



**Regulation Committee - Tuesday 17th March 2020**

Please find attached draft minutes of 15<sup>th</sup> October 2019

# Agenda Item 1

## South Somerset District Council

**Minutes** of a meeting of the **Regulation Committee** held at the **Council Chamber, Council Offices, Brympton Way, Yeovil on Tuesday 15 October 2019.**

(10.00 am - 2.17 pm)

**Present:**

**Members:** Councillor Peter Gubbins (Chairman)

Jason Baker	Crispin Raikes
Neil Bloomfield	Paul Rowsell
Tony Capozzoli	Andy Soughton
Henry Hobhouse	Mike Stanton
Tony Lock	Linda Vijeh
Sue Osborne	

**Officers:**

Simon Fox	Lead Specialist - Development Management
Andrew Gunn	Specialist (Development Management)
Paula Goddard	Specialist - Legal Services
Angela Cox	Specialist - Democratic Services

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**89. Minutes (Agenda Item 1)**

The minutes of the Regulation Committee meetings held on 16<sup>th</sup> July 2019 and 3<sup>rd</sup> September 2019, copies of which had been circulated, were agreed as a correct record and signed by the Chairman.

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**90. Apologies for Absence (Agenda Item 2)**

Apologies for absence were received from Councillors Adam Dance, David Recardo and William Wallace.

It was noted that Councillor Mike Stanton was acting as substitute for Councillor Adam Dance.

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**91. Declarations of Interest (Agenda Item 3)**

Councillor Neil Bloomfield declared a personal interest in Agenda item 5: Planning Application 18/01917/FUL – Land off Shiremoor Hill, Merriott, as the applicant was known to him.

Councillor Peter Gubbins advised that he had visited the site of Planning Application 18/03298/OUT – Land rear of Public House, Broadway Road, Charlton Adam and had been directed to the site by the Chairman of the Parish Council but no discussion on the application had taken place between them.

## 92. Public Question Time (Agenda Item 4)

There were no questions from members of the public present.

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## 93. Planning Application 18/01917/FUL - Land off Shiremoor Hill, Merriott (Agenda Item 5)

### ***Erection of 39 No. dwellings and associated works including access, open space, parking, landscaping and drainage infrastructure***

The Specialist, Development Management, introduced the report and advised that the application proposed 39 dwellings on a site in the centre of Merriott. Land to the North already had outline planning permission for 30 dwellings which was a material consideration in the determination of this application. Part of that application included a gift of land to the Parish Council which was immediately to the North of this application site. He advised that:-

- A revised site layout had been received.
- 10 additional car parking spaces were now proposed.
- A landscape plan was proposed.
- Attenuation tanks would be sited underground.
- The stream through the site would be culverted.
- The applicant was Stonewater Housing and 37 of the proposed 39 houses would be affordable.
- The principle of development on the site had been established as there was an extant outline permission and this was a Full application.

To address the Area West Committee's reasons for refusal, the Specialist, Development Management advised:-

- A viability report had been received with the application and because the SCC Education Service had revised their pupil education contribution from 9 to 2 as enrolment at the school roll was falling, the Valuation Office had confirmed the scheme was now fully compliant with all other contributions.
- The application proposed an additional 9 dwellings above the number already agreed at the site and although 200 new dwellings already had planning permission in Merriott, an additional 9 was not so significant to warrant refusal.
- Merriott was a rural settlement and Policy SS2 would normally apply but it was considered out of date because of the Council's lack of a 5 year housing land supply.
- The optimum number of car parking spaces for the site was 125 and the application proposed 103, however, the Highway Authority had not raised any objections to this.
- The drainage scheme had been amended to underground attenuation tanks and it was proposed to culvert the stream as a bridge across it was not viable.
- The Right of Way across the site would need to be diverted and a separate application to SCC would need to be made but their Rights of Way officer had not raised any objections to this.
- The site was not part of the County Wildlife site as this was further to the West.

In response to questions from Members, the Specialist, Development Management advised:-

- The local Flood Authority were satisfied with the proposed attenuation tanks and culverting of the stream.
- SCC had increased their assessment of the number of children per household but the school roll showed a reduction in pupils.
- A Housing Needs Assessment had been conducted in the village 2 years previously and it did reveal some demand for housing but there was also a district wide demand.
- Existing development sites within the village included Church Street, Moorlands and Tail Mill – some were complete and some not yet started.
- Ringfencing the affordable houses to local area residents was possible as part of the Section 106 Agreement.
- It was not possible to prevent cars parking in the hammerhead turning area by planning condition. Double yellow lines could be painted if there was a parking issue.
- The applicant would be responsible for the maintenance of the attenuation tanks which would discharge into the local water course at an acceptable rate.

The Ward Member, Councillor Paul Maxwell paid tribute to the Specialist, Development Management for his professional service as he was due to take up new employment. He said the original application had been controversial and it remained so. It would be more harmful to allow 39 houses, the gradient at the site was steep, there were concerns about parking, loss of green fields and harm to the local ecology. He referred to the poor public transport links to the village and said to grant permission would oppose the Council's Environment Strategy and Housing Needs Assessment. He asked that the Committee refuse permission.

The Committee were then addressed by two members of the Parish Council, the Parish Clerk, a representative of the Merriott Heritage Trust and a local resident in opposition to the application. Their comments included:-

- The Parish Council accepted the need for new homes but this was the fourth significant development in a rural settlement. They request the application be refused so they can work with the developer to achieve a better scheme.
- Holywell is a historic route along a sunken footpath and to culvert this stream with 4m high banks where the gradient was 1:12 would create problems for anyone with significant mobility issues.
- The development only proposed 83% of the optimum number of car parking spaces for the site. A site at Castle Cary was refused permission with only 90%.
- There were 7 requests for one bedroom accommodation on the Homefinder Somerset register but no one bedroom properties were proposed in the development.
- The application did not propose any photovoltaic panels, electric vehicle charging points or ground source heat pumps which was at odds with the Council's emerging Environment Strategy.
- The land value assessment was produced with a deficit land value, based upon the actual price paid for the land which is contrary to planning guidance. This assessment cannot be relied upon to justify the viability.
- The original assessment which secured the outline permission was based upon a bridge to cross the stream. The current assessment uses the lower cost option of a culvert yet the external costs increased by 57% with no explanation.

- The original outline assessment included 5 one bed dwellings but the current scheme provides no one bed dwellings.
- The Merriott Heritage Trust interest is to protect Holwell Lane which leads to the Holy Well which is an ancient thoroughfare.
- Holwell Lane had been deemed a public highway and if planning permission was granted then a stopping up order would be required from the Secretary of State rather than a Footpath Diversion Order.
- The Parish Council gave conditional consent to the original outline application with an alternative access which had been disregarded by the developer. That alternative access was available and should be investigated properly.
- Shiremoor Brook runs through my property and can reach the top of the bank during high rainfall. Object to replacing the attenuation ponds with tanks. There needs to be better treatment of water on the site before permission is given.

The Agent for the applicant advised that 37 of the proposed 39 houses would be affordable and would be a mix of family homes and bungalows. He noted that none of the statutory consultees had objected and the Development Officer had consistently recommended approval. He said that a bridge over the stream was not viable and there had been no objection from the SCC Rights of Way Officer to divert the footpath. He concluded that the scheme would be an asset to the village and asked the Committee to approve the application.

During discussion, the following points were made:-

- SCC Highway Authority had a parking standard and it should be met.
- There were no proposals to include solar energy, electric charging points or to orient the houses for maximum solar gain.
- The application had not changed significantly from that refused by Area West Committee.
- The lack of public transport in the village meant cars were essential and the lack of car parking spaces would be a problem.
- If the public thought there was no development happening in a village then they would not register an interest to live there on Homefinder Somerset.
- Outline permission for 30 houses had already been agreed.

At the conclusion of the debate, it was proposed and seconded to approve the application with an additional condition requiring electric vehicle charging points at the site. However, on being put to the vote, this proposal was defeated by 3 votes in favour and 8 against.

Members then discussed possible reasons to refuse permission and it was agreed to adjourn the meeting for 5 minutes for officers and Members to propose valid reasons for refusal.

When the meeting re-adjourned, the following reasons for refusing permission were proposed:

1. The development has 22 fewer parking spaces than required by the adopted Somerset County Council Parking Strategy which would result in overspill of parking onto the estate road causing an adverse impact to highway safety and causing difficulty for emergency services. This would be contrary to Policies EQ2, TA5 and TA6 of the South Somerset Local Plan (2006-2028).

2. The culverting of the stream impacts adversely upon biodiversity and heritage assets whilst raising watercourse maintenance issues and requiring the diversion of the right of way to a suboptimal alternative contrary to Policies EQ2, EQ3 EQ4 of the South Somerset Local Plan (2006-2028) and Chapters 15 and 16 of the NPPF.
3. The scheme fails to maximise solar gain opportunities and excludes the provision of air source heat pumps and solar panels, contrary to the sustainable construction aims and objectives of Policy EQ1 of the South Somerset Local Plan (2006-2028) and Chapter 14 of the NPPF.
4. The proposal does not include any 1 bed dwellings within the affordable housing mix and therefore fails to address local housing need as identified by application 16/00865/OUT.

The Lead Specialist, Development Management advised that the Local Plan did not contain a substantial policy on solar gain or air source heat and so the reason for refusal gave him some concern. Also, there was no specific policy requiring 1 bed properties and further consultation may be required to substantiate this reason.

On being put to the vote, planning permission was refused by 8 votes in favour and 3 against.

**RESOLVED:** That planning application **18/01917/FUL** be REFUSED for the following reasons:

1. The development has 22 fewer parking spaces than required by the adopted Somerset County Council Parking Strategy which would result in overspill of parking onto the estate road causing an adverse impact to highway safety and causing difficulty for emergency services. This would be contrary to Policies EQ2, TA5 and TA6 of the South Somerset Local Plan (2006-2028).
2. The culverting of the stream impacts adversely upon biodiversity and heritage assets whilst raising watercourse maintenance issues and requiring the diversion of the right of way to a suboptimal alternative contrary to Policies EQ2, EQ3 EQ4 of the South Somerset Local Plan (2006-2028) and Chapters 15 and 16 of the NPPF.
3. The scheme fails to maximise solar gain opportunities and excludes the provision of air source heat pumps and solar panels, contrary to the sustainable construction aims and objectives of Policy EQ1 of the South Somerset Local Plan (2006-2028) and Chapter 14 of the NPPF.
4. The proposal does not include any 1 bed dwellings within the affordable housing mix and therefore fails to address local housing need as identified by application 16/00865/OUT.

*(Voting: 8 in favour, 3 against, 0 abstentions)*

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**94. Planning Application 18/03298/OUT - Land rear of Public House, Broadway Road, Charlton Adam (Agenda Item 6)**

***Outline application for residential development of up to 24 No. dwellings, access via the existing Fox and Hounds Public House access, provision of orchard, public open space and associated infrastructure.***

The Lead Specialist, Development Management, introduced the report in the absence of the case officer. He advised the application was for outline permission for 24 dwellings with access through the car park of the Fox and Hounds public house. A late representation had been received from the Chair of Governors of the Charlton Mackrell primary school stating that they were operating below their capacity of 90 pupils and so the school welcomed appropriate developments which attract families to the area. He noted that an additional condition was proposed to phase works to allow footpath links to existing rights of way. He advised that:-

- The site was 2.5ha in size and to the east of Charlton Adam.
- The Parish Council had made reference to the linear form of development in Charlton Adam however, this had been breached by developments at Withyhayes Road and Neville Close.
- The field to the north of the site had planning permission for 8 dwellings approved in 2017 – 2019.
- The site was remote from the conservation area and heritage assets within the village.
- A previous application in 2016 at the site was refused permission because of vehicle access but this had been changed to access through the public house car park.
- There was a proposed pedestrian access to a forecourt area to provide a link to the village.
- The application was for outline permission and so all details relating to layout and design were for later determination.
- The hedgerow boundaries and trees were conditioned to be protected.
- There was a visibility splay of 43m either side of the access and the application was supported by the SCC Highway Authority.
- All policies of the Local Plan were complied with.
- The lack of a 5 year housing land supply and the lack of technical objections meant that presumption was in favour of the development.
- 35% affordable housing would be provided and contributions would be made towards education and sports/leisure in the area.
- Flooding and drainage were a concern for Area East Committee and so representatives of Wessex Water were present at the meeting.
- There had been a significant number of representations received but the weight of objection could not be a reason for refusal. There must be clear planning reasons to refuse.
- The reasons for refusal put forward by Area East Committee were addressed in the report and officers from Wessex Water and SCC Highways were present.

In response to questions from Members, the representative from Wessex Water and the Lead Specialist, Development Management advised:-

- Non-return valves were usually installed in properties lower than the sewerage system or where deemed necessary.
- There were over 1,200 overflows in the Wessex Water area which were permitted by the Environment Agency to protect properties from sewer flooding. Details of how often this occurred was published on their website.
- Wessex Water could not refuse to connect new properties to an existing water and sewage system but would install mitigation measures so any new connection did not make the existing system any worse.

- Some sewer relining had already been undertaken in Charlton Adam and more would be done in the future.
- Developers pay an Infrastructure charge to Wessex Water and part of this was used to instigate improvements to the existing system.
- There was an overflow from the Charlton Adam pumping station into the watercourse adjacent to the site which operated during periods of prolonged wet weather but the sewage entering the watercourse would be very dilute.
- An overflow monitoring system was due to be installed at the pumping station.

One of the Ward Members, Councillor Charlie Hull spoke of his opposition to the application. He said the development was not safe, necessary or deliverable. There had been rapid housing developments in Somerton and Ilchester but employment opportunities were lacking within a 30 minute drive of Charlton Adam. The local primary school was anticipated to be at full capacity within 5 years without any additional development. The 24 houses proposed would be mostly unaffordable for young families and would create dangerous levels of traffic and hazardous emissions.

The Committee were then addressed by the Chairman of the Parish Council and 5 local residents in opposition to the application. Their comments included:-

- The Parish Council had written twice in detail but their concerns were not addressed in the officer's report, particularly reference to Policy SS2.
- The development proposed was a suburban cul-de-sac which was at odds with the linear development in the village.
- The historic gap between Broadway and Charlton Adam should be preserved.
- The village already had poor sewer capacity.
- There had always been issues with flooding in the parish but in the last 5 years they had got worse. Some residents had sewage entering their showers and toilets.
- In 2014 the overflow from the pumping station was in operation for 6 weeks.
- Local Plan policies and the NPPF stated that developments should have safe access for all, limit the need to travel and make pedestrian and cycle access a top priority but this village had no public transport and all services were to the west in Somerton.
- The developers proposal for a safe pedestrian access to the village was disingenuous as it was currently an agricultural access and not a footpath.
- The only deliverable footpath to the development would be through the public house's garden and access to the village would be along the roadside by a narrow s bend with no walkway which would be dangerous for pedestrians and road users.
- There was no evidence the police authority were consulted on the only deliverable footpath access past the public house, which was also an inappropriate route for children and minors.
- The Supreme Court had ruled that just because a policy is out of date it does not mean it should be ignored. It was stated in a recent appeal that where an authority was unable to demonstrate a 5 year housing land supply, it was for the decision makers to use their planning judgement to decide the weight given to its housing policies.
- The SSDC Housing & Employment Land analysis states that the Charltons have seen a growth of 39 dwellings achieved against a growth figure of 21 with a further 16 committed.

The Committee were then addressed by two local residents in support of the application. Their comments included:-

- Most of the objections were from people who had only lived in the village for relatively a short time.
- The village had good local facilities and needed to grow, otherwise, the applicant would gain permission on appeal.
- We are responsible to deliver authentic quality buildings which create a material benefit to the village with gardens, use of natural materials and incorporating energy efficient solutions.
- A recent development at Keinton Mandeville has had a positive impact on their village shop.

The Committee were then addressed by the Agent for the applicant. He noted that Wessex Water had not raised any objection to the application and they were relining and rerouting the sewers in the area. There were no objections raised by the Highway Authority and there was no history of collisions in the area on their website. The footpath connections were proposed. The site would deliver affordable housing and the application was supported by the local primary school and two local businesses. He concluded that the previous reasons for refusal put forward by the Area East Committee had been addressed, there were no technical reasons to refuse it and so he asked the Committee to support the officer's recommendation to approve.

One of the Ward Members, Councillor Paul Rowsell, said that there was no history of accidents and local residents had been walking at the side of the road for years. His only concern were the sewage issues in the area.

The other Ward Member, Councillor Tony Capozzoli, said the public footpaths had been clarified and reiterated the point that local residents were used to walking at the side of the road. He said land supply was a problem and he proposed the officer's recommendation to approve the application.

This was seconded by Councillor Andy Soughton.

The Lead Specialist for Development Management and the representative from Wessex Water confirmed that:-

- the overflow into the watercourse was to the north east, outside the boundary of the development.
- Wessex Water were a discretionary consultee but they were routinely consulted on relevant developments. Other water management consultees were the Lead Local Flood Authority and the Environment Agency.
- It was legitimate to condition drainage of the land and sewage in outline approval conditions which could be linked to the submission of the reserved matters application.
- Refusing an application for a reason which could be mitigated by a condition would be held against the Council at any subsequent appeal.
- It was possible that some funding from the development could be used to bring forward sewage improvements.

During discussion, the following points were made:-

- Other developments had to install attenuation tanks for surface water drainage but raw sewage was allowed to be pumped into a watercourse here.

- concern at the pedestrian access through the public house garden and also the potential flood area concern.
- There were no statement of community engagement from the applicant to support the application.
- Allowing the development will bring sufficient built form to make the separation between Charlton Adam and Broadway even less.
- Reasons 1 & 2 of refusal of the 2017 application were still valid as the viability and practicality of the footpath had not changed.
- Not heard any solutions to the flooding and sewage problems in the area.
- Imposing a condition to upgrade the pumping station could affect the viability of the scheme and the applicant could appeal that condition.

Following discussions to impose conditions to cease the discharge of sewage into the nearby watercourse prior to the development commencing, a 15 minute adjournment was taken for officers to discuss this with the applicant's agent, Wessex Water and legal officers.

On re-convening, the Lead Specialist for Development Management advised that they had discussed a condition which Members and the applicant would find acceptable to approve the application. The Wessex Water representative had pointed out that foul sewage drainage was an existing problem in the village and any development should only need to mitigate its own impact rather than address the existing problems. The Wessex Water programme of improvements would continue and a standard condition would suffice and be judged at the appropriate time of the developments progress against the ongoing Wessex Water improvement works. If the improvement works had not progressed sufficiently when the development needed to connect to the sewage system then a condition to include sufficient on-site storage to offset that impact would be needed. Therefore, the proposed condition was:-

“Prior to the commencement of the development a scheme of foul sewage drainage shall be submitted to and approved by the LPA all agreed measures to be implemented prior to the first occupation”.

He clarified that the discharge into the ditch was by reason of an existing problem and a condition of the development could not be made to address existing sewage problems in the village. The development was only required not to make the existing situation any worse. The developer must not be included in the works of Wessex Water to avoid any transference of obligation.

The Chairman noted that the officer's recommendation to approve permission had been proposed and seconded with the additional condition: Prior to the commencement of the development a scheme of foul sewage drainage shall be submitted to and approved by the LPA all agreed measures to be implemented prior to the first occupation. This was put to the vote and failed by 4 votes in favour and 6 against with no abstentions.

It was then proposed and seconded that the application be refused for the following reasons:

1. The proposal fails to provide adequate foul sewerage drainage which would lead to the discharge of effluent into the eastern ditch which could impact on human health, contrary to Policies EQ2 and EQ7 of the South Somerset Local Plan (2006-2028).
2. The proposed in-depth development by reason of the site's relationship to the existing built form - the spread and dis-aggregated traditional linear character of

Charlton Adam - is not commensurate with the scale and character of the settlement, and neither reinforces local distinctiveness or respects local context. As such the proposal is contrary to local plan policy EQ2 and SS2 of the South Somerset Local Plan (2006- 2028).

3. The development fails to provide inclusive, safe and convenient access on foot that addresses the needs of all, contrary to Policy TA5 of the South Somerset Local Plan (2006-2028).

This was put to the vote and was confirmed by 6 votes in favour and 4 against with no abstentions.

It was noted that data on the dilution of the effluent discharged into the watercourse would be helpful.

**RESOLVED:**

That planning application **18/03298/OUT** be refused for the following reasons:

1. The proposal fails to provide adequate foul sewerage drainage which would lead to the discharge of effluent into the eastern ditch which could impact on human health, contrary to Policies EQ2 and EQ7 of the South Somerset Local Plan (2006-2028).
2. The proposed in-depth development by reason of the site's relationship to the existing built form - the spread and dis-aggregated traditional linear character of Charlton Adam - is not commensurate with the scale and character of the settlement, and neither reinforces local distinctiveness or respects local context. As such the proposal is contrary to local plan policy EQ2 and SS2 of the South Somerset Local Plan (2006- 2028).
3. The development fails to provide inclusive, safe and convenient access on foot that addresses the needs of all, contrary to Policy TA5 of the South Somerset Local Plan (2006-2028).

*(Voting: 6 in favour, 4 against, 0 abstentions)*

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**95. Date of Next Meeting (Agenda Item 7)**

Members noted that an additional special meeting of the Regulation Committee had been arranged for 9.30am on Tuesday 29<sup>th</sup> October 2019 in the Council Chamber, Brympton Way, Yeovil.

It was noted that the next scheduled meeting of the Regulation Committee would be held on Tuesday 19<sup>th</sup> November 2019 at 10.00am. However this meeting would only take place if there was business to conduct.

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Chairman

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Date

