

Area West Committee – 18<sup>th</sup> June 2014

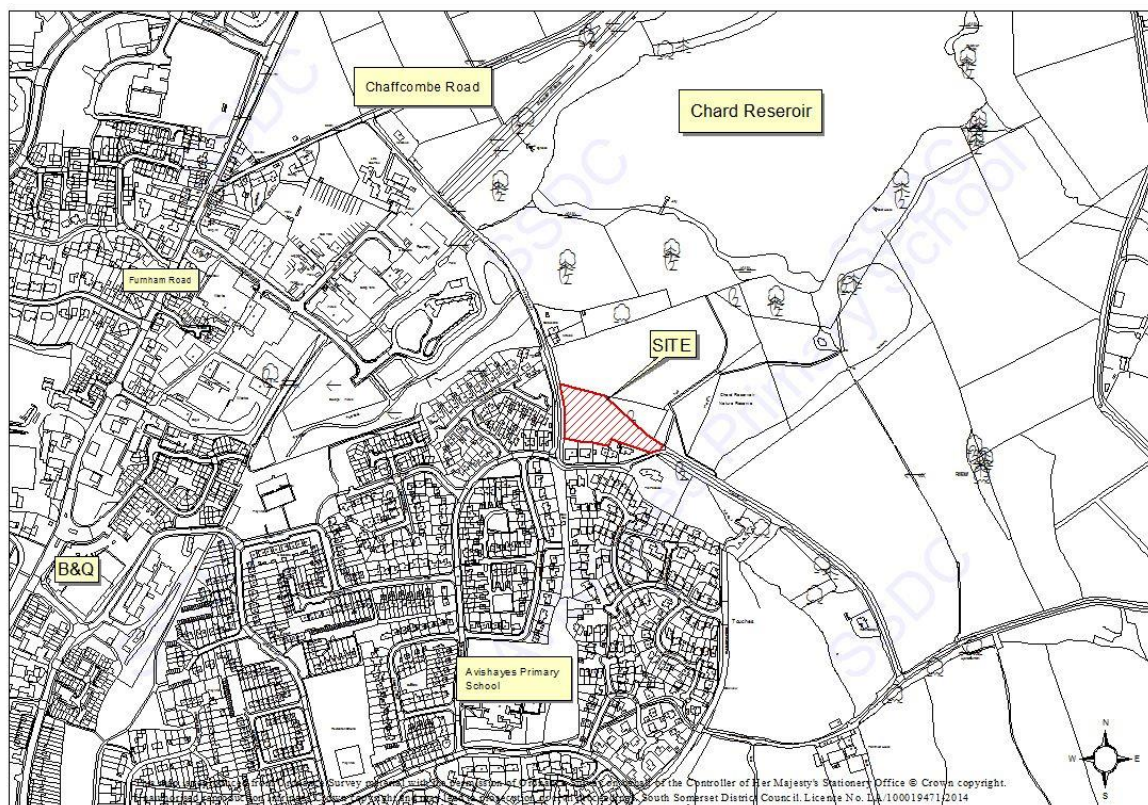
**Officer Report on Planning Application: 14/00554/REM**

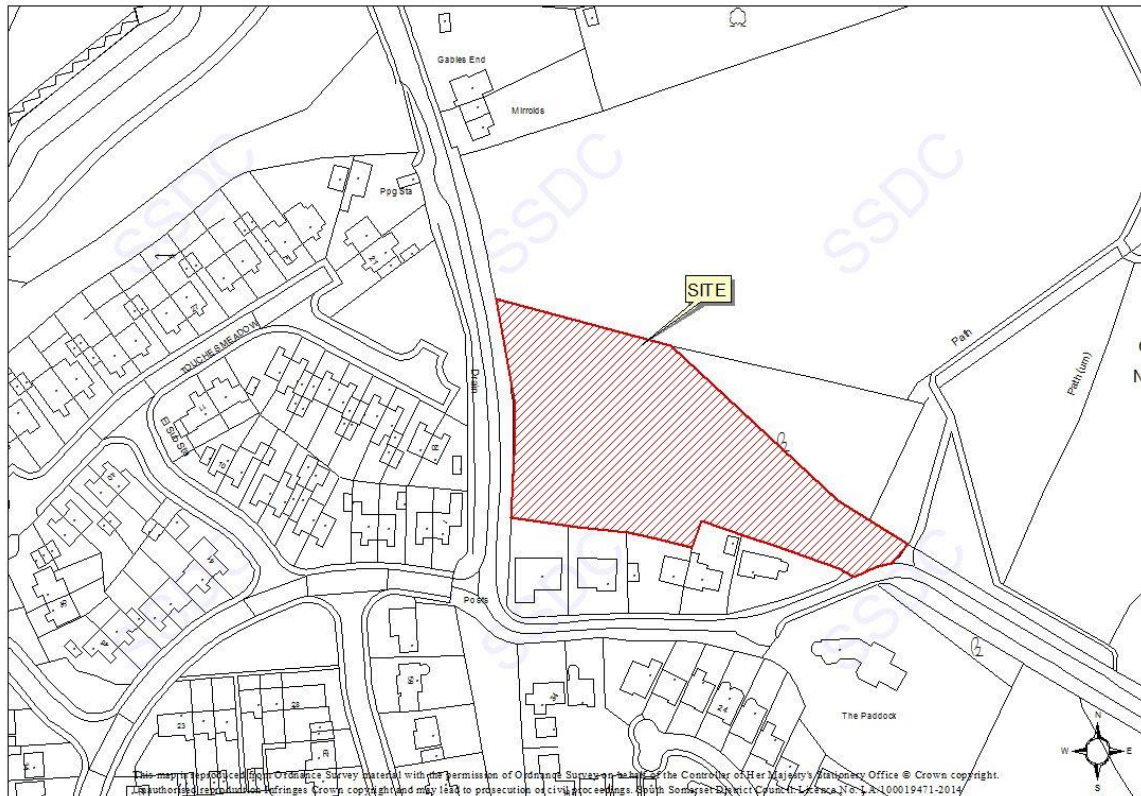
<b>Proposal:</b>	The erection of 14 No. detached dwellinghouses together with garages, access and landscaping (Reserved Matters). (GR 333495/109451)
<b>Site Address:</b>	Land At Touches Lane Chard
<b>Parish:</b>	Chard
<b>AVISHAYES (CHARD) Ward (SSDC Member)</b>	Cllr N J P Mermagen
<b>Recommending Case Officer:</b>	Andrew Gunn Tel: (01935) 462192 Email: andrew.gunn@southsomerset.gov.uk
<b>Target date:</b>	9th May 2014
<b>Applicant:</b>	Freemantle Capital Partners (Chard) Ltd
<b>Agent: (no agent if blank)</b>	David Cahill Design Consultants Ltd Unit 2, Office 4 Tower Lane Business Park Warmley, Bristol BS30 8XT
<b>Application Type:</b>	Major Dwlg's 10 or more or site 0.5ha+

**REASON FOR REFERRAL TO COMMITTEE**

The Ward Member in agreement with the Chair have requested that this application be considered by Area West Committee in order to assess the highway issues.

**SITE DESCRIPTION AND PROPOSAL**





The site is located on the north eastern edge of Chard, between the A30 and A358, on the northern side of Touches Lane. The Chard Reservoir Local Nature Reserve is located to the north, with residential properties to the south and west. The site is currently grassed and slopes from north to south. The boundaries comprise a mix of hedgerows, trees, post and wooden railing/ barbwire fencing.

An outline permission was granted in 2011 for 14 dwellings with all matters reserved for future approval. This application seeks consent for all of the reserved matters for 14 detached dwellings.

The scheme proposes a mix of 8 x 4 bed and 6 x 5 bed houses. 4 of the dwellings will face directly onto Touches Lane and run along the western side of the site - those properties will have direct vehicular access onto Touches Lane. 4 further dwellings will be located in the centre of the site, running from north to south with the remaining 6 running along the north west boundary. 10 of the properties, other than those along the western side of the site, will be served by a new internal access road, which will link with Touches Lane via an existing access point in the south east corner of the site.

The Design and Access statement outlines that the new internal road will be designed as a shared surface. It will be constructed to an adoptable standard but as Touches Lane is not adopted, it is not expected that the internal road will be adopted, rather maintained by the management company.

Plots 1-10 will have 2 external parking spaces and 1 further parking space with an attached or detached garage. Plots 7 and 10 have double garages. Plots 11-14 will also have 2 external parking spaces with a further 1 space within an attached garage or double garage (plot 14).

Each of the plots will have front and rear amenity space along with provision of a shed to provide storage for bikes and refuse bins.

The dwellings have been designed with a traditional rather than more contemporary approach, given the semi-rural, edge of town location. All will be of 2 storey design with some incorporating roof space accommodation. The dwellings will be constructed using a mix of flint stone, red brick and render for the walls, with timber casement windows and a mix of slate, clay plain and double roman tiles for the roofs.

In terms of surface water drainage, the scheme will incorporate a SUDS scheme. Foul drainage from the site will be connected to the existing foul sewer in Touches Meadow.

A landscaping scheme has been submitted with the application along with a maintenance plan. Existing trees located on the boundary of the site will be retained with additional planting proposed within the site.

## **HISTORY**

08/01695/OUT - Residential development of land for 14 dwellings. Application approved.

## **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

South Somerset Local Plan (adopted April 2006)  
ST5 - General Principles of Development  
ST6 - Quality of Development

NPPF

Core Planning Principles.  
Core Planning Principles.  
Chapter 7 - Requiring Good Design  
Chapter 11 - Conserving and Enhancing the Natural Environment

Somerset County Council Car Parking Strategy.

## **CONSULTATIONS**

### **Chard Town Council:**

Recommend approval upon condition that the recommendations in the Ecology report from Terry Franklin are carried out, namely that measures be taken to further protect badgers and dormice in this area.

### **Highway Authority:**

The Local Planning Authority will be aware that the Highway Authority has objected to this application in the past on the grounds that the junctions at either end of Touches Lane are substandard in terms of their visibility and that recent discussions have taken place about how this objection might be overcome. While the junction of Touches Lane and Avishayes Road is substandard in terms of the absolute standards, there is no accident record and vehicle speeds at that junction seem to be commensurate with the available visibility.

The available visibility at the Touches Lane junction with Chaffcombe Road is worse and vehicle speeds are likely to be much greater since Chaffcombe Road is fairly straight in the vicinity of the junction and there is no speed restriction. The visibility was further restricted by overgrown vegetation leading to very limited visibility to the east for vehicles emerging from Touches Lane. In order to overcome this problem the applicant has recently cut back the vegetation and markedly improved the visibility. While still sub-standard, the visibility is much improved and the applicant has offered a commuted sum to maintain this level of visibility for the foreseeable future. On that basis the problem has been overcome.

The parking level seems to be satisfactory although we don't know what the garage sizes are. Garages less than 6 by 3 metres internal dimensions are not likely to be used to park cars and cannot be counted as parking spaces. If cycle parking is intended to be in garages, this internal dimension should be increased to 8 by 3 and a second door should be included.

Because the road does not join to the adopted public highway, it is not possible to have this road adopted. There is unlikely to be a charge under the Advanced Payment Code.

In the light of the above, the Highway Authority raises no objection to this application subject to the following conditions:-

2 conditions are recommended in respect of keeping the parking and turning spaces clear of obstruction and that those spaces shall not be used other than for parking and turning of vehicles, and restricting occupation of the dwellings until a commuted sum has been paid to cover the future maintenance of the visibility splays at the junction of Touches Lane and Chaffcombe Road.

**Ecologist:**

The application documents include a Reptile Mitigation Strategy which I'm satisfied with, but no other protected species assessment has been provided. I've visited the site today in order to provide further assessment in this respect.

The site consists predominantly of rough grassland and includes significant areas of bramble dominated early scrub with occasional small woody species. Garden hedges of mixed domestic species are present along the south boundary. The other boundaries consist of fences (and some bramble scrub) only. Immediately adjoining the north boundary is a mix of unmanaged hedge with mature trees, and small copses. Beyond that are unimproved meadows intersected by hedges and woodland that are part of Chard Reservoir Local Nature Reserve.

I have no objection to the proposed development subject to the 3 conditions detailed below.

Officer comment: The 3 conditions proposed by the Ecologist relate to:

- 1) An updated survey/check in respect of badgers setts by an ecological consultant, and submission of a method statement if setts are found within 20 metres (including on adjoining land) of the area of activity, along with securing any necessary Natural England licences.
- 2) Precautionary measures for clearance of the site in respect of dormice which shall include an updated protected species survey/mitigation proposals, if the development has not commenced before the 1st September 2014.
- 3) No removal of vegetation that may be used by nesting birds (trees, shrubs, hedges, bramble, ivy or other climbing plants), shall be carried out between 1st March and 31st

August inclusive in any year, unless previously checked by a competent person for the presence of nesting birds. If nests are encountered, the nests and eggs or birds, must not be disturbed until all young have left the nest.

**Natural England:**

No objection raised in terms of impact on statutory nature conservation sites. They advise to refer to their standing advice in terms of impacts on protected species. Furthermore, advise that there may be opportunities to enhance the landscape and incorporate certain design features such as bird nest boxes and roosting for bats.

**Climate Change Officer:**

No objection. Supports the south facing roof space and un-shaded gardens. This will allow for efficient PV installations. Advises about additional measures that the developer may wish to consider including a single wood chip or pellet boiler and thermal store to supply heat for the whole site.

**Crime Prevention Design Advisor:**

No objection subject to an adjustment to the garden fence/wall of plot 7 to prevent the area behind the garage becoming public space.

Officer comment: The applicant has amended the plans accordingly.

**REPRESENTATIONS**

8 letters/emails have been received objecting to the proposal making the following comments:

- Increase in traffic
- Access very restricted, lane is one car width
- Improvements to the land will increase traffic using Touches Lane
- Conflict with walkers/cyclists using Touches Lane
- Few vehicles use Touches Lane at present due to its narrow width and make-up
- The land is not suitable for HGV's transporting building material
- Proposed access to serve 10 of the dwellings is located on a bad corner
- Different access should be used
- Traffic survey was undertaken during a period of bad weather (snow) and speed counter located next to a bend - this resulted in a reduced use of the lane and reduced speeds
- Condition of the lane has deteriorated in the last few years, a number of large pot holes
- No formal passing places along the lane
- Damage to the bank by vehicles along the lane
- Development of this site would exacerbate the boggy nature of the site adjacent used by walkers
- Conflict with cycle lane and Touches Lane as an access route for walkers
- Lane is a restricted byway
- Harm to wildlife
- Site is too close to the reservoir and nature reserve
- Previous Highway Authority concerns outlined including substandard alignment of the lane and restricted width- this has not changed
- Hedge has been cut back to improve visibility at the junction but this will grow back.
- Little provision for visitor parking

- No mention of visitors' vehicles lawful use of the lane
- Concern about additional traffic using the lane when accidents/road works occur on the major roads
- No recorded accidents but there have been incidences of a crash into a telegraph pole and through a hedge
- Greater probability of accidents if the development is permitted

2 letters of support have been received making the following comments:

- Pleased to see that the proposed development of this site is moving forward
- Lived in Touches Lane for 18 years and have ridden their bikes along Touches Lane with no problem
- Improvements have been made in terms of lowering number of vehicles using the lane due to neighbours' enforcing the restricted by way. The lane will now be able to sustain the reduced traffic flow
- Houses will be of good design

## **CONSIDERATIONS**

### **Principle of Development**

Outline consent has been given for the site and it is also located within the development area as defined in the saved South Somerset Local Plan. The site is considered to be in a sustainable location and therefore the principle of residential development on this site is acceptable.

### **Highways**

The main issue in this case is the use of Touches Lane to serve the proposed development and the visibility provided at the junction of Touches Lane with Chaffcombe Road to the north and its junction with Avishayes Road to the south. Both junctions are approximately 450 metres from the site.

In considering the outline application, the Highway Authority raised an objection on the basis of the substandard visibility provided at both junctions and the restricted width and poor alignment of the lane. In addition, there are sections of Touches Lane that are single width with limited opportunities for vehicles to pass.

A separate highway matter identified at the time of the outline application was the fact that Touches Lane is a Restricted Byway. This is a category of right of way created under the Countryside and Rights of Way Act 2000. A restricted byway is a public right of way on foot, on horseback, or leading a horse, cycling and in any vehicle other than a mechanically propelled vehicle. Landowners and others may have their own private access rights which are not affected by the Road Traffic Act (RTA). The RTA previously applied to footpaths, bridleways and common land only and now also applies to Restricted Byways. At the time of the outline application, it was noted that the advice from the County Highways Officer was that as Touches Lane is a restricted byway, only vehicles with permitted access rights have the authority to use the lane.

Given these highways issues, a possible alternative means of access were discussed at the time of the outline application with the applicant and Highway Authority. This included opening up Fairway Rise, a cul-de-sac to the west of the site to serve the development. The County Rights of Way Officer accepted the principle of crossing the Restricted Byway. The Highway Authority advised that this option could be considered but that appropriate safety measures, possibly signing and lining would need to be taken into

account when formulating the plans for the access.

However, in more recent discussions between the Highway Authority and Hydrock (the applicant's highway consultants), the option of opening up Fairway Rise as a means of access to serve the development was not supported by the Highway Authority as there would be no way of controlling the use of Touches Lane by other traffic in the area. Thus, the Highway Authority Officer was concerned that this situation could give rise to significantly more traffic, other than the proposed development traffic, using the lane. Hence, Touches Lane represents the only viable option to access the proposed site.

Moreover, following a Public Inquiry in 2013 regarding a planning appeal at Barton St David, the application of the RTA has been clarified and it is now considered that any future landowners would have private access rights along the Restricted Byway. Thus, the current advice of the Council's Rights of Way Officer is that any future occupier of the site would benefit from a private right of way and anyone invited by them to their property. However, this right still does not extend to the wider public.

The Transport Assessment submitted with the application states that 'significant visibility improvements have been implemented at the Avishayes Road Junction to such an extent that the sight lines now available at that junction are considered acceptable'. The Highway Authority have concluded that whilst this junction is substandard in terms of the absolute standard, there is no accident record and vehicle speeds at that junction seems to be commensurate with the available visibility.

In terms of the junction with Chaffcombe Road, the Transport Assessment, states that significant improvements to visibility were carried out providing a 2.4 metre x 90 metre splay in the eastern direction. The Highway Authority refer to the greater speed of traffic along Chaffcombe Road due to its fairly straight length and no speed restriction. Overgrown vegetation also added to the poor visibility at the junction. The Highway Authority have concluded that the cutting back of this vegetation has now 'markedly improved the visibility'. 'Whilst substandard, the visibility is much improved and the applicant has offered a commuted sum to maintain this level of visibility. On this basis the problem has been overcome'.

The area of vegetation which is needed to be maintained in order to provide the improved visibility splay at the Chaffcombe junction is located within highway land. The legal advice given to the case officer is that it is unreasonable to seek a contribution from the applicant in order for the Highway Authority to cut the vegetation. The Highway Authority have previously advised that maintenance of the junction may not be high on the Highway Authority's priority list to maintain, but as a long established junction, it does seem appropriate that it is maintained when required by the Highway Authority, particularly if they are aware that its substandard nature can be improved by vegetation clearance. Whilst the applicant is willing to make a contribution of £1,000 to the Highway Authority for vegetation clearance, on the basis that the obligation is not considered to be reasonable, nor would it be a sufficient sum to meet long term maintenance of the junction, the officer recommendation is that this obligation is not requested.

The Highway Authority has advised that the application should be refused if the commuted sum is not forthcoming. In addition to the officer concern outlined above about the reasonableness and long term effectiveness of the obligation, it is important to take into account the additional level of vehicular usage that would occur at this junction if the development were to be permitted. As can be seen by the Transport Assessment figures outlined below, there would be 4 additional northbound trips in the AM peak and 2 additional southbound trips in the PM peak. Given the junction is well established and that there are no recorded accidents, it is not considered that this increase in use would

create a severe impact. However, Members may still wish to seek the obligation and the applicant has stated that he would be willing to pay this obligation.

One of the concerns raised by the Highway Authority at the outline stage was in respect of the predominately single width lane, a point also made by local residents. There are a number of passing places along Touches Lane, albeit informal places. The Highway Authority's current advice is that the informal passing places along the length of Touches Lane should be able to cope with the occasional conflicting movements. The establishment of informal passing spaces is not uncommon along rural roads and they do provide opportunities for vehicles to safely pass. No objection has been raised by The Highway Authority in respect of this application in respect of the alignment and width of Touches Lane.

A further important highway consideration and, a particular point of concern raised by local residents, is the increase in traffic using the lane. It is accepted that there will obviously be an increase in traffic using this lane if the development is approved and constructed. The key point is whether the increase in traffic would result in any severe highway impacts. This is the test as set out in the NPPF.

The Transport Assessment outlines that the development would generate 9 movements in the AM peak hour (08.00-09.00) and 10 in the PM peak hour (17.00-18.00). According to the 7 day traffic count undertaken by an independent traffic survey consultancy, the current average usage of the lane amounts to 5 north bound movements in the AM peak and 2 south bound movements in the PM peak. Southbound traffic averaged 2 in the AM peak and 3 in the PM peak. The average flow is currently 50 two way movements throughout the day. This indicates that the existing level of vehicle usage is not high.

In terms of trip distribution, existing northern bound traffic accounts for 58% of movement and 42% for southbound movement. If this split was to be repeated when taking into account the proposed development, the Transport Assessment concludes that 4 additional northbound movements would take place in the AM peak compared with 5 current movements. In the PM peak, this development would result in 2 additional northbound movements in addition to the 2 current movements. There will be 3 additional movements heading south in addition to the 3 current southbound movements. It can be deduced from this assessment that, whilst there will be an increase in traffic usage in both directions, the overall level of vehicular usage will remain low even with the development and its associated traffic.

A concern was raised by a local resident that the traffic survey was undertaken during a period of poor weather i.e. snowy conditions and that this may have possibly influenced the number of vehicles using the lane. The Highway Authority have advised that the number of cars is unlikely to be altered significantly. Even if it accepted that the road conditions may have had some impact on the numbers using the road, the overall level of usage is still relatively low. Moreover, it is considered that this issue doesn't alter the fact that the increase in additional traffic is low and its impact would not be severe.

#### Other highway matters

It is accepted that the lane is used by walkers and cyclists but there is no evidence to suggest that the increase in vehicles would create an adverse conflict on those users to warrant a refusal of the application. Neither the Highway Authority or Rights of Way Officer have recommended refusal on this issue.

A concern has been raised about the condition of Touches Lane, in particular the number of potholes. The Highway Authority has the responsibility to maintain the road and it is advised that any concern about the condition of the road should be directed



towards the Highway Authority.

Concern has been raised about the increase of traffic using the lane when local accidents/road works result in Touches Lane being used as an alternative route. It is accepted that this may create an increase in traffic along the lane but would only be a short lived inconvenience and is not considered to a reason to refuse the application.

### **Parking**

The scheme will provide 3 parking spaces for each of the units (1 garage and two drive spaces) giving a total of 42 parking spaces. The County Council's parking guidance for this development advises an optimum total of 45 spaces, to include 3 visitor spaces. The Transport Assessment states that visitor parking could take place within the shared drive. The Highway Authority are satisfied with the parking levels although made a point about the need to ensure internal garage sizes are sufficient to count them as a space.

### **Design and Layout**

The proposal is for 14 detached two storey dwellings (some with roof accommodation) providing a mix of traditional and cottage style cottages. The dwellings will be constructed using a mix of render, brick and stone along with slate plain clay and double roman roofs.

The units would be spread fairly evenly throughout the site, each with 3 parking spaces, including garaging. Ten dwellings will be served off a new internal access road and the remaining 4 dwellings will face directly onto and have direct access off Touches Lane at the western end of the site.

The density of the scheme equates to 28 dwellings per hectare which is at the low end of density requirements but is considered to be appropriate given the edge of town, semi-rural character of the site. Each of the dwellings will have reasonable garden provision with plots divided by a mix of fencing and hedging.

Due consideration has been given to the layout and orientation of the units to ensure that no harmful overlooking would occur to either existing residential occupiers or to those within the development. An obscure glazed window, serving a bathroom, will be attached to the first floor south facing window which faces towards a property called Charldean. Two of the first floor windows on plot 2 will also be obscured glazed to prevent any harmful overlooking into plot 3.

It is considered that the scheme will provide a layout and design that is acceptable and appropriate for this edge of town-semi rural site.

### **Ecology**

A Reptile Mitigation Strategy was submitted with the application. The Council's Ecologist has raised no objection subject to 3 conditions in respect of badgers, dormice and nesting birds. No objection has been raised by Natural England to the proposal.

### **Other Issues**

Concern has been raised that the site is located too close to the reservoir and nature reserve. The site is located immediately to the south of the nature reserve. However, there is no evidence to demonstrate that either the reservoir or nature reserve would be harmed by this development. No objection has been raised by the Council's Ecologist in

respect of the possible impact of the development on the nature reserve. Moreover, there is no evidence that the reservoir may cause flooding issue to the future residents of the development.

## **SECTION 106 PLANNING OBLIGATION/UNILATERAL UNDERTAKING**

A section 106 planning obligation was signed in connection with the outline approval in respect of sport, play and recreation facilities.

## **RECOMMENDATION**

Grant Permission

01. The proposed development by reason of its scale, design and layout will provide a sustainable and good quality housing scheme, which would not harm any residential amenity, preserve the character and appearance of the area, and provide a safe means of access to accord with saved Policies ST5 and ST6 of the South Somerset Local Plan and the Core Planning Policy principles and Chapters 7 and 11.

## **SUBJECT TO THE FOLLOWING:**

01. The development hereby approved shall be carried out in accordance with the following approved plans:  
Layout plan drawing no: 2509/2 Rev A, proposed site plan 2509/2, Proposed plans and elevations - drawing numbers 2509/3 to 2509/22, Drainage and levels plan 2509/23, landscape proposals 1133-01, and location plan drawing number 2509/24.

Reason: For the purposes of clarity and in the interests of proper planning.

02. The areas allocated for parking, garaging and turning on the submitted plan, drawing number 2509/2, shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of highway safety and to ensure that the parking and turning spaces remain available for such use to accord with saved Policy ST5 of the South Somerset Local Plan and the Somerset County Council's Parking Strategy.

03. Prior to, (and within 2 months of), commencement of each stage of site clearance or ground works, an update survey/check for badger setts will be undertaken by an ecological consultant, and if any are present within 20 metres (including on adjoining land) of the area of activity, the works shall not commence until a method statement for the protection of badgers has been produced and any necessary Natural England licences have been obtained. The method statement shall be implemented in full.

Reason: For the conservation and protection of legally protected species in accordance with Policy EC8 of the South Somerset Local Plan, and to ensure compliance with the Wildlife and Countryside Act 1981, and The Protection of Badgers Act 1992.

04. If the development hereby permitted has not commenced by 1st September 2014, prior to any site clearance an update protected species survey (particularly in

respect of dormice but including any other relevant species) and mitigation proposals or a method statement to minimise the risk of harm to protected species, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and timing of the mitigation plan or method statement, as modified to meet the requirements of any 'European Protected Species Mitigation Licence' issued by Natural England, unless otherwise approved in writing by the local planning authority.

Reason: For the conservation and protection of legally protected species of recognised nature conservation importance in accordance with saved Policy EC8 of the South Somerset Local Plan, and to ensure compliance with the Wildlife and Countryside Act 1981 and The Habitats Regulations 2010.

05. No removal of vegetation that may be used by nesting birds (trees, shrubs, hedges, bramble, ivy or other climbing plants), shall be carried out between 1st March and 31st August inclusive in any year, unless previously checked by a competent person for the presence of nesting birds. If nests are encountered, the nests and eggs or birds, must not be disturbed until all young have left the nest.

Reason: To avoid disturbance to nesting birds thereby ensuring compliance with the Wildlife and Countryside Act 1981, as amended by the CROW Act 2000, and in accordance with Policy EC8 of the adopted South Somerset Local Plan.

06. The external materials to be used in the construction of the houses hereby approved shall be in accord with the samples and details as submitted by the agent via email on the 25th April 2014.

Reason: In the interests of visual amenity and to protect the character and appearance of the area to accord with saved policies ST5 and ST6 of the South Somerset Local Plan and to the NPPF.

**Informatives:**

01. The developer is reminded of the requirement to discharge and comply with the conditions attached to the outline planning consent (ref no: 08/01695/OUT).
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