

Area West Committee – 19<sup>th</sup> December 2012

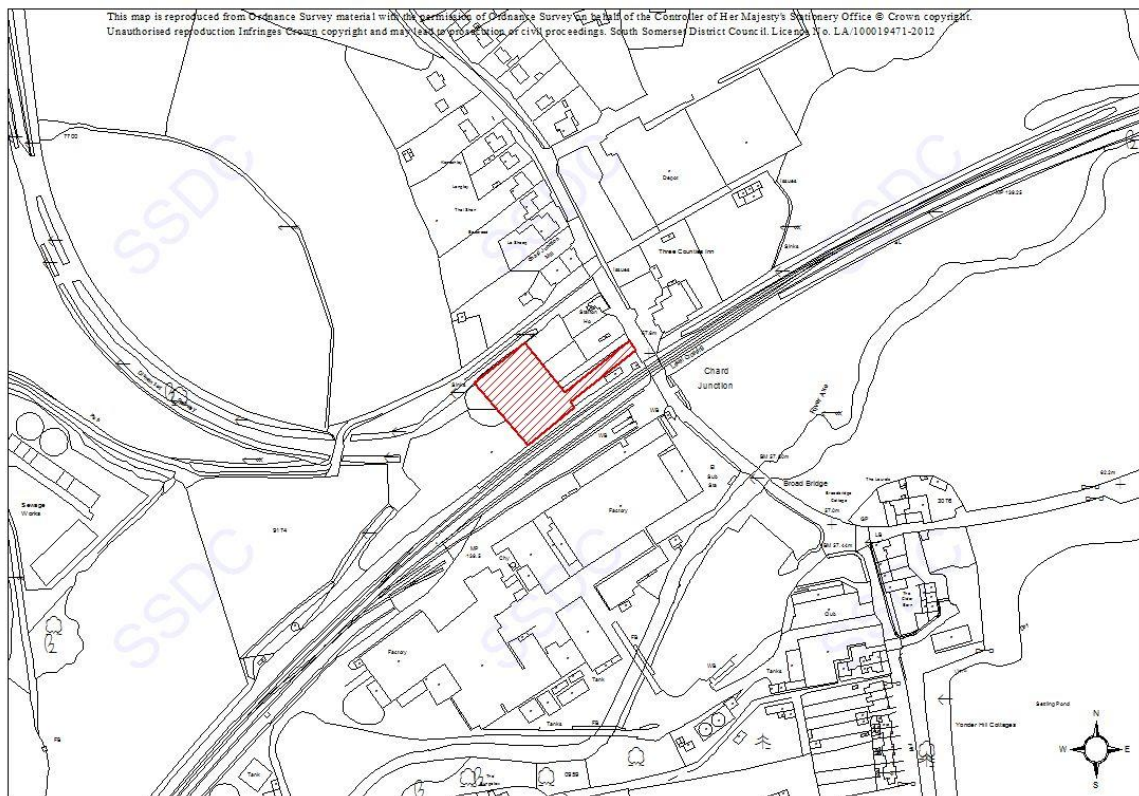
**Officer Report On Planning Application: 12/03387/FUL**

<b>Proposal:</b>	Change of use of land to B2 (General Industrial) and the erection and installation of concrete batching and mixing plant (Revised Application). (GR 334046/104824)
<b>Site Address:</b>	Land Former Goods Yard Chard Junction Station Road Chard Junction
<b>Parish:</b>	Tatworth and Forton
<b>TATWORTH AND FORTON Ward (SSDC Member)</b>	Cllr A Turpin
<b>Recommending Case Officer:</b>	Linda Hayden Tel: 01935 462534 Email: linda.hayden@southsomerset.gov.uk
<b>Target date:</b>	17th October 2012
<b>Applicant:</b>	Mr Dean Gardener
<b>Agent: (no agent if blank)</b>	Mr Royston Lewis 5 Popham Close, Bridgwater, TA6 4LD
<b>Application Type:</b>	Minor Other less than 1,000 sq.m or 1ha

**REASON FOR REFERRAL TO PLANNING COMMITTEE**

This application is referred to the Committee with the agreement of the Chair because of the views of local members and public interest.

**SITE DESCRIPTION AND PROPOSAL**



The application site lies at the rear of the existing coal yard that faces onto Station Road in Chard Junction. The land has clearly been used as part of the coal yard in the past but is currently vacant, the coal yard having recently been consolidated onto a smaller site. The site lies to the north of the railway line with open fields at the rear. There are a number of residential properties to the north-east of the site, with the Dairy Crest site to the south. The site lies within the defined development area of Chard Junction.

The application proposes the change of use of the land to Class B2 (general industrial) with the erection and installation of a concrete batching and mixing plant. The application includes proposals for 2 silo's (12.9m high), a mixer, storage bays (for lime/sand), chemical storage tanks and an office and batch control room.

The site lies within Flood Zone 3 and there is a public footpath to the north.

## **HISTORY**

11/05088/FUL – Change of use of land to B2 (General Industrial) and the erection and installation of concrete batching and mixing plant. Application withdrawn 02/03/2012.

## **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 decisions 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 Review 1991-2011:

Policies:-

- STR1 – Sustainable Development
- STR5 – Development in rural centres and villages
- 19 – Employment and Community Provision in Rural Areas
- 49 – Transport Requirements of New Developments

South Somerset Local Plan 2006:

Policies:-

- ST2 – Development Areas
- ST5 – General Principles of Development
- ST6 - The Quality of Development
- EH12 – Areas of High Archaeological Importance and Other Areas of Archaeological Interest
- EP2 – Pollution and Noise
- EP9 – Control of other Potentially Polluting Uses
- ME3 – Employment within Development Areas
- TP8 – Local Transport Plan Schemes

National Planning Policy Framework

Chapters:-

1. Building a strong, competitive economy
3. Supporting a prosperous rural economy
10. Meeting the challenge of climate change, flooding and coastal change

Also relevant is the Technical Guidance to the National Planning Policy Framework as this deals with Flood Risk.

South Somerset Sustainable Community Strategy  
 Goal 5 - High performance local economy  
 Goal 8 – Quality Development  
 Goal 11 - Environment

Proposed Submission South Somerset Local Plan 2006 - 2028  
 Policy TA2 - Rail

(Note: due to the current status of the submission Plan its policies can only be afforded limited weight.)

## CONSULTATIONS

### **Tatworth and Forton Parish Council:-**

'The Council recommended refusal of this application on the following grounds:-

1. Proximity to dwellings
2. 12.9 metres high – no screening proposed visual intrusion
3. Risk of river pollution from tanks
4. Air pollution
5. No reference to working hours or possibility of noise pollution
6. Increased volume of traffic

### **County Highway Authority:-**

Following the submission of details regarding traffic movements the County Highway Authority have stated:-

'I have read the attached document and the details provided seem acceptable as a consequence it is unlikely that the proposed redevelopment of the goods yard would result in an increase in vehicle movements over and above the existing permitted use.

As previously stated in my response dated 1st October 2012 the proposal will utilise the existing access and from the additional details that have been provided by the applicant I am satisfied that the access has sufficient capacity to be able to accommodate this proposal.

I therefore raise no objection to this proposal.'

### **Environmental Protection (SSDC):-**

'The process of concrete batching is subject to regulations and controls under the Environmental Permitting (England and Wales) Regulations 2010, this will implement strict controls relating to dust emissions from this site, therefore I have no observations or objections to this application.

(The above legislation will protect local residents from dust issues).'

With regard to noise they suggest a condition to limit the hours of operation.

### **Transport Strategy Officer (SSDC) (on previous application):-**

'My response is as per draft core strategy which concludes that there isn't sufficient evidence to protect the land for the reopening of Chard junction. The problem is that the County Council turned down the chance to purchase the land from British Rail Board (Residuary) (BRBR) and that this has now been sold to local coal merchants Ron Darch & Sons Ltd. SCC as the transport authority have also declined to undertake a viability study to determine the feasibility of such a scheme on the grounds that there is "no obvious prospect of such funding being allocated in the foreseeable future as it would be likely to cost several million pounds".'

In relation to the comments regarding Policy TA2 in the proposed submission plan, the Transport Policy Officer comments:-

'..policy TA2 in the proposed submission plan does say "the Council shall encourage, promote and protect the development of land for both passenger rail facilities and rail freight hubs where there is robust evidence in support of developing infrastructure to widen transport choice".

It's still my view I'm afraid that there is no robust evidence in this instance and if we were to refuse on these grounds then we run the risk of incurring planning blight.

In the absence of a business case being brought forward by a 3rd party (i.e. a transport operator, the County Council as the transport authority or other key stakeholders) then I cannot see a way around this and nothing changes from my earlier comments in respect of the earlier application.'

**Senior Transport Planner, Policy (SCC):-**

'I understand that the revisions made since Somerset County Council last commented are not transport related and do not appear to have any significant effect on relevance of the comments made at that point. Therefore, I request that the previous comments by myself and Mike O'Dowd-Jones are carried forward for consideration in assessing this revised application.

The re-opening of a station (or any related activity) at Chard Junction remains part of our long term strategy. Therefore, whilst it is clearly for South Somerset District Council to establish what evidence is required to support sites for this type of use, we continue to support the preservation of the site for future rail use.'

**Network Rail (comments on withdrawn application 11/05088/FUL):-**

'Although we are aware of previous aspirations to reopen the station at Chard, we aren't aware of any currently that would meet a business case and be accommodated within the timetable. It is also likely that if in the future it were to be reopened, it would be away from the site concerned and located on the single track section so as to ease accessibility and be more economic to operate.'

**Environment Agency:-**

No objection subject to conditions regarding disposal of surface water and informatives regarding pollution control.

**Wessex Water:-**

Advise that new water supply connections will be required from Wessex Water.

**Senior Historic Environment Officer:-**

'As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.'

**Area Engineer, Technical Services Department:-**

'Pre-application discussions with the Environment Agency as indicated in the Flood Risk Assessment are noted.

Although the site is shown as being within Flood Risk Zone 3 it is in 'zone 3a' i.e. not functional flood plain and consequently 'less vulnerable' development, as defined in PPS25, such as this is permissible provided adequate measures to protect vulnerable elements of the site are taken. These measures are identified in the Flood Risk Assessment.'

**Rights of Way (SSDC):-**

No objections.

**REPRESENTATIONS**

Three letters of objection have been received, their concerns are summarised as follows:-

- The additional traffic coming out of the access will cause a nuisance.
- Entrance is only 7 metres from level crossing which is unmanned and appears to regularly fail.
- What precautions will the company take regarding cement dust spreading over the surrounding area and what precautions will be taken when washing out the tanks at the end of the day.
- Pollution of nearby water courses is a concern as well as disposal of concrete waste.
- Noise pollution
- Use of water and effect upon water supply
- Hours of operation
- The land should be protected for future use as a railway passenger and or freight facility as it is SSDC Policy to encourage, promote and protect the development of land for passenger and rail freight where there is robust evidence in support of developing such infrastructure.
- Should permission be granted and subsequently robust evidence is support of reopening of the Chard Junction station is forthcoming at any time in the future; the Council will have to honour the policy that encourages, promotes and protects the development of land for both passenger rail facilities and rail freight hubs. It is therefore the applicants risk to take on this site in light of this policy.

A letter of representation has been received from the business (Dairy Crest) on the other side of the railway. This advises that Dairy Crest currently has a licence and is exploring a water abstraction project from the River Axe. They are therefore seeking reassurance that the proposal will have adequate containment and contingencies to protect Dairy Crest's water supply operation.

**CONSIDERATIONS**

It is considered that the main planning considerations with regard to this proposed development are:-

- 1) Principle
- 2) Potential for site to be used to re-establish Chard Junction Station
- 3) Impact upon residential amenity
- 4) Impact upon highway safety
- 5) Visual impact

**1) Principle**

The site is situated within the development area of Chard and was previously in industrial use, therefore the principle of establishing a new industrial business at the site is considered to be established. Policy ME3 of the Local Plan advises that proposals for employment use will be permitted in development areas subject to the proposals being in scale with the settlement. In this case, Chard Junction already has a number of large industrial businesses and the proposals are considered to be very much in scale with the existing uses in the vicinity. As such, the proposal is considered to accord with Policy



ME3.

It should also be noted that the NPPF is very supportive of economic development and rural business and advises that significant weight should be placed on the need to support economic growth through the planning system. In rural areas it advises that Local Authorities should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.

Whilst the site is within Flood Zone 3a, the proposed use is categorised as a 'Less Vulnerable Activity' and as such is considered to be acceptable within such a location. On this basis the Environment Agency does not object to the application.

Overall, it is considered that the re-use of the existing industrial site for a further industrial use is supported, in principle, by both local plan and national policies.

## **2) Potential for site to be used to re-establish Chard Junction Station**

The expansion of Chard Junction as a freight facility is supported by saved Policy TP8 which states that development which would prejudice the provision of such a scheme will not be permitted. This policy relates to the Somerset Local Transport Plan dated July 2000, which covered the period 2001-2006 and major schemes for the period to 2011. The new Transport Policies (dated April 2011) do not contain any specific mention of Chard Junction, or the need to protect land at the site. Whilst, it is noted that the County Transport Planner states that the reopening of a station at Chard Junction remains part of their long term strategy this has to be assessed against the County's decision not to purchase this land when it was sold by the British Rail Board (Residuary). In addition, in terms of a passenger station, South West Trains have commented that although they are aware of previous aspirations to reopen Chard Junction they aren't aware of any currently that would meet a business case and be accommodated within the timetable. Furthermore, they state that if the station were to be reopened it would be away from the application site, on the single track section in order to ease accessibility and be more economic to operate. With regard to the issue of establishing a rail freight facility, the Senior Freight Manager (SE) for Network Rail has repeated that the application site is not one that would be considered for the establishment of a such a facility and states "I see no reason to protect the area you are concerned with for future freight use, any such use would need to bear the not insubstantial cost of installing a new connection to the network (ballpark £2-4 million). Investment of that magnitude would be indicative of a level of traffic activity above and beyond the capacity capability of the line."

In the absence of a robust business case in support of retention of this site for rail infrastructure, it is not considered that a reason for refusal could be substantiated on the grounds that the site should be retained for possible future rail infrastructure. Whilst the aspiration to provide a new station is recognised, the absence of any significant evidence in support of such an ambition means that it would not be reasonable to recommend refusal of this application.

## **3) Impact upon residential amenity**

Installations such as the one proposed are regulated and controlled by the Environmental Permitting (England and Wales) Regulations 2010. The Environmental Protection team advise that these regulations (which they enforce) will implement strict controls relating to dust emissions from the site and they therefore have no observations or objections to this application.

In terms of noise, it is recommended that a planning condition be imposed to control hours of operation at the site.

In light of the advice from the Environmental Protection Team it is not considered that this proposal could be refused on the grounds of adverse impact upon residential amenity.

#### **4) Impact upon highway safety**

The Highways Officer requested further information relating to levels of vehicle movements that would result from the proposed use. Upon receipt of the additional information, the Highways Officer is now content that the proposed use will not result in a significant increase in traffic at the site and the existing access is acceptable. This site has clearly been used for many years as part of the coal yard; the proposal will not result in a substantial increase in traffic and as such is considered to be acceptable in terms of highway safety.

#### **5) Visual Impact**

It is considered that the main issue with regard to visual impact are the two proposed silos which at 12.9m will clearly be the most prominent part of the overall development. However, this has to be seen in the overall context of the surrounding area which is characterised by industrial uses. The Dairy Crest site to the south of the site is very large with a number of imposing buildings and ancillary structures such as chimneys and silos, some of which are located on the roadside. The application site is situated behind the existing coal yard and as such will have limited impact upon the street scene. In terms of the overall landscape many of the views of the site will be seen against that of the Dairy Crest buildings and silos and as such will not be unduly prominent. As such, it is not considered that the proposal could be refused on the grounds of impact upon visual amenity.

#### **6) Other Issues**

With regard to possible pollution, the Environment Agency has assessed the application and has no objection to the proposal subject to the imposition of a condition that will require details of surface water disposal. Further informatives are recommended with regard to contaminated water disposal and storage of chemicals. On the basis of the regulatory controls that exist for such facilities with regard to pollution it is not considered that the proposal could be refused on the basis of environmental pollution.

#### **Summary**

It is concluded that the proposed scheme is an appropriate use within the development area of Chard Junction. The surrounding area is characterised by industrial uses and as such the proposal is considered to be acceptable in principle. In light of the lack of robust evidence in support of the retention of the site for rail infrastructure it is not considered that the proposal could be refused on this basis. In terms of residential amenity, appropriate regulations are in place with regard to protecting neighbouring properties from dust pollution and conditions can be imposed to control hours of operation.

### **RECOMMENDATION**

Approve

01. It is considered the proposal by reason of its location within a defined development area is suitable for industrial development and is of a scale commensurate to its industrial and commercial surrounds. There is no robust evidence to retain the site for future rail infrastructure. Furthermore, the proposal causes no demonstrable harm to highway safety and no adverse impact upon neighbouring or visual amenity. The proposal is therefore in accordance with policies ST5, ST6, EH12, EP2, EP9 and ME8 of the South Somerset Local Plan (2006) and the provisions of the NPPF.

**SUBJECT TO THE FOLLOWING:**

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

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

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

Reason: In the interests of visual amenity in accordance with Policy ST6 of the South Somerset Local Plan (2006).

03. The development hereby permitted shall not be commenced until particulars of the means of external illumination to be used for development have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: In the interests of visual amenity in accordance with Policy ST6 of the South Somerset Local Plan (2006).

04. The site shall not be operated outside the hours of 08:00 hrs to 18:00 hrs Monday to Friday and 08:00 hrs to 16:00 hrs Saturday nor at any time on Sundays, Bank Holidays or Public Holidays.

Reason: In the interests of residential amenity and to accord with Policy ST6 of the South Somerset Local Plan (2006).

05. No demolition or construction work shall be carried out on the site outside the following times, 08.00 to 18.00 hours on Mondays to Fridays and 08.00 to 13.00 hours on Saturdays, or at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of residential amenity and to accord with Policy ST6 of the South Somerset Local Plan (2006).

06. The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water has been submitted to, and approved in writing by, the Local Planning Authority (LPA). The scheme shall be implemented as approved.

Reason: The proposed site use has the potential to result in contaminated surface water, therefore it is necessary to ensure that surface water is dealt with appropriately to ensure the protection of controlled waters.

07. The area allocated for parking on the submitted plan 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 Policy ST5 of the South Somerset Local Plan (2006) and Policy 49 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011.



08. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (1:1250) and Drawing No. TM/09/11-01 received 22 August 2012.

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

**Informatives:**

01. The applicants attention is drawn to the Environment Agency's letter of 21 September 2012 which stated the following:-

1. To discharge condition 6 it will be required to demonstrate that all surface water can be collected, stored and re-used on site, if not where and how will the excess water be discharged.
2. This activity is regulated by the Local Authority under Schedule 1 3.1 Part B of the Environmental Permitting Regulations 2010. All environmental issues should be addressed via this permit.

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at:

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>.

There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

We note the proposal to store chemicals on site. Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.