agreed in writing by the Local Planning Authority before the building hereby permitted is first occupied at a height to be agreed in writing by the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

16. No part of the development hereby granted permission shall be commenced until full details of all means of enclosure including gates have been submitted to and approved in writing by the Local Planning Authority. Such details once approved shall not be altered without the prior written permission of the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

17. No part of the development hereby granted permission will be commenced until full details of the design and appearance of the proposed chimneys have been submitted to and approved in writing by the Local Planning Authority. Such details once approved shall not be altered without the prior written permission of the Local Planning Authority.

**Reason:** To protect the character and amenity of the area in accordance with Policies ST5 of the South Somerset Local Plan.

18. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted plans and specifications as amended by letter and plan dated 6th October 2003 and 9th January 2004.

**Reason:** To avoid doubt as to the proposal hereby approved.

19. The A3 food and drink use hereby granted permission shall be limited to a public house and/or restaurant and for no other use within Class A3 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instruments revoking and re-enacting that Order with or without modification.

**Reason:** To protect the character and amenity of the area and to retain an important public service in accordance with Policy ST5 and MS1 of the South Somerset Local Plan.

20. No part of the development hereby permitted shall be commenced until full details of the means of enclosure to all garden areas are submitted to and approved in writing by the Local Planning Authority. Such details once approved shall be fully implemented before any dwelling hereby approved is first occupied and such details shall not be altered without the prior written permission of the Local Planning Authority.

**Reason:** To protect the character and amenity of adjoining properties and the character and appearance of the buildings the subject of this permission in accordance with Policy ST5 of the South Somerset Local Plan.

21. Prior to the occupation of the two flats as dwellings, other than as holiday accommodation, the recommendations and mitigation measures set out in section 8 of the noise and odour assessment dated 12th November 2010 shall be completed in full. Such mitigation measures shall include the provision of a suitable silencer, the extension of flue height, removal of terminal restrictions and the installation of fine filter and activated carbon filter. Details of the silencer and its performance and details of the odour control system shall be submitted to and agreed in writing by the Local Planning Authority prior to installation.

**Reason:** To safeguard the residential amenities of future occupiers of the properties and the character and appearance of the buildings in accordance with saved policies ST5, ST6 and EP9 of the South Somerset Local Plan 2006.