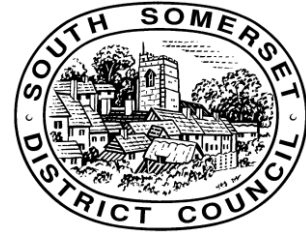


# South Somerset District Council

*Notice of Meeting*



## Area West Committee

*Making a difference where it counts*

**Wednesday 18<sup>th</sup> June 2014**

**5.30 pm**

**The Henhayes Community Centre  
South Street Car Park  
Crewkerne  
Somerset TA18 8DA**

(location plan overleaf - disabled access is available at this meeting venue)



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The public and press are welcome to attend.

**Please note: Planning applications will be considered no earlier than 6.30 p.m.**

If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, Jo Morris on Yeovil (01935) 462462  
email: [jo.morris@southsomerset.gov.uk](mailto:jo.morris@southsomerset.gov.uk)

This Agenda was issued on Tuesday 10<sup>th</sup> June 2014

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

**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**

Michael Best  
David Bulmer  
John Dyke  
Carol Goodall  
Brennie Halse  
Jenny Kenton

Paul Maxwell  
Nigel Mermagen  
Sue Osborne  
Ric Pallister  
Ros Roderigo  
Angie Singleton

Kim Turner  
Andrew Turpin  
Linda Vijeh  
Martin Wale

## **South Somerset District Council – Corporate Aims**

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

- Jobs – We want a strong economy which has low unemployment and thriving businesses
- Environment – We want an attractive environment to live in with increased recycling and lower energy use
- Homes – We want decent housing for our residents that matches their income
- Health and Communities – We want communities that are healthy, self-reliant and have individuals who are willing to help each other

## **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**

Consideration of planning applications will commence no earlier than 6.30 pm, following a break for refreshments, in the order shown on the planning applications schedule. The public and representatives of parish/town councils will be invited to speak on the individual planning applications at the time they are considered. 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 attend the Committee quarterly in February, May, August and November. They 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.

## **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 (unless specified otherwise).

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 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 and/or Agent  
District Council Ward Member  
County Council Division 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 Disclosable Pecuniary Interest (DPI) or a personal and prejudicial interest**

In relation to Disclosable Pecuniary Interests, a Councillor is prohibited by law from participating in the discussion about the business on the agenda that relates to this interest and is also required to leave the room whilst the relevant agenda item is being discussed.

Under the new Code of Conduct adopted by this Council in July 2012, a Councillor with a personal and prejudicial interest (which is not also a DPI) will be afforded the same right as a member of the public to speak in relation to the relevant business and may also answer any questions, 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 18<sup>th</sup> June 2014

## Agenda

### *Preliminary Items*

1. **To approve as a correct record the minutes of the previous meetings held on 15<sup>th</sup> May and 21<sup>st</sup> May 2014**
2. **Apologies for Absence**
3. **Declarations of Interest**

In accordance with the Council's current Code of Conduct (adopted July 2012), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the agenda for this meeting. A DPI is defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No. 1464) and Appendix 3 of the Council's Code of Conduct. A personal interest is defined in paragraph 2.8 of the Code and a prejudicial interest is defined in paragraph 2.9. 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 any relevant 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. Angie Singleton  
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**

<i>Items for Discussion</i>	<i>Page Number</i>
6. <b>Area West Committee - Forward Plan .....</b>	<b>1</b>
7. <b>Environmental Health Service Update Report.....</b>	<b>3</b>
8. <b>LEADER Programme for Rural Economic Development.....</b>	<b>6</b>
9. <b>Area West Committee Working Groups and Outside Organisations - Appointment of Members 2014/15 (Executive Decision).....</b>	<b>13</b>
10. <b>Feedback on Planning Applications Referred to the Regulation Committee .....</b>	<b>34</b>
11. <b>Planning Appeals.....</b>	<b>35</b>
12. <b>Planning Applications .....</b>	<b>36</b>
13. <b>Date and Venue for Next Meeting .....</b>	<b>37</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.**

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

## **6. Area West Committee - Forward Plan**

*Strategic Director:* Rina Singh (Place and Performance)  
*Assistant Director:* Helen Rutter/Kim Close (Communities)  
*Service Manager:* Andrew Gillespie, Area Development Manager (West)  
*Agenda Co-ordinator:* Jo Morris, Democratic Services Officer, Legal & Democratic Services  
*Contact Details:* jo.morris@southsomerset.gov.uk or (01935) 462055

### **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 page 2;
- (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.

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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; Jo Morris, 01935 462055 or e-mail jo.morris@southsomerset.gov.uk
- (3) Standing items include:
  - (a) Feedback on Planning Applications referred to the Regulation Committee
  - (b) Chairman's announcements
  - (c) Public Question Time

<b>16<sup>th</sup> July 2014</b>	Local Housing Needs in Area West	Service Update report	Kirsty Larkins, Housing and Welfare Manager
	Area West Community Safety Police Performance and Neighbourhood Policing	Report on the activities and achievements on neighbourhood policing and partnership working to reduce crime and the fear of crime.	Sgt. Rob Jameson
	Ilminster Market	Request for funding.	Zoe Harris, Neighbourhood Development Officer
<b>20<sup>th</sup> August 2014</b>		<i>Reports from Members on Outside Organisations</i>	
<b>17<sup>th</sup> September 2014</b>	Shared Customer Service Desk in the Guildhall with Chard Town Council	Report on options	Andrew Gillespie, Area Development Manager (West)
	S106 Obligations	6 monthly Update Report	Neil Waddleton, S106 Monitoring Officer
		<i>Reports from Members on Outside Organisations</i>	
<b>15<sup>th</sup> October 2014</b>	<i>Affordable Housing Development Programme</i>	<i>To update members on the current position with the Affordable Housing Development Programme.</i>	<i>Colin McDonald, Strategic Housing Manager</i>
	<i>Blackdown Hills Area of Outstanding Natural Beauty (AONB)</i>	<i>To update members on the work of the Blackdown Hills AONB since the last report to Area West Committee.</i>	<i>Zoe Harris, Neighbourhood Development Officer (Communities)</i>
	<i>Historic Buildings at Risk</i>	<i>Confidential report to update members on current Historic Buildings at Risk cases in Area West.</i>	<i>Greg Venn, Conservation Officer</i>



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

## 7. Environmental Health Service Update Report

*Strategic Director:* Vega Sturgess, Operations and Customer Focus  
*Assistant Director:* Laurence Willis, Environment  
*Service Manager:* Alasdair Bell, Environmental Health Manager  
*Contact Details:* [alasdair.bell@southsomerset.gov.uk](mailto:alasdair.bell@southsomerset.gov.uk) or (01935) 462056

### Purpose of the Report

To provide members with a brief update of the work of the Environmental Health Service in the last twelve months and to look forward to future challenges. Alasdair Bell, Environmental Health Manager will attend the meeting to give a verbal update and answer any questions.

### Recommendation

That Members note the report.

### Public Interest

The Environmental Health Service is a frontline service committed to protecting public health and safeguarding the environment. The majority of work undertaken by the service is required by law with very little discretionary work.

### Report

The work of the service continues to go well with staff dealing with a wide variety of matters including routine inspections and enforcement activity. Pressures on the Council's budget mean that since the last report further budget savings have had to be found which has reduced the ability of the team to do much beyond the statutory minimum requirements.

### Food and Safety Team

The Food & Safety Team both enforces legislation and provides advice and assistance to food and other businesses. The main emphasis of the team is to contribute to the success of the local economy by helping food businesses avoid problems of food poisoning etc. and the severe economic consequences that can result. The food safety element of the work of the team includes the approval and audit of food manufacturers, food sampling, premises inspections, the investigation of food complaints and food poisoning as well as responding to national food alerts. The health and safety element includes inspection, advice, complaint and accident investigation. In Area West in the last 12 months 423 food inspections have been carried out, 60 cases of suspected food poisoning have been investigated and 8 accidents reported/investigated. Much of the work carried out is routine 'behind the scenes' and the public is generally unaware of what is going on until something significant happens such as a major food poisoning outbreak. Significant points to note:

- The continued roll out of the National Food Hygiene Rating scheme ('scores on the doors'). This is a national scheme whereby all food catering businesses are given points dependant on their food hygiene and management practices. The businesses are encouraged to put up their score certificates in visible locations. Their scores have been put up on a national website, linked to the SSDC website, so that

consumers can make an informed decision about where to eat. Anyone can now see how their local restaurant or pubs rates in terms of food hygiene. The scheme has proved very useful in driving up food hygiene standards in food businesses;

- The prosecution of the owners of the Travellers Rest public house Roundham who were found guilty of 8 food hygiene offences and banned from selling food;
- An audit by German inspectors from the Food & Veterinary Office of the EU that resulted in many positive comments about the Team such as 'exemplary' and 'a standard setting performance'. A really excellent result;
- The rollout of the turkey 'pop up' thermometer scheme at Christmas which generated much positive publicity for the council;
- The development of a South Somerset Safety Advisory Group with the 'Blue Light' services to monitor safety planning at future public events;
- Advice given to food businesses that were flooded.

### **Environmental Protection Team**

The Environment Protection Team deals with pollution control and environmental monitoring as well as the enforcement of environmental legislation. The Team checks local air quality and investigates a range of complaints about nuisance, in particular noise and smoke. The Team issues permits and inspects premises under the Pollution Prevention and Control regime. The Team also undertakes private water supply sampling, contaminated land assessment and the investigation of private drainage complaints as well as acting as a statutory consultee on planning and licensing applications. The delivery of the Pest Control service and public health burials are also part of the service provided. During the past 12 months 51 noise complaints have been investigated and 469 calls were taken regarding pest control in Area West. Significant points to note:

- Work has continued on the investigation and remediation of an old gas works site in Langport following the successful bid for funding from the Government;
- Staff featured on a TV programme serving notices to deal with anti-social behaviour resulting in eviction of problem tenants;
- The Streetscene enforcement team has been moved across into the EP Team to generate more efficiencies;
- Members of the Team heavily involved in the recent flood relief work, visiting people in their homes and giving advice/assistance on pollution related issues.

### **Housing Standards Team**

The Housing Standards Team deal with private sector housing advice and enforcement. This includes investigating complaints about sub-standard rented housing, the inspection and licensing of houses in multiple occupation (HMOs) and the licensing of caravan sites. The team also provides advice/assistance/grant aid to improve energy efficiency and tackle fuel poverty. The team also processes applications for home repairs assistance grants, disabled facilities, HMO and empty property grants, and helps administer the WRT home loan scheme. The team works closely with the Housing Options Team in seeking to tackle the potential housing crisis that is developing in South Somerset. Significant points include:

- Increased work to bring back more empty homes into use. From October 2012 to November 2013, 126 empty homes were brought back into use due to the work of the Empty Homes Officer resulting in £806,440 of New Homes Bonus for the council. This is a significant achievement;
- The running of two Landlord Forum events;
- The future impact of Housing Benefit changes on rented accommodation;
- Increased enforcement action to do with substandard housing and HMOs;
- The team is currently dealing with applications for £5000 'flood grants' and loans. Visits have been made to numerous properties and both individuals and group schemes are being assisted. Setting up the processes and systems for dealing with these grants has involved a lot of effort and South Somerset has led the way across the County with this work. To achieve this it has involved much joint working with voluntary bodies such as the Somerset Community Foundation who are also providing funding, the other district and county councils in Somerset, the Village Agents and a range of other voluntary and statutory bodies. The team is also working closely with other departments of the Council such as the Economic Development Unit to provide grants to businesses affected by floods.

### **Financial Implications**

There are none attached to this report.

### **Corporate Priority Implications**

The work of the unit helps contribute towards the delivery of a range of our Corporate Priorities but perhaps most importantly towards Aim 3 To improve the Health and Well-being of our citizens and to Aim 5 to promote a balanced natural and built environment.

### **Carbon Emissions & Climate Change Implications**

The work of the unit contributes towards this NI with its work on fuel poverty.

### **Equality and Diversity Implications**

As part of the EH service plan a full equalities and diversity assessment was undertaken.

**Background Papers:** *Environmental Health End of year Report 2012/13*  
*Environmental Health Service Plan 2012/15*  
*Private Sector Housing Strategy 2007-12*  
*Food & Safety Service Plan 2013/14*  
*SSDC Corporate Plan 2012-15*

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

## 8. LEADER Programme for Rural Economic Development

*Strategic Director:* Rina Singh, Place & Performance  
*Assistant Director:* Helen Rutter/Kim Close, Communities  
*Service Managers:* Andrew Gillespie, Area Development Manager (West)  
*Lead Officer:* Helen Rutter, Assistant Director, Communities  
*Contact Details:* helen.rutter@southsomerset.gov.uk or (01963) 435012

### Purpose of the Report

To brief all Area Committees on the new LEADER programme for rural economic development and set out the arrangements for appointing member representatives to the appropriate governing body of prospective Local Action Groups (LAGs).

### Public Interest

At the current time most of South Somerset does not qualify for the LEADER programme which supports locally designed rural economic development initiatives. Subject to funding, DEFRA may allow existing programmes to change their boundaries, including the possible incorporation of areas not presently covered, in a successor programme, to be launched in 2015.

### Recommendations

1. That Members consider and note the report and arrangements for member appointments to be made to each of the 3 prospective Local Action Groups governing body from the Area with greatest coverage;
2. Note that a further report will be brought to the Committee in autumn 2014 reporting on the outcome of applications for funding.

### Background

This is an update on proposals to extend coverage of the LEADER programme in South Somerset from 2014.

Area Chairs were briefed about this last summer when the new programme, 2014-2020, was announced. Currently we have limited coverage of rural South Somerset confined to Making it Local (the area around Chard) and the Levels and Moors (most of Area North) and 2 parishes in of Area East through the Sowing Seeds Partnership. This meant that over half of the eligible areas in the district (including rural parishes in Area South) did not benefit from the last programme.

Last summer we agreed to look at ways to extend existing partnerships to reduce the amount of "white areas" rather than seek to create a new partnership.

### What is LEADER?

The European Union's (EU) Common Agricultural Policy (CAP) is a system of agricultural subsidies and programmes. It covers farming, environmental measures and rural development and is the EU's single largest common policy; accounting for more than 40% of the EU budget.

Pillar 1 provides direct payments to farmers and market control measures and Pillar 2 promotes rural development. Under Pillar 2, a minimum of 5% of each member state's rural development programmes are used to support the LEADER approach. In the last programme each LEADER area (most cover populations of 120,000 – 150,000 people) attracted around £1.8m, spread over 5 years. A similar sum pro rata is expected for the next round.

Launched in 1991, LEADER delivers Rural Development Programme (RDP) funding at a local level. It is underpinned by seven key features: (i) area based Local Development Strategies, (ii) bottom-up implementation strategies, (iii) local public-private partnerships /Local Action Groups, (iv) integrated/multi-sectoral actions, (v) innovation, (vi) cooperation, and (vii) networking.

LEADER mobilises local resources in ways that do not happen with traditional 'top down' approaches – people use the funding to make the best of assets and development opportunities.

On 11 April 2014, DEFRA published 'A National Delivery Framework (NDF) for LEADER 2014-2020'. This document sets out the requirements and expectations for the next programming period and includes: (a) information about how to prepare a LEADER application and what the selection process will involve, (b) the roles and responsibilities of those involved with LEADER and (c) relevant regulatory and operational requirements. The NDF also explains the policy priorities and measures that Local Development Strategies (LDS) are expected to meet along with some project examples. A LDS is a document created by a Local Action Group (LAG) and wider partnership that describes what LEADER aims to achieve in a given area. DEFRA will assess LDS as part of the competitive application process to receive the next round of LEADER.

Projects funded under the new LEADER Programme (2014-2020) will need to focus on delivering jobs and growth, 70% of all projects funded under LEADER will directly support the rural economy (e.g. through creating and developing micro and small sized rural businesses) 30% of projects will also need to demonstrate that they are contributing to improving the rural economy. The new Programme has 6 priorities.

(1) increasing farm productivity, (2) micro and small enterprise and farm diversification, (3) rural tourism, (4) rural services, (5) cultural and heritage activity, and (6) forestry productivity.

### **The Next Programme- Local LEADER Partnerships and Closing the Gaps**

The map attached shows the Boundaries of the current Levels and Moors & Making It Local LAG Partnerships. It also shows plans being developed to seek more coverage of white areas in South Somerset by the Heart of Wessex LAG Partnership (formerly Sowing Seeds):

- *The Levels and Moors* - is an established area stretching from A303 to the coast and minor boundary changes are proposed on its eastern edge which will consolidate full coverage of Area North
- *Making it Local* – Is based on the Blackdown Hills AoNB taking in Chard and western parishes of area West, it proposes to expand to take in a little more of West including the Ilminster area
- *Heart of Wessex* proposes to follow the A303/A30 corridor area into Wiltshire and cover the remaining, former white areas, of East, South and West in the Crewkerne area ( Yeovil is not eligible)

Some further advice has now been published by DEFRA which clarifies the status of hub towns. These are market towns with a population of more than 10,000 but generally less than 30,000, which can be included in LAG areas and whose population counts towards the 150,000 ceiling, but – do not attract any funding allocation. LEADER groups were required to define their area and submit a map and Excel sheet to DEFRA by Friday 23 May. Mendip has proposed an entirely new LAG for its area. A verbal update will be given at the meeting about the boundaries submitted.

### **Next Steps**

The prospective LAGs have been consulting with existing communities & businesses which benefitted from the last programme. Shortly they will also be consulting with businesses and communities in areas new to this programme. The focusing on jobs and growth to defining a LEADER area and to developing a LDS; will open up discussions around what rural development is and what European funding should be used for. Analysis of need and the consultation responses will inform and establish priorities for the individual LAGs Local Development Strategies, which need to be submitted to DEFRA by 5<sup>th</sup> September. This is a national, competitive process for a limited funding pot and sound bids can expect to be awarded funding in the order of £1.5m - 1.8m over a 5 year programme of support.

LAGs that have funded rural economy activities in the past will have to think carefully about how to continue to provide support to micro and small enterprises (address gaps and build upon learning and good practice from 2007-2013).

LAGs will need to align activities to Local Enterprise Partnerships (LEP), Local Authorities, Rural Growth Network Pilot areas, Rural and Farming Networks etc. The NDF calls for all Local Development Strategies (LDSs) to complement the activities of the relevant LEP/s and for the LEP/s to endorse LEADER applications in the form of a supporting letter.

### **Appointment of Councillor Representatives**

LEADER Partnerships have an Executive Group which is made up of a combination of representatives of businesses, agencies, communities and appointed councillors from local authorities. Each has slightly differing terms of reference tailored to local circumstances.

SSDC expects to be able to appoint councillor representatives to participate in each of the 3 prospective LAGs in line with their particular terms of reference. The appointment should be from the main Area of benefit: Level & Moors, Area North; Heart of Wessex, Area East; Making it Local, Area West.

The Area West Committee may appoint a member to the Blackdown Hills Partnership Management Group. This gives that member automatic membership of the Making it Local LAG Consultative and Advisory Group. That group elects representatives to the Making it Local LAG Programme Management Group.

It will be the responsibility of the Councillor representatives and supporting, advisory officers to ensure that information and views are transmitted to all areas involved in each of the LAG catchments.

**Financial Implications**

There are no financial implications at this stage. Any Officer time going into the bid process will be met within existing staff resources and by 'in kind' contributions.

**Corporate Priority Implications**

The Council Plan states that:

We want a strong economy which has low unemployment and thriving businesses. One of the stated ways we will address this is to:

Work in partnership to deliver investment and development that local people value.

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

In due course this designation could provide a way to supporting local employment and promote local produce/ services to our communities contributing to greater self-containment thereby reducing carbon emissions.

**Equality and Diversity Implications**

Rural communities are vulnerable to isolation from services and markets and face higher transport cost. This programme provides an opportunity to support locally important economic initiatives.

**Background Papers:** *DEFRA guidance documents for LEADER programme*

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3 maps







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

## 9. Area West Committee Working Groups and Outside Organisations - Appointment of Members 2014/15 (Executive Decision)

*Strategic Director:* Mark Williams, Chief Executive  
*Assistant Director:* Ian Clarke, Legal and Corporate Services  
*Service Manager:* Angela Cox, Democratic Services Manager  
*Lead Officer:* Jo Morris, Democratic Services Officer  
*Contact Details:* jo.morris@southsomerset.gov.uk or (01935) 462055

### Purpose of the Report

As the Council has entered a new municipal year, the Committee is asked to review the appointment of its members to serve on outside organisations and working groups within Area West, having regard to the policy on the Roles and Responsibilities of Councillors appointed to Outside Bodies, which was adopted by District Executive on 1<sup>st</sup> May 2014.

### Recommendations

The Committee is asked to:

1. agree whether to re-establish the internal working group as listed in the report;
2. appoint a member to serve on the group for the municipal year 2014/15;
3. review and appoint members to the outside organisations as set out in the report.

### Area West Working Groups

The following internal working group was appointed by Area West Committee for the last municipal year 2013/14. The Committee is asked to agree the representative to the working group for the municipal year 2014/15.

Working Group & Purpose	2013/14 Representative	Lead Officer
<p><b>Crewkerne and Area Community Office - Board Representation</b></p> <p>The Crewkerne and Area Community Office Board maintains a watching brief over the Community Office. The Board is made up of one officer and one member from the Crewkerne Town Council and South Somerset District Council.</p>	Angie Singleton	

### Outside Organisations

The organisations and groups to which representatives have been appointed by this Committee are set out below. Members will be aware that they reviewed this list of organisations in June 2013 and made several recommendations towards the final policy on the Roles and Responsibilities of Councillors appointed to Outside Bodies, which was adopted by District Executive on 1<sup>st</sup> May 2014.

Members are now asked to review and appoint members to the outside bodies for 2014/15, having regard to the adopted policy. Further information is attached at Appendix 1.

<b>Organisation</b>	<b>Representation 2013/14</b>
A Better Crewkerne & District (ABCD)	Mike Best
Blackdown Hills AONB	Ros Roderigo
Chard and District Museum Society	Dave Bulmer
Crewkerne Heritage Centre	John Dyke
Crewkerne Leisure Management (Aqua Centre)	Angie Singleton
Ile Youth Centre Management Committee (Ilminster)	Kim Turner
Ilminster Forum	Carol Goodall
Meeting House Arts Centre, Ilminster	Sue Osborne
South Somerset Disability Forum	Kim Turner
Stop Line Way Steering Group	Appointment deferred

### **Financial Implications**

None for the Area West Committee. Mileage claimed by Councillors attending meetings of outside bodies to which they are appointed is approximately £1,000pa and is within the existing budget for Councillors travelling expenses held by Democratic Services. There may be a small saving resulting from any decision to reduce the number of SSDC appointed outside bodies, however, a number of Councillors do not claim any mileage for their attendance at these meetings.

### **Council Plan Implications**

There are several of the Council's Corporate Focuses which encourage partnership working with local groups, including:-

- Work in partnership to deliver investment and development that local people value with particular emphasis on Yeovil and Chard;
- Work with partners to contribute to tackling youth unemployment;
- Work with partners to combat fuel poverty;
- Ensure, with partners, that we respond effectively to community safety concerns raised by local people and that the strategic priorities for policing and crime reduction in South Somerset reflect local needs;
- Work with and lobby partners to help communities to develop transport schemes and local solutions to reduce rural isolation and inequalities to meet existing needs of those communities.

### **Carbon Emissions and Climate Change Implications**

None.

**Equality and Diversity Implications**

Full consideration to equalities was given in producing the Policy on the Roles and Responsibilities of Councillors appointed to Outside Bodies.

***Background Papers***

*Minute 14, Area West Committee, 19 June 2013*

*Minute 184, District Executive, 1 May 2014*

*SSDC Policy on the Roles and Responsibilities of Councillors appointed to Outside Bodies.*

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## AREA WEST OUTSIDE ORGANISATIONS INFORMATION

Name of Organisation	Number of Council Nominees	Period of Appointment	Aims & Objectives	Legal Status	Status of Councillor	Frequency of Meetings	Venue of Meetings
ABCD (A Better Crewkerne & District)	1	1 Year	The promotion of regeneration and the provision, improvement and preservation of amenities for Crewkerne and district.	Registered Charity	Member of Steering Group	Every other month	Crewkerne Heritage Centre
Blackdown Hills AONB Partnership	1	1 Year	To safeguard the distinctive landscape, wildlife, historical and architectural character of the Blackdown Hills whilst fostering the social, economic well being of its people.	Partnership	Member of Management Group	Quarterly	Village Halls in the Blackdown Hills
Chard and District Museum	1	1 Year	The advancement of education, learning and knowledge by the provision and maintenance of a Public Museum. The exhibition of artefacts, pictures, maps, letters and other items of historical, geographical or geological interest.	Charitable Trust	Trustee	Quarterly	Chard and District Museum
Crewkerne Museum & Heritage Centre	1	1 Year	The provision and maintenance of a museum and heritage centre in Crewkerne for the display of exhibits of historical, scientific, literary or artistic significance or interest. The provision of facilities for the display of works of arts.	Company Charitable Trust	Observer	Quarterly	Crewkerne Heritage Centre
Crewkerne Leisure Management Ltd.	1	1 Year	To promote awareness of the benefits of swimming and associated sports.	Company Limited by Guarantee	Board Member	Bi-monthly	Crewkerne Town Hall or Aqua Centre

Name of Organisation	Number of Council Nominees	Period of Appointment	Aims & Objectives	Legal Status	Status of Councillor	Frequency of Meetings	Venue of Meetings
Ile Youth Centre	1	1 Year	To help and educate young people through their leisure time & activities so as to develop their physical, mental & spiritual capacities that they may grow to full maturity as individuals & members of society.	Management Committee	Committee Member	Every three months.	Ile Youth Centre
Ilminster Forum	1	1 Year	To work for the benefit of the community of Ilminster and promote, enhance and further the quality of life of its community in response to their needs.	Company Limited by Guarantee	Observer	Monthly	Shrubbery Hotel, Ilminster
Meeting House Arts Centre, Ilminster	2	1 Year	To provide a financially self-supporting centre for the use and enjoyment of the people of Ilminster. To encourage involvement in the organisation by an increasing range of members and non-members.	Company Limited by Guarantee with Charitable Status	Observer	Quarterly	Meeting House Arts Centre, Ilminster
South Somerset Disability Forum	4 (one from each area)	1 Year	To improve the quality of life for disabled people in South Somerset, by improving access to services, facilities, buildings, leisure, transport and the countryside.	Registered charity	Observer	Bi-monthly forum meetings First Tuesday of Month	Council Chamber, Brympton Way
Stop Line Way Steering Group	1	Not limited	To guide development of Stop Line Way Cycle Route	Advisory Group	Member	As needed	Various



## **South Somerset District Council**

### **The Roles and Responsibilities of Councillors appointed to Outside Bodies**



## Guidance to Councillors appointed to Outside Bodies

This guidance has been produced in an effort to achieve good practice and to support Councillors who are appointed to serve on outside bodies by outlining their responsibilities and obligations in that role.

Service on outside bodies has always been an established part of a Councillor's role. An appointed Member on an outside body will be able to use their knowledge and skills as a Councillor to assist the organisation to which they are appointed.

The Council is now increasingly working in partnership with outside bodies and greater clarity is needed as to the role of Members appointed to these bodies. In situations where funding streams may benefit outside bodies and be channelled through the Council as the accountable body, or where the Council funds the outside body directly (e.g. CAB), questions of accountability and governance will arise.

### **SSDC definition of an outside body:**

**“An outside body (also known as an organisation), shall have formal governance, and shall not have been established, or be administered, by SSDC or have SSDC officers as the primary point of contact.”**

### **Introduction**

1. This guidance sets out the main issues which councillors should consider when appointed by the Council to serve on outside bodies.
2. In the context of this guidance 'outside bodies' include trusts, companies, charities, industrial and provident societies and community associations. Councillors may be involved as a director, trustee, governor, member or observer (with or without voting powers).
3. Councillors who are involved in the management of outside bodies have responsibilities to that body that must be acted upon. Their role, responsibilities and potential liabilities will depend upon the legal nature of the organisation and the capacity in which they have been appointed. Failure to act in a proper manner may give rise to personal liability or liability for the Council.
4. With the increasing emphasis on partnership working, councillors, as community leaders, have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. Councillors always need to be clear about their roles and alert to potential conflicts of interest in order to ensure transparency and public confidence in local democracy.
5. This guidance seeks to help councillors discharge their responsibilities on outside bodies clearly and effectively. It covers, primarily, the position of councillors appointed by the Council to serve on outside bodies, though much of the advice applies equally to councillors who are involved with outside bodies in a private capacity. Councillors who are members of an outside organisation in a private capacity or in a Parish Council role, and not appointed by SSDC will not be covered by SSDC insurances.
6. Membership of an outside body does not include representing a political party.

7. Appointments made to any outside body should be drawn from current serving District Councillors only.
8. Training on the legal responsibilities, including declarations/conflicts of interest of Councillors appointed to outside bodies will be included in the initial induction programme of training for new Councillors. Councillors may also seek advice from the Monitoring Officer at any time.
9. This guidance is general and councillors should contact the Monitoring Officer for further advice if they have any particular issues of concern.
10. The remainder of this guidance includes the following:
  - issues to consider before appointment;
  - application of the Code of Conduct for Councillors;
  - legal status of outside bodies, capacity of appointment, duties and liabilities;
  - insurance and indemnity;
  - criteria against which it can be judged whether to accept a new proposition from an outside body for Councillor representation.

### **Issues to consider before appointment**

11. Before accepting an appointment to an outside body councillors should check the following information which will be supplied by Democratic Services relating to the outside body:
  - the legal status of the organisation e.g. company, trust, charity, unincorporated association;
  - the capacity in which the councillor is to be appointed e.g. director, trustee, member with voting rights or member with observer status;
  - the purpose of the organisation and how this relates to the Council's functions and objectives;
  - the relationship between the Council and the body and the likelihood and extent of any conflicts of interest (known to the individual councillor);
  - the requirements of the organisation's governing instrument (e.g. constitution; trust deed; memorandum and articles of association), both as a member and generally;
  - the financial status of the organisation;
  - the governance and decision making arrangements, including the management of risk;
  - any code of conduct for members;
  - potential liabilities;
  - the extent of any insurance cover for members.
12. Having checked the above matters, councillors should consider carefully whether they should be appointed to participate formally in the management of the external organisation e.g. as a director, trustee or voting member, or whether their role as a representative of the Council may be more effectively discharged as a non-voting member with observer status only. **Bearing in mind the potential liabilities that may be incurred through formal involvement in an organisation councillors are generally advised to seek appointment as members with observer status only, unless there are exceptional reasons for more formal participation.**

13. Councillors are encouraged to seek advice from the Monitoring Officer where any of the above issues are unclear.

### **Application of the Code of Conduct for Members**

14. The Council's Code of Conduct for Members in Part 5 of the Constitution places specific obligations on councillors when acting in that capacity in their dealings with outside organisations. The Code will, in particular, apply where a councillor is acting as a representative of the Council on an outside body.
15. Apart from the general duty to promote and support high standards of conduct the following duties of the Code are particularly relevant in this context:
- act solely in the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate;
  - avoid placing yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
  - make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
  - declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and take steps to resolve any conflicts in a way that protects the public interest;
  - comply with the statutory requirements on the registration and declaration of interests.
16. Councillors who have a disclosable pecuniary interest in any business at a meeting of the Council e.g. award of a contract, must not participate in any discussion of the matter or vote on it unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution.
17. Councillors that serve on more than one body, in particular, need to be mindful of potential conflicts of interest and always act in an open and transparent manner in carrying out their respective roles. For example, where a councillor is at a council meeting considering an application for a grant or a community asset transfer request from a parish council or other public body of which they are a member they should declare the existence and nature of their interest. Having done so, they may, generally, take part in the discussion of that item and vote, unless there are particular reasons why this would not be appropriate. It is also advisable as a matter of transparency to include details of the interest in their register of interests.
18. Councillors appointed to serve on outside bodies should be mindful of their legal obligations regarding disclosure of confidential information and in case of doubt should seek advice from the Monitoring Officer.
19. Councillors also need to comply with the duties and requirements of the Equality Act 2010 in their appointment to any outside body as well as their role as a District Councillor (see Appendix E).

### **Predetermination and Bias**

20. Aside from the Code of Conduct, under the common law councillors must be careful to avoid any pre-determination or bias in their decision making. Predetermination

occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

21. The Localism Act 2011 has clarified the rules on predetermination. It makes it clear that a councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A councillor is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.
22. The general position, however, remains that, whatever their views, members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.
23. Councillors need to be aware that decisions may be challenged and set aside on the grounds of bias. Under the common law bias involves some element of partiality or personal interest in the outcome of a case, as a result of a close connection with the parties, or the subject matter of the dispute, or because of a tendency towards a particular shared point of view.
24. The relevant test for bias is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision maker was biased.
25. The risk of a successful challenge on these grounds may be overcome by proper observance of the requirements of the code of conduct and particularly the provisions set out in paragraph 14 above.

### **Legal status, capacity, duties and liabilities**

26. The specific responsibilities of councillors will depend upon the legal status of the outside body and the capacity in which they have been appointed. The position of councillors in relation to various types of outside body is summarised in the appendices to this note as follows:

Appendix A - Director of Limited Liability Company

Appendix B - Trustee of Trust or Charitable Trust

Appendix C - Member of Unincorporated Association

Appendix D - Member of Steering Group, Joint Committee or Partnership Body

The key point to note is that where councillors are carrying out their duties as a trustee, director, or management committee member, they may take account of the wishes of the Council, but their primary duty is to act in the best interests of the organisation to which they have been appointed.

### **Liability, Insurance and Indemnity**

27. Councillors can incur personal civil and criminal liability from formal participation in outside bodies.
28. However, under section 265, Public Health Act 1875 (as applied by Section 39, Local Government (Miscellaneous Provisions) Act 1976), councillors enjoy statutory

immunity from civil liability where they act within the powers of the authority, in good faith and without negligence.

29. But this immunity does not apply where they act beyond the powers of the council or act in bad faith (i.e. with dishonest or malicious intent) or negligently, and it does not protect them from criminal liability, for example for fraud or for corporate killing where they exercise managerial responsibilities.
30. South Somerset District Council has insurance provision to protect its assets and liabilities. Within these provisions the Council has cover to protect its elected and co-opted members when carrying out duties in connection with the business of the Council. Those afforded the protection are:
- elected Members of the Council or co-opted members of any Committee or Sub-Committee;
  - members of committees, schemes or associations formed to assist in the activities of the Council.

### **Appointments at Committee**

31. All appointments to outside bodies will be made at the Annual Council meeting or at the relevant Area Committee meeting.

### **Criteria to accept a new proposition from an outside body for Councillor representation:**

32. The following should be considered before accepting any request from a new outside organisation for representation by an SSDC Councillor:-
1. Relevance to Council Plan
  2. Benefit to SSDC
  3. Benefit to Outside Organisation
  4. Organisation's expectations of the Councillor representative
  5. Does the organisation need Councillor or Officer representation?

### **Information required prior to accepting a new outside body for Councillor representation:**

33. The following information must be established by the Democratic Services team or relevant Area Development Manager prior to any Councillor appointment to an outside organisation, and, be made available to any interested Councillor prior to their appointment:-
- Identify an officer point of contact
  - Primary aims and objectives of the outside body
  - Justification for the appointment
  - Role of the appointed member
  - Set out any legal and/or financial implications
  - Indication of time commitment required
  - Skills and/or experience required from the council representative

**Councillors representing outside bodies will be required to produce a small annual report or paragraph to be added to the members annual report. The report to include information on the activities and achievements of the outside body and the number of meetings attended.**

**Further Advice**

34. Further assistance on the issues covered in this guidance may be obtained from the Council's Monitoring Officer.

**Councillors appointed as Directors of Limited Liability Companies****Legal Status**

1. Upon incorporation a company becomes a separate legal entity, which can hold property in its own right, enter into contracts and sue and be sued in its own name. In the case of a limited liability company the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.
2. Companies limited by shares are those which have a share capital e.g., 1,000 shares of £ 1 each. Each member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold. Liability in the event of a winding-up is limited to the amount unpaid on the shares held.
3. Companies limited by guarantee do not have shares. Instead, each member agrees that in the event of the company being wound up they will agree to pay an agreed amount eg £ 1. This is most common in the public and voluntary sector, particularly where charitable status is sought.

**Directors' Duties**

4. The role of a councillor who has been appointed as a director will depend upon the company's Memorandum and Articles of Association (its constitution). A company's constitution will vest most of its powers in the board of directors and the board will exercise these either directly or through managers appointed by the board. Directors must understand the requirements of the Memorandum and Articles of Association in order to fulfil their responsibilities properly.
5. Directors will need to be aware of the requirements of the "Combined Code on Corporate Governance" to the extent that this has been adopted by the company, including general management of the company, rules on directors' remuneration, internal financial and operational controls and risk management.
6. Directors, as agents of the company, must:
  - act in good faith in what they believe to be in the best interests of the company as a whole (not the Council);
  - act with reasonable care, diligence and skill;
  - exercise their powers reasonably and for the purpose for which they are given;
  - keep an open mind when making decisions on company business; in particular a councillor director must exercise independent judgment and not simply follow Council policy when voting on company matters;
  - avoid placing themselves in a position where their private interests or their position as a councillor conflict with their duties to the company;

- be aware of the company's financial position through attendance at board meetings and reading the accounts, agendas and minutes; it is not sufficient to assume that the other directors are doing a good job.
7. Some directors may be given special responsibilities under the company's constitution, for instance a managing director or finance director. Those with special roles will be expected to have the personal and technical skills to perform the duties associated with that role, which may be onerous.
  8. The above duties apply to non-executive directors as well as executive directors.
  9. There are other statutory requirements which may be relevant depending on the company's business. Directors will need to be familiar with these. For example, if the company is an investment vehicle which engages in fundraising activity, financial services legislation will apply.

### **Observer status**

10. The position of observer has no specific legal status in company or local authority law. Any person appointed as an observer should ensure that their role is clearly defined and avoid involvement in the management of the Company. If an observer acts beyond their remit and exercises real influence over the company's affairs and decision making the observer may be deemed to be a shadow director, with all the duties of an ordinary director.
11. Observers and others, such as professional advisors, may attend board meetings. Generally the minutes of the meetings will note the names of observers and the fact that they are "in attendance". Persons "in attendance" have no specific legal status and in itself the phrase does not indicate any particular level of participation in the company's affairs. The extent of the participation of a councillor described in board minutes as "in attendance" is a question of fact. They should, however, take care to avoid involvement in the management of the company so as to avoid being treated as a shadow director.
12. A director (or shadow director) may incur personal liability if they are in breach of the above duties. This may arise where:
  - the company is found, in the course of winding up, to have been trading for fraudulent purposes. If a director has acted dishonestly this is also a criminal offence;
  - following liquidation, a director is found liable for wrongful trading, i.e. allowing the Company to continue to trade at a time when the director knew or ought reasonably to have known that there was no reasonable prospect that the company would avoid going into insolvent liquidation;
  - the company commits a breach of the criminal law, for example, health and safety legislation;
  - a director acts negligently or in breach of their duty to the company (including the duty to maintain confidential any confidential information relating to the company that comes into their possession);



- a director knowingly causes the company to act beyond the activities authorised by its Memorandum of Association;
- there is a breach of trust, such as the misappropriation of company funds or property;
- a director uses their powers improperly or makes a personal profit from their position as director;
- there is a failure to comply with the requirements of companies legislation, such as the making of returns to the Registrar of Companies.

**Insurance**

13. Councillors appointed as directors should find out if the company maintains appropriate insurance cover against directors' liability. If this is not in place this should be requested, but this is a matter entirely for the board and the Council cannot insist upon this. It will be necessary to ensure that the company has the resources to maintain payment of the insurance premiums.
14. Further guidance on the responsibilities of company directors is available on the websites of the Institute of Directors and Companies House:

<https://www.iod.com/Home>

<http://www.companieshouse.gov.uk>

## Appointment of a Trustee to a Trust or Charity

### Legal Status

1. Trustees will be appointed under a Trust Deed. The role and responsibilities of a trustee will depend, therefore, upon the provisions of the trust deed and/or scheme (collectively referred to as its “governing documents”) and the general law relating to trusts and charities.
2. It is quite common for companies to be set up as trusts with charitable objects. In this case the trustees will also be directors of the company and will have the obligations set out in Appendix C as well as the obligations set out in this section. Councillors involved with charitable companies should ensure that they understand the capacity in which they have been appointed.

### Duties

3. The role of a trustee is generally to fulfil the objects of the trust and apply the income and, if appropriate, the capital of the trust in accordance with the provisions of its governing documents.
4. Trustees are subject to various duties, including the duty to:
  - act for the benefit of the charity and its beneficiaries;
  - preserve the capital of the charity (unless the trust deed gives the trustees the right to spend the capital or the charity is small and the trustees have resolved to spend the capital under the Charities Act 1993);
  - make sure income is spent only on the things authorised in the governing documents;
  - invest the capital only in authorised investments, having first taken professional advice;
  - produce annual accounts;
  - act with reasonable care and skill in administering the trust;
  - to act unanimously (unless the trust deed allows majority decisions); and
  - comply with the Charities Acts and other legislation affecting the charity.
5. The Charity Commission’s website - [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk) - contains useful guidance, in particular Publication CC3 - “Responsibilities of Charity Trustees” which outlines the basic principles that should guide trustees when administering their charity:
  - the income and property of the charity must be applied for the purposes set out in the governing document and for no other purposes;
  - the trustees must act reasonably and prudently in all matters relating to the charity and must always bear in mind the interests of the charity. They should not let their personal views or prejudice affect their conduct as trustees;
  - trustees should exercise the same degree of care in dealing with the administration of their charity as a prudent businessman would exercise in managing his or her own affairs or those of somebody else for whom he or she was responsible; and

- where trustees are required to make a decision which affects a personal interest of one of their members that person should not be present at any discussion or vote on the matter.

### **Liability**

6. Trustees are jointly and severally liable to the charity for breaches of trust. They may incur personal liability for losses incurred if they:
  - act outside the scope of the trust deed;
  - fall below the required standard of care;
  - make a personal profit from the trust assets;
7. Trustees will incur personal liabilities under contracts they enter into in the name of the charity. They are, however, entitled to be reimbursed from the charity's funds for all liabilities and expenses properly incurred by them, provided this is authorised by the trustees in accordance with the trust deed.

### **Observer Status**

8. The Council may appoint a councillor to a trust or charity simply in the role as an observer. A councillor acting as an observer should avoid exceeding this role by becoming directly involved in the management of the charity or by being part of the formal decision making process as they may be deemed to be a trustee for the purposes of determining liability.

### **Insurance and Indemnity**

9. An indemnity can be given from the trust fund provided the trustee has acted properly and within their powers. Trustees may take out insurance to protect themselves against personal liability except criminal liability. Payment of the premiums must be authorised by the trust deed if they are to be met from charitable funds.
10. Accordingly, a Trustee will usually only be liable for his/her own activities or for losses arising from his/her "wilful default". The phrase "wilful default" has been held, in this context, as meaning knowingly committing a breach of duty or being reckless as to whether an act or omission is a breach of duty. It would be no defence that the Trustee was unaware of what was contained in the governing documents and was thus unaware of whether something was in breach of duty or not.
11. Officers will advise you whether the Charity has taken out any relevant insurance that covers you as a Trustee in the carrying out of your responsibilities as such. However where insurance is not provided you should raise this as an issue and ask the Charity to take out and maintain appropriate insurance against Trustees' liability. Councillors should be aware that the effectiveness of such insurance will depend on the Charity having the resources to maintain the insurance, which it may not if it becomes insolvent and ensuring that it is both regularly reviewed in terms of cover and renewed. Councillors can also rely on the limited immunity from legal proceedings provided by Section 265 Public Health Act 1875. The principles set out earlier apply equally to Members serving on Trusts, namely that the Councillor must be performing a statutory function and must be acting in good faith. It will not apply if there has been dishonesty by the Councillor.

## Unincorporated Associations

### Legal Status

1. Most societies, clubs and similar organisations (other than companies, industrial societies and trusts), are unincorporated associations. This is an informal organisation, which may arise where several people join together, with the intention of creating legal relations, to carry out a mutual purpose otherwise than for profit.
2. There is no statutory definition of an unincorporated association but it has been described by the court as “an association of persons bound together by identifiable rules and having an identifiable membership”. Unlike a company it does not have a separate legal status distinct from its members.
3. The rules of an unincorporated association are found in its constitution, which sets out the roles and responsibilities of its members.

### Duties

4. An unincorporated association will typically have an executive or management committee with its powers and composition defined by the constitution. Key decisions will usually be made by the members at general meetings. The day to day administration of an association is usually undertaken by the officers and members of the executive or management committee.
5. Broadly executive or management committee members must act within the constitution and must take reasonable care in exercising their powers.
6. Where an unincorporated association is a registered charity the members of the executive or management committee may also be charity trustees. As such, their role and responsibilities will be determined not only by the association’s constitution but also by the general law relating to trusts and charities, as set out Appendix B.

### Observer Status

7. The Council may appoint a councillor to the executive or management committee of an unincorporated association as an observer. A councillor acting as an observer should avoid exceeding this role by becoming directly involved in the management of the association as they may be deemed to be an ordinary member for the purposes of determining liability.

### Liabilities

8. Members of the management committee are generally liable, jointly and severally, for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are insufficient funds the members are personally liable for the shortfall.
9. Particular care should also be taken when entering into contracts on behalf of the association. If the individual lacks the authority to do so, they may find themselves personally liable for the performance of the contract.

**Insurance**

10. Insurance may be available, but payment of the premiums must be authorised by the constitution if they are to be met from the association's funds.
11. If the association is a trust, as will be the case with any registered charity, the position with regard to indemnities will apply as explained earlier. Councillors can also rely on the limited immunity from legal proceedings provided by Section 265 Public Health Act 1875.
12. Officers will advise you whether the association has taken out any relevant insurance that covers you as a Councillor in the carrying out of your responsibilities as such. However where insurance is not provided you should raise this as an issue and ask the association to take out and maintain appropriate insurance against members' liability. As mentioned earlier Councillors should be aware that the effectiveness of such insurance will depend on the association having the resources to maintain the insurance, which it may not if it becomes insolvent and ensuring that it is both regularly reviewed in terms of cover and renewed.

## Steering Groups, Joint Committees and Partnership Bodies

### Duties

1. If a Councillor who is nominated or appointed as a committee member or as an observer to a partnership body (e.g. the LGA), s/he will not be exposed to the same liability as a Director or Trustee. Ideally, the duties and obligations of the Member or Officer concerned will be set out in the agreement or other documents regulating the committee or partnership.
2. Despite the fact that Officers from the Legal & Democratic Services' Team will be providing an overview of the body, it would still be sensible if the Councillor's role is still unclear to establish formally at the outset as to whether s/he is acting as a delegate/representative of the Council to promote its interest, or if s/he has an independent role to fulfil on behalf of the committee or partnership. If it is an independent role, s/he will have to uphold the Committee's or partnership's interests, even when the same may be in conflict with the policies and best interests of the Council whilst s/he is serving on the Committee or partnership **but not** whilst serving as a Councillor of the Council.
3. If the committee or partnership is seeking charitable status it will need to establish itself as a trust or incorporate to become a company limited by guarantee. Any Councillor becoming a Trustee or a Director will need to consider his/her duties as set out elsewhere in this guidance.

### Indemnities, Immunities and Insurance

4. Councillors appointed to a committee or partnership body can rely on the limited immunity provided under Section 265 Public Health Act 1875 unless they are there in an independent role. Officers will advise you whether the body has taken out any relevant insurance that covers you as a member in the carrying out of your responsibilities as such. However where insurance is not provided you should raise this with Legal & Democratic Services for further guidance and advice.

**Equality Act 2010****Public sector equality duty**

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:-
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:-
  - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - (c) 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.
- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:-
  - (a) tackle prejudice, and
  - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- (7) The relevant protected characteristics are:-
  - age;
  - disability;
  - gender reassignment;
  - pregnancy and maternity;
  - race;
  - religion or belief;
  - sex;
  - sexual orientation.
- (8) A reference to conduct that is prohibited by or under this Act includes a reference to:-
  - (a) a breach of an equality clause or rule;
  - (b) a breach of a non-discrimination rule.

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

**10. 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 – 18<sup>th</sup> June 2014

## **11. 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 Received**

Buckland St Mary – Proposed change of use of land from agricultural to mixed use. Retention of 3 No. shepherds huts, decking, summer house and extension to existing garage and all other associated works for proposed business plan (personal permission to applicant). (GR 324052/114135), Land Adjoining Bray Cottage, Birchwood Road, Buckland St Mary, Chard, Somerset – Ms Helen Humble.

***Background Papers:* None**

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

## 12. 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 at 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 – 18<sup>th</sup> June 2014

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

The next scheduled meeting of the Committee will be held on Wednesday, 16<sup>th</sup> July 2014 at Horton Village Hall.

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## Planning Applications – 18<sup>th</sup> June 2014

### Planning Applications will be considered no earlier than 6.30 pm.

Members of the public who wish to speak about a particular planning item are recommended to arrive for 6.15 pm.

#### 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
39	CHARD JOCELYN	13/02132/FUL	Demolition of existing buildings, erection of 10 No. dwellinghouses including alterations to access and provision of associated parking. (GR:332706/108539)	Millfield Industrial Estate Millfield Chard	Brookvale
52	CHARD AVISHAYES	14/00554/REM	The erection of 14 No. detached dwellinghouses together with garages, access and landscaping (Reserved Matters). (GR:333495/109451)	Land At Touches Lane Chard	Freemantle Capital Partners (Chard) Ltd

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

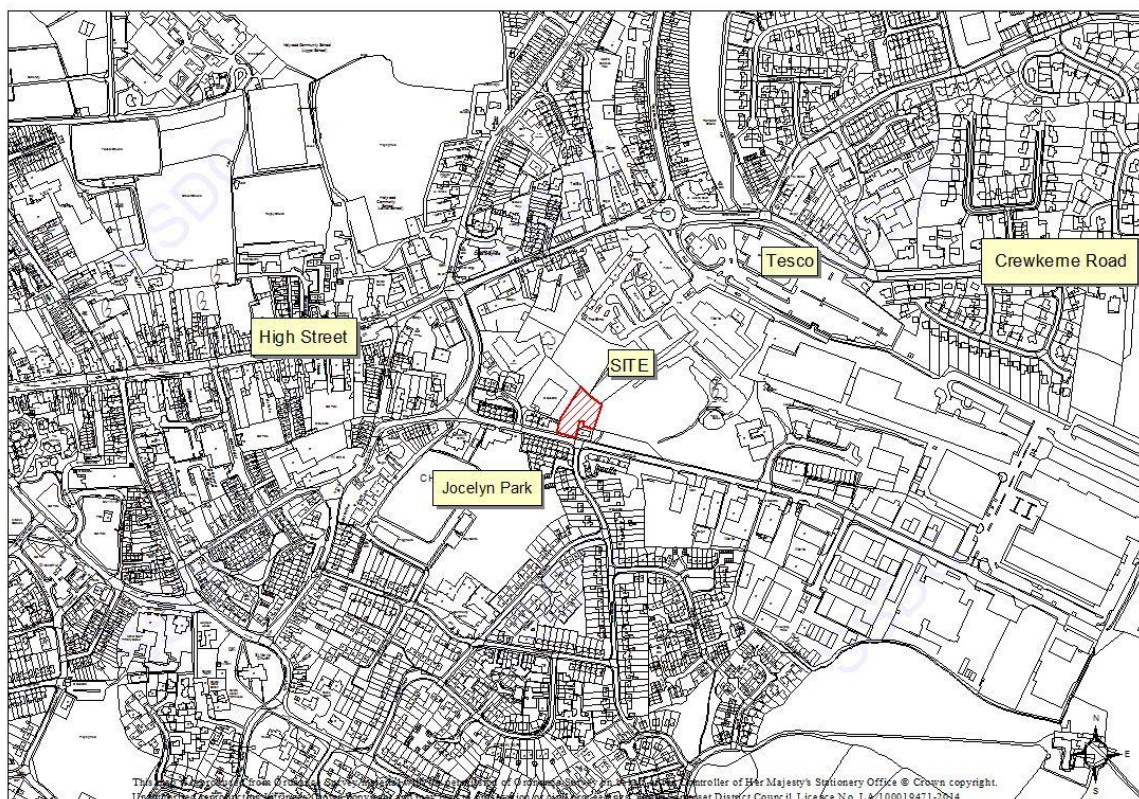
**Officer Report on Planning Application: 13/02132/FUL**

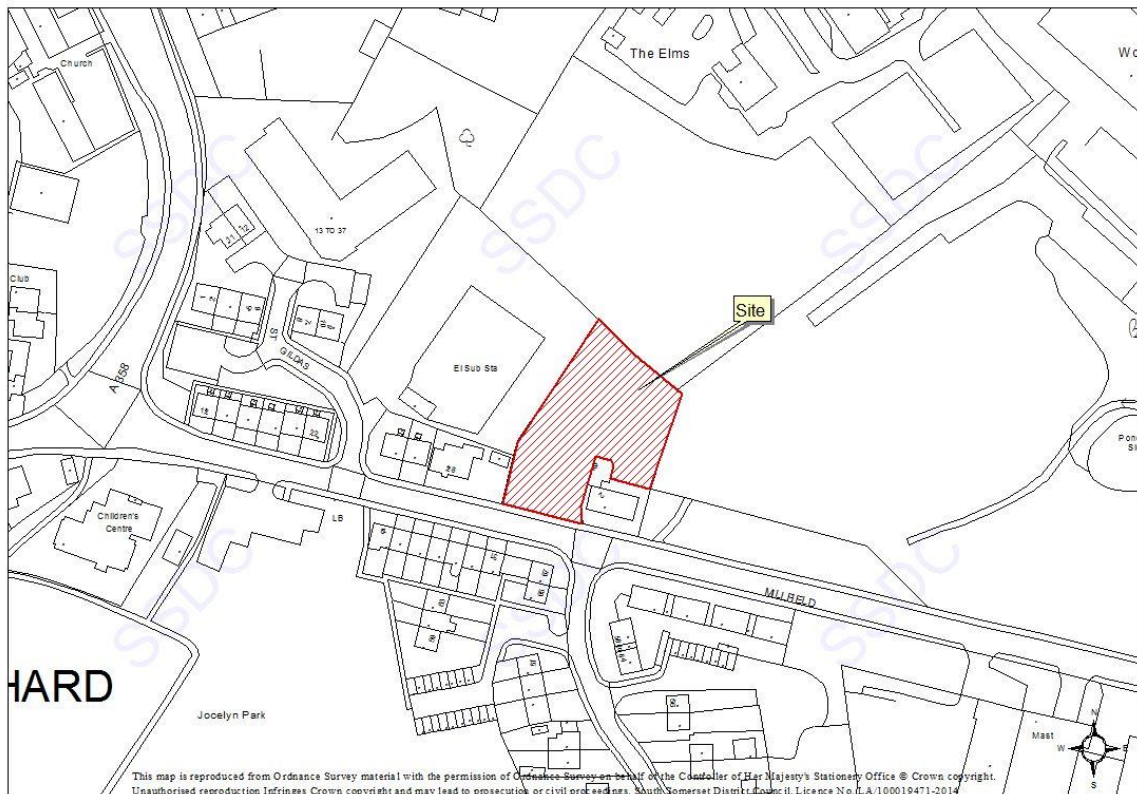
<b>Proposal:</b>	Demolition of existing buildings, erection of 10 No. dwellinghouses including alterations to access and provision of associated parking. (GR 332706/108539)
<b>Site Address:</b>	Millfield Industrial Estate Millfield Chard
<b>Parish:</b>	Chard
<b>JOCELYN (CHARD) Ward (SSDC Member)</b>	Cllr D M Bulmer
<b>Recommending Case Officer:</b>	Louisa Brown Tel: (01935) 462344 Email: louisa.brown@southsomerset.gov.uk
<b>Target date:</b>	24th January 2014
<b>Applicant:</b>	Brookvale
<b>Agent: (no agent if blank)</b>	Shaun Travers Boon Brown Architects Motivo Alvington Yeovil, Somerset, BA20 2FG
<b>Application Type:</b>	Major Dwlgns 10 or more or site 0.5ha+

**REASON FOR REFERRAL TO COMMITTEE**

This application is being referred to Area West Committee to enable the issues raised, in relation to planning obligations and highway safety, to be fully debated.

**SITE DESCRIPTION AND PROPOSAL**





This is an application seeking full planning permission for the demolition of existing buildings, erection of 10 no. dwellinghouses including alterations to access and provision of associated parking, made up of 1 no. 4 bedroom unit, 2 no. 3 bedroomed units and 7 no. 2 bedroomed units.

The site is located within the development area for Chard, on the north side of Millfield, 145 m from the intersection with the A358. The site includes a bungalow fronting onto Millfield and a small industrial works area of some 1600 sq. m taking access onto Millfield to the east of the bungalow. The proposal will result in an additional 9 dwellings and 1 no. replacement dwellinghouse.

The industrial portion of the site is developed with two buildings in sound condition, but currently not in use. Large mature trees occupy some edges of the site, although the best of these are not within the site itself (to the north).

To the north and east of the site are industrial units occupied by Brecknell Willis, some of which are still under construction, to the west is an electricity substation and then residential development and to the south opposite the highway are residential dwellinghouses.

The layout of the scheme has been amended and this report is based on the amended plans.

## HISTORY

08/03241/REM: the erection of 10 no. dwellinghouses including alteration to access and provision of associated parking - approved 10/11/08

07/02532/S73: Application to remove condition no. 10 of decision notice 06/01500/OUT relating to visibility splays to be provided before commencement of residential

development - approved 06/08/07

06/01500/OUT: residential development including alterations to access and provision of associated parking - approved 11/01/07

90/00484/FUL: the erection of six light industrial units - approved 23/05/90

The occupation of the bungalow was originally tied by condition to the industrial use. This restriction appears to have been lifted in 1981 in an application relating to independent retention of the bungalow.

## **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:

Government Guidance:

National Planning Policy Framework

Chapter 6: Delivering a wide choice of high quality homes

Chapter 7: Requiring Good Design

South Somerset Local Plan (Adopted April 2006):

Saved Policy ST3 - Development Areas

Saved Policy ST5 - General Principles of Development

Saved Policy ST6 - Quality of Development

Saved policy ST9 - Crime Prevention

Saved Policy ST10 - Planning Obligations

Saved Policy CR2 - Provision of Outdoor Playing Space and Amenity Space in New Development

Saved Policy CR3 - Off Site Provision

Saved Policy EP6 - Demolition and construction sites

Saved Policy ME6 - Retention of Land and Premises

Saved Policy HG1 - Provision for new housing development

Saved Policy HG4 - Housing Densities

Saved Policy HG7 - Site Targets and Thresholds

South Somerset Sustainable Community Strategy

Goal 3 - Healthy Environments

Goal 7 - Distinctiveness

Goal 8 - High Quality Homes

Goal 9 - A Balanced Housing Market

## **ENVIRONMENTAL IMPACT ASSESSMENT**

None required.



## CONSULTATIONS

### Chard Town Council:

Recommend approval of amended plans.

### Highway Authority:

An objection has been raised in regard to the lack of visibility splays due to the increase in traffic movements to the sight.

Officer comments - The 2008 consent went through with no highway objection in response to this the highway officer has stated:

"On the subject of visibility, the objection does still stand. My predecessors considered that there would be no increase in traffic using the access. I can't find any justification for this view and it's hard to imagine what activity took place on the site that would match the traffic from 10 dwellings. The last permission prior to the residential permissions was for 6 light industrial units. The traffic generation for such a development would be a few tens of movements per day, well short of the 70 to 100 movements from 10 dwellings. There is no accident recorded in the last 5 years within 800 metres which suggests that there isn't a problem with the access but, with unsecured visibility across third party land, an increase in traffic and more importantly a change in the type of traffic could lead to problems in the future. Current visibility is across the front gardens of the two bungalows to the east of the access. Neither has a vehicular access and future occupants could put up a hedge or fence obstructing the visibility without any way of controlling it."

### SSDC Ecologist:

"I've considered this application and I don't have any comments nor recommendations to make."

### SSDC Tree Officer:

There where original concerns over the site location to trees on the north boundary. Amended plans have been received showing the red site line in a different location and the Tree Officer has stated:

"I can confirm that the tree canopies appear to have been clearance-pruned away from the site since the 2008 application and a large Ash tree has been severely reduced. The position of the chain-link fence is approximately 5 metres from the trunks of the trees. The amendment to the site boundaries has increased the distance by approximately 2 metres, alleviating my concerns relating to overhang."

He goes on to remind of concerns over the protection of roots and recommend the use of car ports to stop drifting sticky honeydew going onto cars, however subject to the recommended condition "I do not believe the proposal is likely to cause an unacceptable level of damage to the health of the adjoining trees."

### Economic Development:

They concur with the original objections raised by EPU in relation to the possible noise objections from future residents could affect the business known as Brecknell Willis and recommend refusal on those grounds. However amended plans have been received that EPU have no objection to, no further comments were received in respect of the amended plans.



**Environment Agency:**

No objection subject to recommended conditions.

**Environmental Protection Unit:**

Initially objected to the scheme due to impact on the business to the north. A Desk top noise report has been submitted and amended plans varying the site layout. Based on the additional/amended information EPU have stated:

"In light of the additional information and an appeal decision I came across from last year Ref: APP/Y3940/A/13/2194511, I do not believe a refusal on the grounds of noise or future noise can be sustained in this instance.

I therefore consider that the revised layout is acceptable and the proposed noise mitigation measures as per Enviro-plan, are conditioned to protect the amenity of future occupiers, should planning permission be granted."

**Wessex Water:**

No objection raised. Informatives to be added.

**SCC Education:**

No comments received.

**Somerset Waste Partnership:**

No comments received.

**Police Architectural Liaison Officer:**

No comments received.

**Western Power:**

No comments received.

**Strategic Housing Manager:**

Supports the proposal.

**Open spaces Officer:**

Would like off-site contribution of £2,734.60 to be spent on Jocelyn Park.

**Leisure Policy Officer:**

Requests a contribution of £43,679.99 (£4,901.87 per dwelling) for Sports, Arts and Leisure, broken down as follows:

Local Facilities - off site contribution towards:

- Enhancement of existing play area at Jocelyn Park - £7,741.96
- Enhancement of the existing youth facilities at Jocelyn Park - £1,520.16
- The provision of a new recreation ground in Chard, or enhancement of existing community pitches - £3,571.29
- The provision of new changing facilities in chard, or enhancement of existing

- community changing facilities - £7,250.84
- The development of a new community hall in chard or the enhancement of an existing hall - £4,678.99

Plus the commuted sum of £8,165.51 to all of the above.

Strategic Facilities - off site contribution towards:

- Expanding and enhancing the Octagon theatre in Yeovil - £2,817.40
- The enhancement of the sand based AGP at CRESTA, Chard (policy AGP7) - £723.64
- The provision of a new pool in Chard (Policy SP4) or the enhancement of the existing pool at CRESTA (policy SP6) - £1,647.70
- The provision of a new indoor tennis centre in Yeovil, likely to be within Yeovil sports Zone (policy ITC1) - £2,133.20
- The development of a new sports hall in Chard (policy SH9) or enhancement of an existing sports hall at CRESTA (policy SH5) - £3,429.30

#### **District Valuer:**

Has confirmed that the scheme is not viable should contributions be paid, concluding: "Incorporating revenues and costs as set out in this report (by the applicant), and having carried out a detailed review of the scheme, I conclude that when contributing a potentially policy compliant capital sum in respect of section 106 a deficit will result, and therefore the scheme cannot be considered financially viable."

#### **REPRESENTATIONS**

Thirty one neighbours were notified and a site notice displayed. Five letters of objection have been received two of which were in relation to the amended plans and from previous objectors, making the total objectors a total of three. The issues raised were:

- Traffic increase onto junction and additional concerns raised over the current operation of the existing industrial units within Millfield Industrial Estate
- When the site was originally developed there were covenants over height restrictions of the buildings (Officer comment: this is a civil matter)
- Millfield should be cut off at Bubwith Road and industrial traffic redirected to a new route at the end of Millfield. Extra residential traffic mixed with industrial traffic does not mix well
- 2 Rosebank will lose privacy and security due to the loss of entrance gates and overlooking
- 2 Rosebank will suffer from noise and light pollution from development
- There is already noise and disturbance from Brecknell Willis that has caused damage to 2 Rosebank (Officer comment not a consideration of this application)

#### **CONSIDERATIONS**

The previous planning permission for this site recently expired as such this submission has been made. The report is based on the most recent amended plans that vary the layout of plots 9 and 10 to address concerns of noise disturbance to future occupants.

The issues to assess as part of this application are the loss of employment land, visual amenity, residential amenity, tree protection, highway safety and developers obligations.

#### **Loss of Employment Land:**

The issue of loss of employment land has been established as part of the previous

consents on the original outline consent in 2006 it was stated by Planning Policy:  
"As regards the loss of employment land issue, given the very modest size, scale and nature of the employment site and its use relative to the rest of Chard, I do not consider that the loss of this particular site would result in significant adverse impact on employment opportunities. I do not therefore consider that the proposal is contrary to Policy ME6 of the SSLP."

There has been no change to the policies mentioned and since 2006 the employment land to the north of the site has been developed further, as such it is considered that the loss of the employment land would not adversely impact on employment opportunities.

**Visual Amenity:**

There are currently two detached bungalows at the entrance of the site, one is to be demolished and replaced by plots 1-3 the other will be retained as it is separate ownership. The bungalows are of brick construction under a tiled roof with white UPVC windows. Opposite the site are brick two-storey terraced and semi-detached dwellings. The proposed layout and design of the dwellings is a simple approach of 3 no. terraced dwelling fronting the highway and then to the rear of the site a terrace of 3 no. dwellings and pair of semi-detached dwellings and in the northeast corner building housing 2 no. flats.

The proposed dwellings will be finished in brick under a concrete interlocking roof tile with UPVC windows. The terrace fronting the highway will be set back from the highway edge with a small garden area to the front and stone wall, in line with the current layout of the bungalow.

The overall design is similar to the previous approved scheme. The materials are considered to be in keeping with those in the locality and the finishing materials and design acceptable.

**Residential Amenity:**

To the east and north the site are industrial premises belonging to Brecknell Willis that are still under construction, also along the north boundary are some tall trees, although they are not within the red site line so out of the applicants control. Objections were originally raised by EPU and Economic Development in relation to possible, noise impact on future residents from the employment land adjoining the site and how this could in turn have an adverse impact on the existing business.

Given the concern raised plots 9 and 10 have been reconfigured to ensure the rooms nearest to the boundaries are not bedrooms and the living room windows all face south east and southwest away from the employment land. Along with this a noise report has been submitted and based on the additional information and amendments made EPU no longer object to the proposal. It should also be noted that when Brecknell Willis was given approval to expand the 2008 planning permission for 10 dwelling on this site was extant and as such would have been taken into consideration when allowing the business to expand.

To the west of the site is an electricity substation for which western power have made no comments. There is a residential bungalow located to the west of the site fronting the highway and to the south corner of the site and adjacent to the access there is a bungalow. It is considered that there will be no adverse impact on the dwelling to the west given the distance from the nearest dwelling. The property to the south has raised objections over the impact on security and privacy.

As part of the proposal the large access gates to the industrial buildings will be removed, no. 2 Rosebank will still have access to their rear parking area. The loss of the security gates could happen at any stage and are not a material consideration of this application. It is considered that the overall security of the site will improve due to the development of occupied dwellings rather than disused commercial premises as is currently the situation.

To the rear of no. 2 Rosebank there will be a parking area and then on the northeast corner of the site the two-storey block containing 2 no. flats. On the southwest elevation of this building there will be one ground floor and one first floor window serving bedrooms these are approximately 16 metres from no. 2 Rosebank's parking area and 24 metres from the rear elevation of the bungalow. It is considered that given the distances from the bungalow there will be no adverse loss of privacy or impact to the residential dwelling.

Objections have also been raised with regard to noise and pollution from the development. The overall construction works will result in an impact on nearby residents however this is expected with any development. Generally once the site is occupied and completed it is considered that given the orientation of the properties there will be no adverse impact on residents by reason of noise and additional light above and beyond the current surrounding situation within this location of mixed residential and industrial uses.

It is considered that the proposal will not adversely affect residential amenity by reason of noise disturbance to future residents, or loss of privacy.

**Tree Protection:**

On previous applications the Tree Officer had concerns that were addressed and overcome. Certain tree works have taken place since the 2008 application and the Tree Officer has no objection to this application subject to a condition for tree protection measures being put into place.

**Highway Safety:**

The Highway Authority object to the proposal as it has not been proven if the site does or does not represent a change in traffic movements above or below the current use at the site and without such proof one way or another the Highway Authority must insist on the correct visibility splays which are not able to be achieved as the land to the east of the site is outside of the applicants ownership.

There have been objections raised by local residents with respect of the increase in traffic at the junction and the overall traffic generated by Millfield Industrial Estate. Whilst highways object to the lack of visibility splays for the use of the access they have raised no concerns over the increase level of traffic using the current highway network to the site.

The site exits onto a unclassified road and it is considered that whilst the previous permission has expired the fact remains that there was no highway objection to it and it was considered that the traffic movements would not adversely be above and beyond those generated from the current use of the site and as such the visibility splays were not insisted upon.

Members will be aware of the previous consent and the objections now made for refusal but what must be considered under the NPPF is if the impact on the highway safety is severe? It is considered that given the previous lack of objection in 2008 it cannot now

be argued that the use of the access as it currently stands to serve 10 no. dwellings will result in a 'severe' impact on highway safety, seeing as there have been no significant changes since 2008 either with regard to the existing access or policy.

The 2006 outline consent had a condition attached for the site to provide visibility splays in both the east and west directions of the access. It became apparent that this was not achievable to the east as the land was not in the applicant's ownership and subsequently a S73 application was submitted in 2007 to remove this condition to which county highways raised no objection. There have been no changes since 2007 that justify overriding that decision with a refusal on this application on highway safety grounds. Should this application be approved then it is proposed to reinstate part of the visibility condition to ensure that across the site frontage there is no obstruction to visibility above 900mm, this will help to ensure that there is visibility provided within the applicant's control.

Objections were also raised with regard to the size of the tandem parking spaces, amended plans have been received and the Highway Authority has no objection to the parking layout which has addressed the issues raised. The parking strategy advised that the optimum number of spaces for the development should be 22, a total of 20 spaces have been provided. It is considered that this is acceptable as the highway authority has not objected to the number of spaces provided and the Parking Strategy merely advised 22 as an optimum level.

**Developer Obligations:**

The applicants have claimed that the contributions sought would make the development of 100% affordable housing unviable (HCA). This has been confirmed by the District Valuer and it has been agreed with the agent that should any house be sold on the open market the sports, arts and leisure contributions would be recovered at the amount required per dwelling sold.

The applicant is agreeable to this and this is considered to comply with saved policies CR2 and ST10.

**Conclusion:**

It is considered that provision of 9 further units of much needed affordable housing, which would contribute towards a balanced housing market as required by Goal 9 of the Sustainable Community Strategy, outweighs the failure to provide for open space and sports, arts and leisure contributions.

The proposal is of an acceptable form, design and layout that would have no negative impact on amenity and would not result in an unacceptable loss of employment land. Objections in respect of the impact of noise from Brecknell Willis have been overcome and there have been no objections from the Town Council.

Objections raised from residents have been addressed within the report. The highway objection still stands with respect to the need for improved visibility splays however it is considered that it would be unreasonable to recommend refusal of this application on that basis given that there has previously been no objection and since 2008 there has been no changes to current policy or the current situation at the site.

On this basis this application is considered acceptable.

**Section 106 Planning Obligations:**

A Section 106 Agreement would be necessary to ensure that all the new houses are affordable and that a contribution of £5700.00 is made towards mitigating the impact of the development on the nearby recreation ground (in lieu of the failure to provide any open space on this site or the adjoining site) and to ensure that Sports, Arts and Leisure contributions are made at the appropriate rate should any houses be sold off. Such obligations should be based on 9 dwellings, that being the uplift.

**RECOMMENDATION**

That planning permission is granted subject to:

(a) The prior completion of a Section 106 planning obligation (in a form acceptable to the Council's solicitor(s)) before the decision notice granting planning permission is issued to:-

- ensure that a contribution of £5700.00 is made to mitigate the additional wear and tear on the adjoining recreation space that would arise for this development due to the lack of on-site POS.
- ensure the delivery of the development as 100% affordable housing.
- Provide for a contribution of £4,901.87, open space and sports, arts and leisure contributions in relation to any houses that are sold on the open market as requested by the Leisure Policy Co-Ordinator.

b) The imposition of the planning conditions set out below on the grant of planning permission.

01. The provision of 10 units of much needed affordable housing outweighs the failure to provide for sports, arts and leisure contributions. The proposal is of an acceptable form, design and layout that would have no negative impact on amenity, highways safety or the supply of employment land. As such the proposal complies with saved policies ST5, ST6, ST9, ST10, CR2, CR3, EP6, ME6, HG1, HG4 and HG7, the NPPF Chapters 6 and 7, and would contribute towards Goals 3, 7, 8 and 9 of the South Somerset Sustainable Community Strategy.

**SUBJECT TO THE FOLLOWING:**

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

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

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

Drawing no. 2759/910 received 2 August 2013

Drawing no. 2759/911 received 2 August 2013

Drawing no. 2759/912 Revision A received 2 August 2013

Drawing no. 2759/913 dated 29/11/13 received 7 March 2014

Drawing no. 2759/914 dated 11/12/13 received 7 March 2014

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

03. The development hereby permitted shall not begin until the soil conditions have been assessed and if necessary a scheme to deal with contamination of land, controlled waters and/or ground gas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:

1. A site investigation report carried out by a competent person to include a desk study, site walkover, and the production of a 'conceptual site model' (CSM). The CSM will consider risks to human health and the environment. The report will state whether the site is 'fit for purpose' or whether further assessment is required.

2. A intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice. The report should refine and revise the CSM created in condition 1 (above) and include a detailed quantitative human health and environmental risk assessment. The report should state whether the site is 'fit for purpose' or whether remediation will be required.

3. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation should be stated, such as site contaminant levels or a risk management action, and how this will be validated as being remediated and fit for purpose.

4. In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or even actual remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority. The LPA will then consider if the findings have any impact upon the development and development must be halted on that part of the site and if the Local Planning Authority considers is necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the Local Planning Authority and then implemented in accordance with the submitted details.

5. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with Local Planning Policy and the NPPF.

04. Prior to the occupation of the dwellings hereby approved the noise mitigation measures shall be implemented as per the Enviro-plan submitted (dated March 2014) and shall thereafter be fuller maintained as such unless otherwise agreed in writing.

Reason: to protect the amenity of future occupiers in accordance with Local Planning Policy and the NPPF.

05. Prior to implementation of this consent, site vegetative clearance, demolition of existing structures, ground-works, heavy machinery entering site or the on-site storage of materials, a scheme of tree protection measures relating to retained trees adjoining the site shall be submitted to and agreed in writing with the Council and it will include the following details:

- The installation, specification and locations of tree protection fencing;
- a written statement committing to avoiding machinery movements and soil compaction, the storage of materials, the discharge of cement washings, the lighting of fires & carrying out ground-works within the fenced off areas and;
- a requirement for a pre-commencement site meeting to be held between the appointed building/groundwork contractors and the Council's Tree Officer (Phillip Poulton - 01935 462670), in order to ensure compliance with the agreed tree protection requirements.

Upon approval by the Council, the measures specified within the agreed scheme of tree protection measures & the tree protection plan shall be implemented in their entirety for the duration of the construction of the development, inclusive of landscaping measures.

Reason: To preserve the health, structure and amenity value of existing trees in accordance with the objectives within saved Policy ST6 (The Quality of Development) of the South Somerset Local Plan 2006 and those statutory duties as defined within the Town & Country Planning Act, 1990 (as amended)[1].

06. No development hereby approved shall be carried out until surface water drainage details, including calculations, have been submitted to and approved in writing by the local planning authority. Such details shall incorporate sustainable drainage techniques and once approved shall be fully implemented prior to the occupation of any of the units and shall be maintained in good working order at all times thereafter.

Reason: To ensure that the development is adequately drained in accordance with saved policy EU4 of the south Somerset local Plan.

07. No development shall be carried out until such this as details of the proposed levels have been submitted to and agreed in writing by the local planning authority. Once approved such details shall be fully implemented unless agreed otherwise in writing by the local planning authority.

Reason: In the interests of visual and residential amenity in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

08. No development shall be undertaken unless a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the phasing of construction, hours of construction, routing for construction vehicles, parking for construction and contractors vehicles, measures to reduce noise and dust from the site together with other measures that will reduce the impact of the construction process on the locality. The development shall thereafter be carried out in accordance with such details unless otherwise agreed in writing by the Local Planning Authority.



Reason: To safeguard residential amenity in accordance with saved policies EP6 and ST6 of the South Somerset Local Plan.

09. No development hereby approved shall be carried out until particulars of following have been submitted to and approved in writing by the Local Planning Authority:
- A. details of materials (including the provision of samples where appropriate) to be used for the external walls and roofs;
  - B. details of all hardstanding and boundaries.

Once approved such details shall be fully implemented unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of the area in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

10. No dwelling or flat shall be occupied until its parking space(s) and the turning area have been provided in accordance with the plans hereby approved. Thereafter all parking spaces and turning area shall be kept free of obstruction and available for the parking and turning of residents cars at all times.

Reason: To ensure that adequate parking is provided at all times in the interests of residents amenities in accordance with saved policies ST5 and ST6 of the South Somerset Local Plan.

11. The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwellings and the existing highway.

Reason: In the interests of highway safety in accordance with saved policy ST5 of the South Somerset Local Plan.

12. There shall be no obstruction to visibility greater than 900mm above adjoining road level forward of a line draw 2.4 metres back and parallel to the nearside carriageway edge over the entire site frontage. Such visibility shall be fully provided before works commence on the development hereby permitted and shall thereafter be maintained at all times.

Reason: In the interests of highway safety in accordance with saved policy ST5 of the South Somerset Local Plan.

**Informatives:**

01. The applicant is reminded of the comments made by the Environment Agency in their letter dated the 02/12/13, a copy of which is available on the Council's website.
02. The applicant is reminded of the comment of Wessex Water dated 31/10/13 a copy of which is available on the Council's website.

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

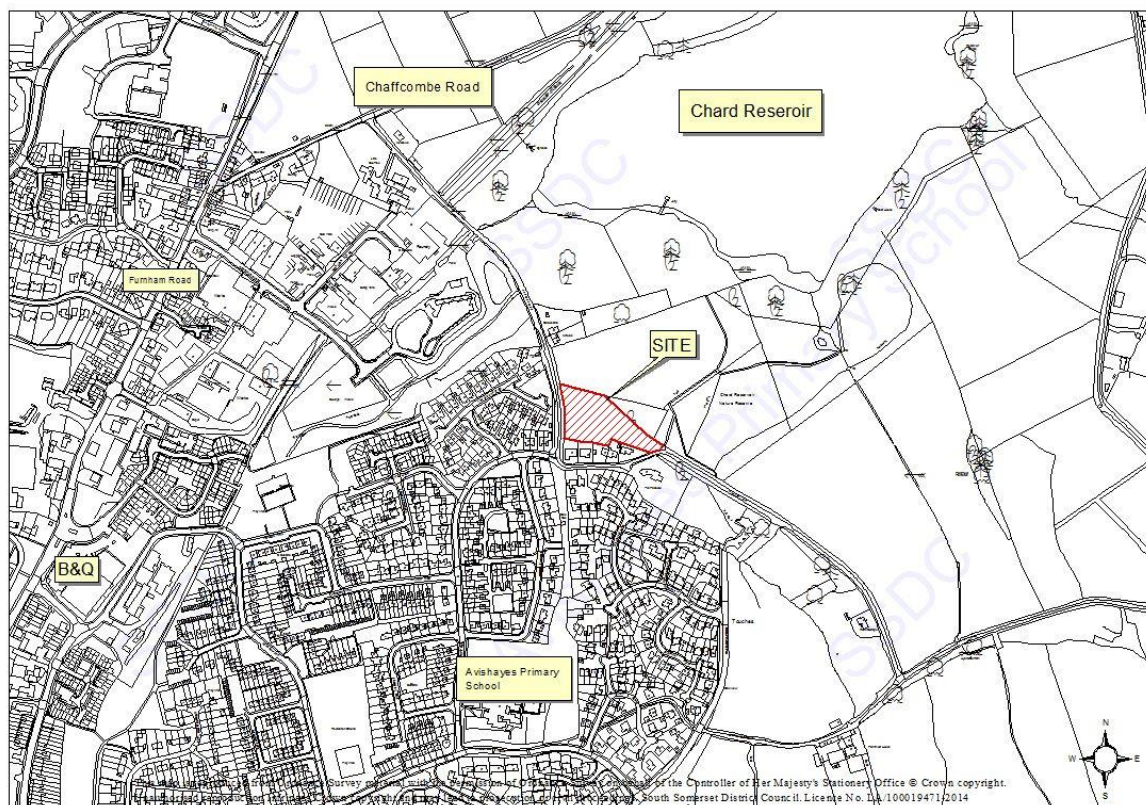
**Officer Report on Planning Application: 14/00554/REM**

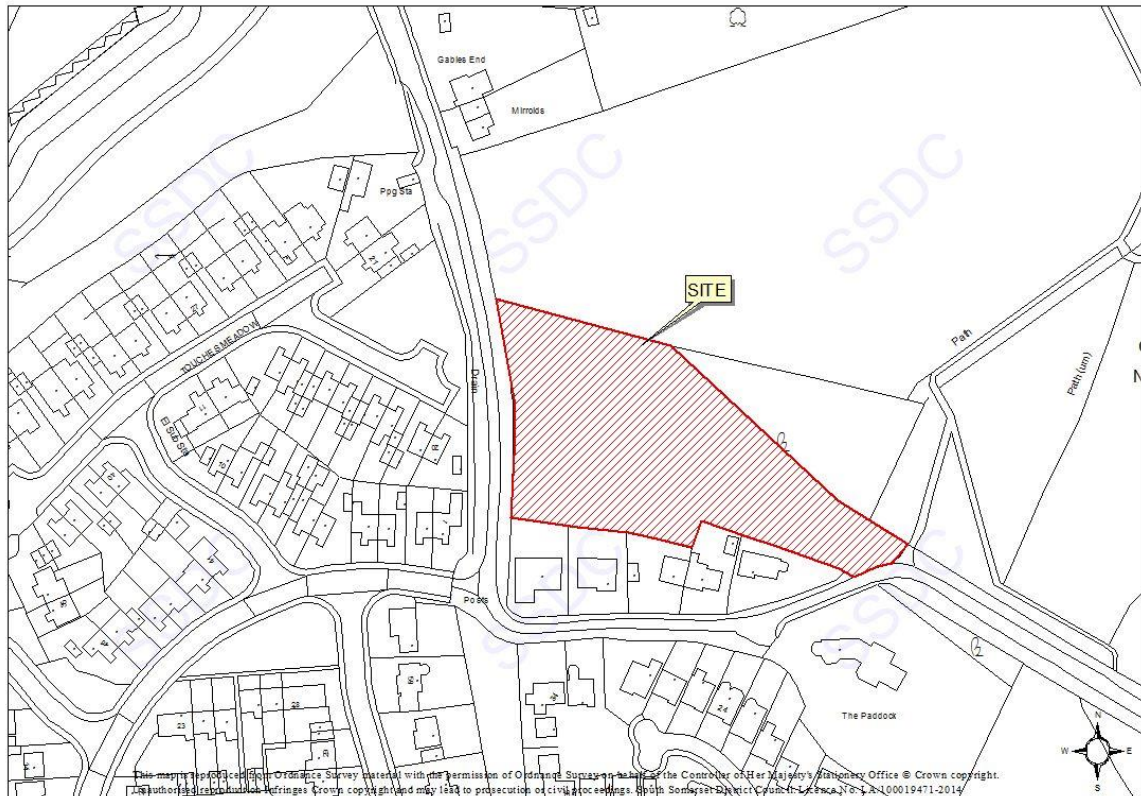
<b>Proposal:</b>	The erection of 14 No. detached dwellinghouses together with garages, access and landscaping (Reserved Matters). (GR 333495/109451)
<b>Site Address:</b>	Land At Touches Lane Chard
<b>Parish:</b>	Chard
<b>AVISHAYES (CHARD) Ward (SSDC Member)</b>	Cllr N J P Mermagen
<b>Recommending Case 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).
-