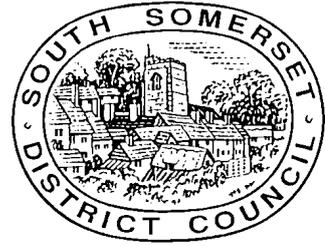


South Somerset District Council

Notice of Meeting



Area West Committee

Making a difference where it counts

Wednesday 17th June 2015

5.30 pm

**The Guildhall
Fore Street
Chard
TA20 1PP**

(disabled access is available at this meeting venue)



The public and press are welcome to attend.

Please note: There are no planning applications.

If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, **Jo Morris 01935 462055**

This Agenda was issued on Monday 8th June 2015.

A handwritten signature in black ink that reads 'Ian Clarke'.

Ian Clarke, Assistant Director (Legal & Corporate Services)

This information is also available on our website
www.southsomerset.gov.uk



INVESTORS IN PEOPLE

Area West Committee Membership

The following members are requested to attend the meeting:

Chairman: Carol Goodall
Vice-chairman: Jenny Kenton

Jason Baker
Marcus Barrett
Mike Best
Amanda Broom
Dave Bulmer

Val Keitch
Paul Maxwell
Sue Osborne
Ric Pallister
Garry Shortland

Angie Singleton
Andrew Turpin
Linda Vijeh
Martin Wale

South Somerset District Council – Council Plan

Our focuses 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

There are no planning applications.

Highways

A formal written report from the Area Highway Officer should be included on the main agenda in May and September. 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 3rd 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/councillors-and-democracy/meetings-and-decisions

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

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.

Area West Committee

Wednesday 17 June 2015

Agenda

Preliminary Items

- 1. To approve as a correct record the Minutes of the Previous Meeting held on 15th April 2015**
- 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.

Members are reminded that they need to declare the fact that they are also a member of a County, Town or Parish Council as a Personal Interest. As a result of the change made to the Code of Conduct by this Council at its meeting on 15th May 2014, where you are also a member of Somerset County Council and/or a Town or Parish Council within South Somerset you must declare a prejudicial interest in any business on the agenda where there is a financial benefit or gain or advantage to Somerset County Council and/or a Town or Parish Council which would be at the cost or to the financial disadvantage of South Somerset District Council. If you have a prejudicial interest you must comply with paragraphs 2.9(b) and 2.9(c) of the Code.

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:

Councillors. Mike Best, Sue Osborne and Angie Singleton

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

Items for Discussion

- 6. Area West Committee - Forward Plan** (Pages 1 - 3)
- 7. Area West Committee Meeting Arrangements** (Pages 4 - 5)
- 8. Highway Service Report for Area West** (Pages 6 - 9)
- 9. Supplemental Report in relation to Planning Application: 14/02141/OUT - Southern Phase of Crewkerne Key Site, Land off Station Road, Crewkerne** (Pages 10 - 14)
- 10. Area West Committee Working Groups and Outside Organisations - Appointment of Members 2015/16** (Pages 15 - 17)
- 11. Scheme of Delegation - Development Control - Nomination of Substitutes for Chairman and Vice-Chairman for 2015/16** (Page 18)
- 12. Planning Appeals** (Pages 19 - 50)
- 13. Date and Venue for Next Meeting** (Page 51)
- 14. Item for Information - Click into Activity** (Pages 52 - 54)

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.

Agenda Item 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.
- (2) identify priorities for further reports to be added to the Area West Committee Forward Plan.

Forward Plan

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

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

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

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

Background Papers: None.

Notes

- (1) Items marked in italics are not yet confirmed, due to the attendance of additional representatives.
- (2) Further details on these items, or to suggest / request an agenda item for the Area Committee, please contact the Agenda Co-ordinator; Jo Morris, 01935 462055 or e-mail jo.morris@southsomerset.gov.uk
- (3) Standing items include:
 - (a) Chairman's announcements
 - (b) Public Question Time

Meeting Date	Agenda Item	Background / Purpose	Lead Officer(s) SSDC unless stated otherwise
<i>15th July 2015</i>	<i>Community Health & Leisure</i>	<i>Service Update Report</i>	<i>Lynda Pincombe, Community Health & Leisure Manager</i>
<i>15th July 2015</i>	<i>Countryside Service Update Report</i>	<i>Service Update Report</i>	<i>Katy Menday, Countryside Manager</i>
<i>19th August 2015</i>	<i>Environmental Health Service Update Report</i>	<i>Service Update Report</i>	<i>Alasdair Bell, Environmental Health Manager</i>
<i>19th August 2015</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>
<i>16th September 2015</i>	<i>Flooding, Drainage & Civil Contingencies Update Report</i>	<i>Service Update Report</i>	<i>Pam Harvey, Civil Contingencies & Business Continuity Manager</i>
<i>21st October 2015</i>	<i>Affordable Housing Development Programme</i>	<i>To update members on the current position with the Affordable Housing Development Programme.</i>	<i>Colin McDonald, Corporate Strategic Housing Manager</i>
<i>21st October 2015</i>	<i>Local Housing Needs in Area West</i>	<i>Service Update Report</i>	<i>Kirsty Larkins, Housing & Welfare Manager</i>
<i>18th November 2015</i>	<i>Highways Update</i>	<i>To update members on the highways maintenance work carried out by the County Highway Authority.</i>	<i>Mike Fear, Assistant Highway Service Manager, Somerset County Council</i>
<i>18th November 2015</i>	<i>Section 106 Obligations</i>	<i>Monitoring Report</i>	<i>Neil Waddleton, Section 106 Monitoring Officer</i>
<i>18th November 2015</i>	<i>Community Offices Update</i>	<i>Service Update Report</i>	<i>Lisa Davis, Community Officer Support Manager</i>

Meeting Date	Agenda Item	Background / Purpose	Lead Officer(s) SSDC unless stated otherwise
<i>16th December 2015</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>20th January 2016</i>	<i>Avon & Somerset Policing Update</i>	<i>Report on activities and achievements on neighbourhood policing and partnership working to reduce crime and fear of crime.</i>	<i>Sgt. Rob Jameson</i>
<i>TBC</i>	<i>LEADER Programme for Rural Economic Development</i>	<i>To report on the outcome of applications for funding.</i>	<i>Helen Rutter, Assistant Director (Communities)</i>
<i>TBC</i>	<i>Conservation Team Update Report</i>	<i>An update on the work of the Conservation Team.</i>	<i>Adron Duckworth, Conservation Manager</i>
<i>TBC</i>	<i>Update on Chard Regeneration Scheme</i>	<i>Members requested a report on progress at the March Area West Committee.</i>	<i>Andrew Gillespie, Area Development Manager (West) David Julian, Economic Development Manager</i>
<i>TBC</i>	<i>Area West Development Plan & Budget Progress Report</i>	<i>To present an overview of projects in the Area Development Work Programme 2015/16</i>	<i>Andrew Gillespie, Area Development Manager (West)</i>

Agenda Item 7

Area West Committee Meeting Arrangements

Strategic Director: Rina Singh, Strategic Director (Place and Performance)
Assistant Director: Helen Rutter/Kim Close Assistant Director Communities
Service Manager: Andrew Gillespie Area Development Manager
Contact Details: andrew.gillespie@southsomerset.gov.uk or (01460 260426)

Purpose of the Report

To allow members to consider both the starting times and venues for Area West Committee meetings.

Public Interest

Area West Committee meetings are held “in public”. This allows residents and others to observe the committee in action and also to make representation.

Recommendations

- (1) That the normal starting time for Area West Committee meetings remains 5.30 p.m.
- (2) That Area West Committee meetings continue to be held at different venues throughout the year.

Background

The start times and venues for Area West Committee meetings were last reviewed in May 2014. At that time members decided there was no compelling reason to make any changes, and it was resolved;

- (1) That the start time for Area West Committees remains 5.30 p.m. and
- (2) That Area West Committee meetings continue to be held at different venues throughout the year;

However, it was recognised that it would be helpful if these arrangements could be confirmed or amended at the beginning of the new council and then once every two years thereafter to ensure that they remained “fit for purpose” and so it was further resolved;

- (3) That meeting arrangements for Area West Committee be reviewed again at the beginning of the new Council year in 2015.

In this report it is recommended that existing arrangements are confirmed.

Area Committee Meetings

Area Committee meetings are a key element of local governance in South Somerset. It is vital that elected members feel able to participate and contribute as fully as possible to local decision making.

The choice of venue and starting time has always been a matter for each Area Committee to decide. The expectation is that Area Committee meetings are held at a time and place which members feel is best suited to their Area. The result is that the arrangements for all four Area Committees are not the same, with wide variation in “best” practice.

No arrangements will be able to suit everyone perfectly and some compromise is needed.

For many years the Area West Committee has been organised so Area Development issues are considered in the first part of the meeting. Applications for Planning Permission are considered in the second part of the meeting and this does not begin before 7pm unless alternative arrangements have been made.

Area West Committee meetings normally last between 2 hours 50 minutes and 3 hours 40 minutes, so meetings that begin at 5.30pm can be expected to finish somewhere between 8.20pm and 9.10 pm.

Some AWC meetings have taken much longer than this. To a great extent, this variation is caused by the extra time needed to consider complex or controversial planning applications. This cannot be reduced, although it can be anticipated. Where this is the case, larger venues will be hired and the starting time for consideration of planning applications may be brought forward.

Financial Implications

None

Corporate Priority Implications

None

Carbon Emissions & Climate Change Implications

None

Equality and Diversity Implications

For a whole number of reasons, some people could find the AWC meetings less accessible to them than other people. Officers will consider what additional measures can be put in place to ensure that no-one is excluded.

Background Papers: None

Agenda Item 8

Highway Service Report for Area West

Lead Officer: Mike Fear, Assistant Highway Service Manager, Somerset County Council
Contact Details: Tel: 0845 345 9155

Purpose of the Report

Being the first report for the 2015/16 financial year, I aim to give a brief report of the highway works carried out last financial year in Area West and our proposed works programme for 2015/2016.

Recommendation

That members note the report.

Surface Dressing

Surface Dressing is the practice of applying a bitumen tack coat to the existing road surface and then rolling in stone chippings. Whilst this practice is not the most PR friendly, it is highly effective in preserving the integrity of the road surface. This year we are Surface Dressing 53 sites across South Somerset, 13 of which are substantial lengths of A and B roads.

Sections of the A356 and A30 were proposed to be Surface Dressed but the design stage identified that some sections were rich in bitumen from previous surface applications so a High Pressure water jet re-texturing process was applied week commencing 11th May to remove this excess and restore the texture depth to the surface aggregate for grip and skid resistance. It will remain monitored to study this methods effectiveness.

The Surface Dressing within South Somerset has already commenced and is due completion by the end of June but at the time of this report there is already a weeks delay due to weather conditions.

Grass Cutting

Grass cutting is a difficult task to carry out to the satisfaction of all. The highway network exceeds 3500km in length; therefore the size of the task is significant. Verge cutting of main A and B roads commenced 5th May which will be followed by the C and D roads as below table and then a further cut of the visibility splays on A and B roads. The second cut to the A and B roads previously carried out by Somerset County Council has been removed on approval by the Council members.

Road Classification	Dates
A and B roads (including visibility splays)	5 May - 2 June
C and unclassified roads	3 June - 31 July
A and B visibility splays only	Mid to late August dependant on rate of growth
Environmentally protected sites	Usually at the end of the growing season

Schemes completed in 2014/15

Chard	Millfield	Resurfacing
Combe St Nicholas	Scrapton Lane	Resurfacing
Barrington	Bonnings lane	Drainage
Tatworth and Forton	Forton Road	Drainage
Donyatt	A358 Peasmarsh	Drainage
Broadway	Broadway Street	Drainage
Chard	Bews lane	Footways
Ilminster	Listers Hill	Resurfacing
Chillington	Lamberts Lane	Reconstruction
Merriott	Moorlands Road	Reconstruction
Chaffcombe	Summer lane	Resurfacing
Wayford	Dunsham Lane	Drainage
Chaffcombe	Summer Lane	Drainage
Ilminster	High Street/Butts	Footways
Ilminster	Blackdown View	Footways
Ilminster	The Beacon	Reconstruction and Drainage

Schemes proposed for 2015/2016

This year's structural maintenance budget remains similar to last year. The below table identifies significant schemes to be implemented in South Somerset and schemes proposed in Area West are highlighted;

Misterton	A356 School Hill and Mosterton Road	Resurfacing	Completed
Crewkerne	A356 North Street	Resurfacing	Completed
Charlton Mackrell	A37 Fosse Way	Resurfacing	Completed
Yeovil	A30 West Coker Road	Resurfacing	
Bruton	Plox/Silver Street	Resurfacing	
Castle Cary	Victoria Park/Greenway Road	Resurfacing	
Lopen	Lopen Head Roundabout	Resurfacing	
Merriot	Hitchen	Resurfacing	
Yeovil	Dampier Street	Resurfacing	
Yeovil	St John's Road/Northbrook Road	Resurfacing	
North Cadbury	Parish Hill	Resurfacing	
Ilminster	Ile Court	Resurfacing	
Charlton Horethorne	Clare Farm Stowell Hill	Resurfacing	
Queen Camel	Traits Lane	Resurfacing	
Somerton	Somertonfield Road	Resurfacing	
Huish Episcopi	Picts Hill	Resurfacing	
Chard	Avishayes Road	Resurfacing	
Chard	Helliars Road and Crimchard	Resurfacing	
Hinton St George	Lopen Road	Passing Bays reconstruction	
Yeovil	Goldcroft	Resurfacing	
Yeovil	Hendford & High Street (The Borough)	Resurfacing	
Milborne Port	A30 Sherborne Road	Resurfacing (R+R)	
Charlton Mackrell	A37 Fosse Way	Resurfacing (R+R)	Completed

Henstridge	A357 High Street & Stalbridge Road	Resurfacing (R+R)	
Henstridge	A357 Templecombe Road	Resurfacing (R+R)	
Yeovil	A3088 Bunford Hollow Rbt	Resurfacing (Sections)	
Ilchester	B3151 Somerton Road	Resurfacing (R+R)	
Yeovil	Birchfield Road	Footways	
Yeovil	St Michaels Avenue	Footways	
Yeovil	Plantangenate Chase	Footways	
Yeovil	Roping Road	Footways	
Yeovil	Park Street	Footways	
Barton St David	Broadclose Way	Footways	
Bratton Seymour	Jack Whites Gibbet	Footways	
Somerton	Walnut Drive	Footways	
Castle Cary	Milbrook Gardens	Footways	
Tintinhull	St Margarets Road & Head Street	Footways	
Ilminster	Station Road	Drainage	
Closworth	Closworth Road	Drainage	
Closworth	Weston Lane	Drainage	
Bratton Seymour	A371 Cattle Hill	Drainage	
Alford	B3153 Cary Road and Church Lane	Drainage	Completed
Chard	A358 Old Town	Drainage	
Buckland St Mary	Fair End Lane	Drainage	
Muchelney	Thorney Road	Drainage	
Curry Rivel	Parsonage Place	Drainage	
Brympton	Thorne Coffin (Phase 1 & 2)	Drainage	
Pitney	Stowey Road	Drainage	
Yeovil Without	Yeovil Marsh Road	Drainage	
Fivehead	Ganges Hill	Drainage	
Yeovil Without	Yeovil Marsh Road (Eastern end)	Drainage	
Huish Episcopi	Meadow Close	Drainage	
Chilton Cantelo	Bridgehampton Road	Drainage	Completed
Maperton	Clapton Lane	Drainage	Completed
Bruton	Park Road	Drainage	
Rimpton	Pitfield Corner	Drainage	Completed
Haselbury Plucknett	Claycastle	Drainage	
Crewkerne	Cathole Bridge Road	Drainage	
Stoke Trister	Beech Lane	Drainage	Completed
Curry Rivel	St Andrews Close	Drainage	
South Beauchamp	Lambrook Road	Drainage	
Kingsbury Episcopi	East Lambrook Road (upgrade outfall)	Drainage	
Long Sutton	Shute Lane	Earthworks	
Tatworth & Forton	Bounds Lane	Earthworks	
Ansford	Ansford Hill	Earthworks	
East Coker	East Coker Road	Earthworks	

Winter Maintenance

Somerset County Council salts over 1400km (870 miles) of its roads in anticipation of frost, snow and ice. This is approximately 21% of the total road network in Somerset.

Last winter was pretty average, being slightly dryer than normal. We carried out precautionary salting on 70 occasions on primary routes and 1 on secondary routes. These secondary routes are only usually salted after 3 consecutive days of sub-zero temperatures.

Background papers: None

Agenda Item 9

Supplemental Report in relation to Planning Application: 14/02141/OUT – Southern Phase of Crewkerne Key Site, Land off Station Road, Crewkerne, Somerset

Strategic Director: Rina Singh (Place and Performance)
Assistant Director: Martin Woods (Economy)
Service Manager: David Norris, Development Manager
Lead Officer: Adrian Noon, Area Lead North/East
Contact Details: adrian.noon@southsomerset.gov.uk or 01935 462370

Purpose of the Report

To update members on the progress of the planning application for the alternative development of the employment land off Station Road, which is part of the Keysite at Crewkerne, known as the CLR site. The current application, if approved would require the renegotiation of the previously agreed site wide obligations agreed in relation to the original approval (05/00661/OUT) for the whole site.

Member's support is sought for the conclusion of the negotiation of planning obligations prior to the formal determination of the application at a later date.

It is not the purpose of this report to set out the basis for the determination of this application nor is it intended to invite members to review the detail or impact of the development, the supporting information, detailed on site proposals. Rather it is an opportunity for Members to steer officers in the negotiation of the final package of planning obligations. The report will set out the current offer; identify the areas to be resolved; set out a recommended way forward and, on a without prejudice basis, seek members support to continue negotiations to finalise the details of the section 106 agreement that would deliver the obligations.

This would give both officers and the applicant clarity as to the Council's expectations for this important development in Crewkerne. Subsequently the application would be referred back to Area West Committee with a detailed report for formal determination when members will be able to consider all relevant issues. At that stage the detail of the obligations would be formally considered.

Recommendations

- (1) That members note the progress to date;
- (2) That members confirm their support for the position officers propose to take in relation to the outstanding matters.

Background

In January 2011 Area West Committee members resolved to approve application 05/00661/OUT for:-

Comprehensive mixed use development for 525 dwellings, employment (B1, B2, B8) primary school, community facilities, playing fields, parkland, P.O.S. structural landscaping and associated infrastructure including link road and highway improvements.

This approval was subject to a S106 agreement which provided for:-

- the completion of the link road through the site, between the A30 and the A356, prior to the occupation of 200 houses or within 4 years of first residential occupation, whichever is sooner;
- the completion of the link between the new link road and Blacknell Lane prior to the occupation of 1,000sqm of employment space or within 4 years of commencement of the employment land or within 7 years of the first occupation of any dwelling, whichever is sooner;
- the delivery of 17.5% of the housing as affordable homes for 'social rent';
- the delivery of the serviced school site;
- an education contribution of £2,000,000;
- a contribution of £260,000 towards sports, arts and leisure facilities;
- a contribution of £635,624 towards off site highways mitigation and sustainable travel planning, to include:-
 - £100,000 towards town centre improvements (upon commencement);
 - contributions to off-site traffic calming and improvements to footpath/cycle path links (prior to first occupation);
 - contributions towards bus services to serve the development (upon completion of the link road);
 - contributions towards travel planning measures;
- the provision and maintenance of on-site play areas;
- the landscaping and maintenance of c.24 hectares of 'country-park', including any landscaping necessary for dormouse mitigation measures;
- the completion of the dormouse bridge prior to the completion of the link road through the site with a requirement for the developer to make all reasonable endeavours to re-assess the dormouse population prior to commencement of the dormouse bridge and, if justified, to agree appropriate alternative mitigation
- appropriate badger mitigation measures as required by the Council's ecologist;
- 3 yearly reviews of the viability of the development throughout the construction phase.

The agreed obligations reflected the District Valuer's then advice that, the development, including the provision of the link road, the school site, landscaped areas and employment land (as per allocation KS/CREW/1 in the local plan) was only viable with 17.5% affordable houses (all for rent) and c. £8.6m towards planning obligations. Included within this figure was an allowance for an enhanced use of natural stone to meet the findings of the Enquiry by Design conducted at the allocation stage.

The Current Situation

The applicant believes that in the current market the approved scheme is now unviable and is seeking to add value to the site by seeking outline approval for a care home and up 175 dwellings on the 10 hectares employment land approved off Station Road by 05/00661/OUT. Initially it was proposed to retain 2 hectares of employment land – with the care home this would equate to 2.5 ha for employment uses.

Although the Town Council and number of local residents have raised objections, there are no outstanding highways, drainage, archaeological, ecological or other 'technical' objections. The Council's planning policy and economic development officers have raised significant concerns about the loss of 7.5 hectares of employment land. The new local plan, which carries forward the policy KS/CREW/1, allocates 10.10 hectares of employment land in Crewkerne over the plan period to 2028 (policy SS3).

There has however been no agreement on the necessary planning obligations. As a 'stand-alone' application this proposal attracted planning obligation in respect of affordable housing, leisure and education provision. The applicant maintains that, even allowing for the increased values that would be achieved by the additional residential development, the scheme as a whole remains unviable and they have sought to review the whole obligation package in light of the current application. The following table sets out the current situation with regard to the obligations.

Planning Contributions as agreed by 05/00661/OUT	
17.5% affordable housing (all at social rent)	
Provision of a link road (c.£7.5 million)	
Highways	
Town Centre Improvements	£100,000
Traffic Calming	£31,000
Bus & Cycle Hard Measures	£37,250
Bus Service Contribution	£164,000
Cycle Upgrade Contribution	£100,000
Residential Travel Vouchers	£78,250
Signage & Travel Info	£20,000
Smarter Travel Info Pack	£28,875
Travel Plan Contribution	£4,000
Travel Plan Coordinator	£70,000
	£633,375
Commuted sum towards junctions	£277,000
Entrance landscaping	£550,744
Woodland planting	£950,000
Commuted sum	£527,000
Education	£2,000,000
School sites set up costs	£210,467
Offsite sports and leisure	£260,000
Equipped Play Space	£182,702
Badger Mitigation	£35,000
Dormouse Mitigation	£491,095
Use of natural stone	£2,594,340
Total	£8,462,423
Planning contributions requested in relation to 14/02141/OUT	
35% affordable housing, 67/33 tenure split in favour of social rent	
Education	£306,000
Offsite sports and leisure	£647,371
On site Equipped Play Space	£238,542
Total	£1,191,913
TOTAL	£9,654,336

The District Valuer has assessed the scheme in the round and has concluded that even without any affordable housing the development and allowing for a reasonable developer profit, the development would not be viable. It is considered that there are a number of possible explanations for this including increased build costs of the houses, lower than anticipated house prices and substantial costs for unexpected archaeological investigations.

Notwithstanding the reasons for the current 'unviability' the applicant is entitled to request that the Council revisits the planning obligations. Government advice is clear that sites with planning permission should not unreasonably be held back by an insistence on previously agreed planning obligations.

The applicant has reviewed the original residential scheme off the A30 and has reduced the level of development from up to 525 dwellings to 497; with the 175 now proposed at the bottom of the hill off the A356 this is a total of 672 houses. They have offered to provide 50 affordable units (at social rent), but have advised that this would require a reduction of £2M in the total planning obligation request (i.e. reduced to £7,654,336). The link road would still be provided, but the trigger point would need to be the occupation of the 350th house or seven years from first occupation.

The DV has looked at this and concluded that this would be viable. Whilst there is concern about the £2M reduction it is considered that this could reasonably be achieved. Of more concern is the reduction to 50 affordable houses out of 672 (7.4%) and the reduction to 2.5 ha of employment land (if the care home is included, which has been considered reasonable elsewhere).

The application has been asked to reconsider their offer and now suggest that 3.25 hectares of employment land could be provided along with up to 92 affordable units (which equates to the original 17.5% of 525 dwellings). This would reduce the housing from 175 to 160 dwellings and would be dependent on varying the tenure to either discounted housing to buy at 75% of open market value (OMV) or shared ownership. Alternatively 65 affordable homes could be provided at 'affordable rent' (generally up to 80% of market rent) or 75 provided of which 25 would be at social rent, 25 to buy at 75% of OMV and 25 for shared ownership.

Areas to be Resolved

The following issues remain to be agreed on a site wide basis.

The Level and Tenure of Affordable Housing.

The Council's housing officers stress that the critical need is for 'social rent' properties and remind us that relatively few affordable units have been provided in Crewkerne in recent years. Members are reminded that under S.106BA of the 1990 Act (as amended) it is open to the applicant to apply to remove as much affordable housing as is necessary to make the scheme viable. The Council would have 28 days to determine the application before the applicant could exercise a right of appeal. The sole issue would be viability and it would not be open to the Council to seek to negotiate the obligations 'in the round'. The DV's advice indicates that all the affordable housing could be lost if this route were pursued.

The Level of Employment Land to Retained.

Policy SS3 of the local plan identifies a requirement for 10.10 hectares of employment land in Crewkerne to 2028. The expectation is that this will be delivered on this site. The applicant is adamant that this is excessive and unjustified. Their view is that the Council cannot reasonably insist on more than 3.25 hectares, and in any event there is no reason to presume that additional employment land could not come forward elsewhere in Crewkerne.

Planning policy refers to Table 1 – Employment land Justifications of the local plan which supports Policy SS3 and establishes that the employment land required to support 'B' use jobs growth up to 2028 is 3ha. The figure of 10.10 hectares in SS3 equates to the

employment land allocation (CLR) which was saved and carried forward from the previous Local Plan. This approach was accepted by the Local Plan Inspector.

Economic development officers suggest 3.75 hectares based on historic completion rates, and accept that the care home could count towards this. This approach reflects the methodology used to support Rural Centres and was also accepted by Local Plan Inspector.

A Reduction of £2M in other Planning Obligations

Discussions with other officers indicate a number of potential areas for review:-

- A reduction of the landscaping costs from £2,027,744 should be achievable and could include alternative management arrangements and community involvement.
- The figure of £2,594,340 for enhanced use of natural stone could be reviewed without compromising the standard of development or watering down the recommendation of the Enquiry by Design
- The figure of £633,375 for highways contributions could be reviewed with the removal of some of the 'softer' travel planning measures
- The justification for the dormouse bridge could be brought forward with the applicant surveying land they own to the west to the site and discussing further with our ecologist;
- The total figure of £1,328,615 for leisure contributions could be reviewed

A total education contribution of £2,306,000 plus a school site is sought, however given the infant school situation in Crewkerne it is not suggested that this be renegotiated. Finally, whilst the highways authority's comments on the requested change to the trigger points for the delivery of the link road are awaited, informal discussions have not revealed a highways concern. On this basis that this position is confirmed it is not suggested that this change be resisted.

Suggested Course of Action

- (1) That officers seek to achieve a reasonable balance between the provision of employment land and affordable housing.
- (2) That officers identify £2,000,000 savings from the identified obligations.

Background Papers:

Planning Application 05/00661/OUT
Planning Application 14/02141/OUT
District Valuer's report (separate confidential Appendix A)

Agenda Item 10

Area West Committee Working Groups and Outside Organisations - Appointment of Members 2015/16 (Executive Decision)

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 1st May 2014.

Recommendations

The Committee is asked to:

1. Review and appoint members to serve on the Working Groups outlined in the report for the municipal year 2015/16;
2. 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 2014/15. The Committee is asked to agree the representative to the working group for the municipal year 2015/16.

Working Group & Purpose	2014/15 Representative
Crewkerne and Area Community Office - Board Representation 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.	Angie Singleton
Chard Regeneration Scheme Project Board – SSDC Chard Member Representative The CRS Project Board is responsible for the delivery of the Chard Regeneration Strategy.	Jenny Kenton

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 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 1st May 2014.

Members are asked to review and appoint members to the outside bodies for 2015/16, having regard to the adopted policy.

Organisation	Representation 2014/15
A Better Crewkerne & District (ABCD)	Mike Best
Blackdown Hills AONB	Ros Roderigo
Chard and District Museum Society	Brennie Halse
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
Stop Line Way Steering Group	Andrew Turpin

Names highlighted in bold are no longer serving Councillors on Area West Committee.

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

SDDC Policy on the Roles and Responsibilities of Councillors appointed to Outside Bodies, adopted by District Executive on 1 May 2014

Agenda Item 11

Scheme of Delegation – Development Control – Nomination of Substitutes for Chairman and Vice-Chairman for 2015/16 (Executive Decision)

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

As the Council has entered a new municipal year, the Committee is asked to review the appointment of two members to act as substitutes for the Chairman and Vice-Chairman in the exercising of the Scheme of Delegation for planning and related applications. The previous member substitutes were Cllrs. Nigel Mermagen and Kim Turner.

Recommendation

That, in line with the Development Control Scheme of Delegation, two members be nominated to act as substitutes for the Chairman and Vice-Chairman to make decisions in the Chairman's and Vice-Chairman's absence on whether an application should be considered by the Area Committee where a request has been received from the ward member(s).

Background

The Council's scheme of delegation for Development Control delegates the determination of all applications for planning permission, the approval of reserved matters, the display of advertisements, works to trees with Tree Preservation Orders, listed building and conservation area consents, to the Development Manager except in certain cases, one of which being the following:-

"A ward member makes a specific request for the application to be considered by the Area Committee and the request is agreed by the Area Chairman or, in their absence, the Vice-Chairman in consultation with the Development Manager. (This request must be in writing and deal with the planning issues to ensure that the audit trail for making that decision is clear and unambiguous). In the absence of the Chairman and Vice-Chairman there should be nominated substitutes to ensure that 2 other members would be available to make decisions. All assessments and decisions to be in writing."

Financial Implications

None.

Council Plan Implications

None from this report.

Equality and Diversity Implications

None from this report.

Background Papers: Minutes 36, Council meeting of 21st July 2005

Agenda Item 12

Planning Appeals

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

Purpose of the Report

To inform members of the appeals that have been lodged, decided upon or withdrawn.

Recommendation

That the report be noted.

Background

The Area Chairmen have asked that a monthly report relating to the number of appeals received, decided upon or withdrawn be submitted to the Committee.

Report Detail

Appeals Received

14/03600/FUL – Land at Grey Abbey Bridge, North Perrott, Crewkerne, Somerset, TA18 7SB (Officer Decision)
Change of Use of land to equestrian and erection of stables. (GR 347042/108997)

15/00419/FUL – 50 Herne Rise, Ilminster, Somerset, TA19 0HJ (Officer Decision)
The erection of a two storey rear extension to dwellinghouse. (GR 335750/113973)

Split Decision

14/03679/FUL – 38 Lower Street, Merriott, Somerset, TA18 5NN (Officer Decision)
The erection of a single storey rear extension and the creation of a dormer window on rear elevation (GR 344493/112347)

Appeals Dismissed

13/05172/OUT – Land to the North of Half Moon House, Boozer Pit, Merriott, Somerset (Officer Decision)
Erection of 6 No. detached dwellings to include 2 No. affordable units (outline) (GR 344949/113272)

14/03680/LBC – 38 Lower Street, Merriott, Somerset, TA16 5NN (Officer Decision)
Alterations and the erection of a single story rear extension (GR 344493/112347)

13/01535/OUT – Land East of Crimchard, Chard, Somerset (Committee Decision)
Residential development of up to 110 dwellings together with formation of new access and related works (outline) (GR 332133/109653)

12/04518/OUT – Land East of Mount Hindrance Farm, Mount Hindrance Lane, Chard, Somerset (Committee Decision)

Mixed development comprising 350 homes, floodlit full size football pitch, unlit full size training and mini pitches, multiuse club house, spectator facilities and parking. Hub for neighbourhood/community facilities, public open space, landscaping, drainage, associated vehicular & pedestrian access. Land regrading, associated infrastructure and engineering works (GR 332536/110057)

The Inspector's decision letters are attached.

Background Papers: None

Appeal Decisions

Site visit made on 25 February 2015

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 23 April 2015

Appeal A: APP/R3325/A/14/2227481
38 Lower Street, Merriott, Somerset, TA16 5NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Jane Goodwill against the decision of South Somerset District Council.
 - The application Ref: 14/03679/FUL, dated 11 August 2014, was refused by notice dated 1 October 2014.
 - The development proposed is a single storey rear extension and the insertion of a new dormer window to the existing thatched roof.
-

Appeal B: APP/R3325/E/14/2227475
38 Lower Street, Merriott, Somerset, TA16 5NN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Ms Jane Goodwill against the decision of South Somerset District Council.
 - The application Ref: 14/03680/LBC, dated 11 August 2014, was refused by notice dated 1 October 2014.
 - The works proposed, as described on the application form, comprise a single storey rear extension and the insertion of a new dormer window to the existing thatched roof.
-

Decisions

Appeal A: APP/R3325/A/14/2227481

1. The appeal is dismissed insofar as it relates to the proposed single storey rear extension. The appeal is allowed insofar as it relates to the insertion of a new dormer window to the existing thatched roof and planning permission is granted for that at 38 Lower Street, Merriott, Somerset, TA16 5NN, in accordance with the terms of the application, Ref: 14/03679/FUL, dated 11 August 2014, and the plans submitted with it so far as relevant to that part of the development hereby permitted.

Appeal B: APP/R3325/E/14/2227475

2. The appeal is dismissed.

Preliminary Matters

3. Notwithstanding the description of works set out above in relation to Appeal B, listed building consent has already been granted for the proposed dormer window and it has been constructed. The Council has also not objected to the dormer window which is part of the development proposed under Appeal A. I shall consider the appeals accordingly.
4. Since submission of the appeals the Council has adopted the South Somerset Local Plan (2006-2028). Policy EH3 from the previous version of the South Somerset Local Plan adopted in 2006 has thus been superseded and replaced by new policy EQ3. However, the historic environment protection aims of both policies are very similar. Therefore in development plan terms the change to the policy circumstances has not prejudiced the cases of either party.

Main Issue

5. The main issue is the effect of the proposal on the special interest of the building which is listed grade II and on the character and appearance of the Merriott Conservation Area.

Reasons

6. The appeal building is a small cottage dating from the 17th century, listed together with nos. 40 and 42 as one building possibly being a single house originally and then extended. It is constructed from Ham stone roughly cut and squared with ashlar dressings. The main roof is thatched. A single storey rear lean-to has a clay tile roof that slopes down from the underside edge of the thatch following the pitch of the main roof. Despite modern patio doors in the lean-to and a small flat roof kitchen extension cut into the tile roof, probably inserted in the 1950's, the rear of the house largely retains a simple and traditional form that is important to its special interest and significance.
7. The appeal property and its neighbours are typically older vernacular village houses with pitched thatch or tiled roofs set at the back of a narrow footway. It is their relationship with the street scene and the public realm that defines the character and interest of the Conservation Area. The backs of the buildings do not contribute much to these qualities. As the proposals would be confined at the rear of the house they would not harm the overall appearance of the Merriott Conservation Area.
8. In terms of the effect of the alterations and extension proposed on the special interest of the building itself, there would be no objection to removing the existing flat roof projection and the new eyebrow dormer window sits neatly and discretely within the thatch. However, the flat roof of the larger extension proposed would cut awkwardly into more of the sloping tile roof. Moreover, the new dining/day room would be large and the rolled edge of the new lead effect roof would have a thick profile that would give the extension a top heavy appearance. Overall the existing pleasingly simple composition of the rear of the building would be overwhelmed by a bulky and uncompromising extension and would fail to preserve the special interest of the listed building.
9. There would thus be conflict with the heritage asset protection aims of policy EQ3 from the South Somerset Local Plan (2006-2028). In the terms of the National Planning Policy Framework (NPPF) the harm caused to the significance

of the listed building would be less than substantial. There would, however, be real and serious harm which requires clear and convincing justification.

10. The other examples of flat roof extensions to listed buildings referred to in support of the proposal are noted. However, at the property called Midway the scale of the house appeared to be greater and it seemed to have had a number of previous inappropriate alterations. Wilton House was also a much larger property and a different style. The other cases are not thus directly comparable with this appeal scheme. Accordingly they have limited weight. Also each case should be determined on the basis of the individual special interest that a building possesses.
11. It is appreciated that the appellant wishes to provide a larger well lit extension to meet the needs of friends and family members who have reduced mobility and sensory loss issues. However, the fabric of the building does not appear to be at risk and these personal reasons are not public benefits sufficient to outweigh the great weight that must be attached to the conservation of the heritage assets.
12. Because the new dormer window is a discrete part of the proposal and it would be acceptable from a planning point of view I shall grant planning permission for this part of the development only. As the development has already been carried out there is no need for any conditions. I could have done the same in relation to Appeal B. However, there would have been little point as the dormer window already has listed building consent. Subject to this arrangement, having had regard to all other matters raised, it is concluded that Appeal A should partially succeed and Appeal B should be dismissed.

Gareth Symons

INSPECTOR

Appeal Decisions

Inquiries opened on 20 May 2014

Site visits made on 1 October 2014

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 03 June 2015

Appeal A: APP/R3325/A/13/2209680

Land East of Mount Hindrance Farm, Mount Hindrance Lane, Chard

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by MacTaggart & Mickel Homes Ltd and the S E Blackburn Discretionary Trust against the decision of South Somerset District Council.
 - The application Ref.12/04518/OUT, dated 20 November 2012, was refused by notice dated 6 September 2013.
 - The development proposed was described as 'mixed development comprising 450 (no.) new family homes, provision of a floodlit full size football pitch, unlit full size training pitch and mini pitches, with associated multi-use clubhouse, spectator facilities and vehicle parking area; hub for local neighbourhood facilities and other community uses; public open space; landscaping; drainage and other facilities; associated vehicular and pedestrian accesses; land regrading; associated infrastructure; and engineering works'.
-

Appeal B: APP/R3325/A/13/2203867

Land East of Crimchard, Chard

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by David Wilson Homes South West Ltd against South Somerset District Council.
 - The application Ref.13/01535/OUT is dated 12 April 2013.
 - The development proposed is a residential development of up to 110 dwellings, open space, and SUDs basin, together with formation of new access and related works.
-

Procedural Matters

1. Appeals A and B were originally intended to be run as separate Inquiries before the same Inspector. The Inquiry into Appeal A¹ opened on 20 May 2014, and sat on that day, and also on 21, 22, and 23 May 2014, when it was closed.
2. An unaccompanied site visit was programmed to take place shortly afterwards but it was postponed because before it could take place, the Council contacted PINS to assert that contrary to the case it had advanced at Inquiry 1, it could now demonstrate a five-year supply of deliverable housing sites.
3. Given the obvious importance of that change of tack, I decided that Inquiry 1 should be re-opened in order that the Council's revised position, and the implications, could be properly interrogated.

¹ Referred to hereafter as Inquiry 1

4. Obviously, the Council's changed position had important ramifications for Appeal B too. On that basis, it was considered expedient to conjoin the two Inquiries so that the Council's evidence on housing land supply, and the ramifications for that decision-making process, could be examined contemporaneously at the Inquiry into the scheme at issue in Appeal B².
5. Inquiry 2 opened on 28 August 2014 and also sat on 29 August, 2, 3 and 4 September 2014, when it was closed.
6. After Inquiry 2 closed, a number of major issues arose which gave rise to a need for further representations from the main parties. The first of these concerned an appeal decision on a housing development proposed for a site in Crewkerne³ which concerned itself with whether the Council could demonstrate a five-year supply of deliverable housing sites, amongst other things.
7. After that, there was a significant hiatus caused by a request from the Council, followed by the local Member of Parliament, that the appeals be called-in for determination by the Secretary of State. Eventually, the decision was made that the appeals should remain transferred to my jurisdiction.
8. Then, on 8 January 2015, the Inspector's Report on the Examination into the South Somerset Local Plan 2006-2028 was published. After comments were received from the main parties on the implications of that publication, I was advised that on 5 March 2015, the Council had formally voted to adopt the LP.
9. On 6 April 2015, the transitional period under CIL Regulation 123(3) (as amended) after which s.106 planning obligations designed to collect pooled contributions ('tariffs') may not lawfully be used to fund infrastructure which could be funded from CIL, ended nationally. I had to revert once again to the Council, and through them the County Council, for comments on how that might impact upon the submitted Obligations under Section 106, relating to both appeals. I also sought the views of the appellants on this matter, a process that was completed on 30 April 2015.
10. I undertook an unaccompanied site visit on 1 October 2014⁴, where I took in both appeal sites, the various walking and vehicular routes into and out of Chard, to and from them, and the various services and facilities in the town. I observed the traffic conditions around the appeal sites and the town centre, in the busy morning and afternoon periods.
11. Inevitably, I also gained experience of the town itself, and used and observed the operation of, the Convent junction at various times during the Inquiries, and subsequently, on 5 November 2014, and 23 March 2015, when I visited and passed through Chard, in connection with other PINS casework.
12. The application that resulted in Appeal A was made in outline with access to be determined and appearance, landscaping, layout and scale reserved. Originally, the appeal site included the area covered by the scheme in Appeal B. Once the application that resulted in Appeal B was lodged, the extent of the Appeal A scheme was reduced to take that into account. The Council considered it on the basis that it included 350 dwellings, as well as the associated elements set out in the original description of development.

² Referred to hereafter as Inquiry 2

³ APP/R3325/A/13/2210545 dated 4 November 2014

⁴ A Wednesday – the day when refuse and recycling collections are carried out in Chard

13. At the Inquiry, to take account of the Statement of Common Ground agreed with the Council on landscape matters, and Drawing No. 11-26-08 revision D: Landscape Masterplan, the scheme was further reduced to include 335 dwellings. Subject to the point I refer to below regarding the means of access, I have dealt with Appeal A on that basis.
14. The application that resulted in Appeal B was also made in outline with access to be determined and appearance, landscaping, layout and scale reserved. Again, subject to the point I refer to below regarding the means of access, I have dealt with Appeal B on that basis.
15. There was some discussion at Inquiry 2 about the nature of Appeal B. The Council produced a decision notice, dated 4 September 2013, setting out three reasons for refusal. However, an appeal against non-determination was lodged on 19 August 2013. I have therefore dealt with Appeal B on the basis that it is against a failure to give notice within the prescribed period of a decision on an application for outline planning permission. I have treated the reasons for refusal set out by the Council in its decision notice as putative.
16. Both sets of proposals were considered to be EIA development for the purposes of the relevant regulations and, as such, the original applications were accompanied by Environmental Statements. There has been no sustained suggestion that the Environmental Statements, in their final forms, fail to meet the requirements of the relevant regulations. I have no good reason to reach a different conclusion and have taken both fully into account.
17. At Inquiry 2, applications for partial awards of costs against the Council were made by both appellants. These are the subject of separate Decisions.
18. Given the nature of the evidence relating to housing land supply, and the Obligations under S.106, submitted by the main parties, and in particular the various financial contributions involved, these elements of Inquiry 2 were dealt with on a 'round table' basis. Some of those recorded as appearing for the main parties presented their evidence in that less formal manner, and were not subjected to cross-examination.
19. While they were originally intended to be dealt with separately, because of the way Appeals A and B were brought together in the manner outlined, the adjoining nature of the two sites, and the potential for cumulative impacts, I have dealt with them together, as linked appeals.

Decisions

Appeal A

20. The appeal is dismissed.

Appeal B

21. The appeal is dismissed.

Main Issue

22. The matters to be considered are multifarious but put very simply, the main issue before me is whether the Council can demonstrate a five-year supply of deliverable housing sites and the implications, in terms of the application of local and national policy, that flow from a conclusion on that matter.

Reasons

Planning Policy

23. Notwithstanding the importance that attaches to the question of whether the Council can demonstrate a five-year supply of deliverable housing sites as a consequence of the Framework⁵, the starting point for analysis of the proposal remains the development plan. Section 38(6) of the Act⁶ sets out that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
24. The Council based its policy position in the lead up to, and at, the Inquiries on saved policies of the South Somerset Local Plan 1991-2011, adopted in April 2006, as well as draft policies in the South Somerset Local Plan 2006-2028.
25. Following examination and receipt of the Inspector's report dated 8 January 2015 which found the plan sound, subject to a number of agreed modifications, the South Somerset Local Plan 2006-2028⁷ was adopted by the Council on 5 March 2015. As set out above, the main parties were consulted on the implications of that adoption because I have to proceed on the basis of the development plan in place at the time of reaching my decisions. In their submissions, the Council relies principally upon Policies PMT1 and PMT2.
26. LP Policy PMT1 is titled Chard Strategic Growth Area. It sets out that land at Chard is allocated for strategic growth to provide the following within the plan period, and beyond: at least 2,716 dwellings; approximately 13 hectares of employment land; 2 new primary schools; 4 neighbourhood centres (Avishayes, Stop Line Slopes, Millfields and Holbear); highway infrastructure and improvements; and sports and open space provision.
27. LP Policy PMT2 deals with what it terms Chard Phasing. To ensure the timely delivery of highway and other infrastructure to support the proposed growth of Chard Eastern Development Area⁸, it sets out that a phased approach to delivery will be taken. Within the plan period, at least 1,220 dwellings; approximately 13 hectares of employment land; 1 new primary school; 2 neighbourhood centres; and sports and open space provision are projected and post 2028, at least 1,496 dwellings; 1 new primary school; and 2 neighbourhood centres. In order to ensure the timely delivery of the necessary infrastructure to support the growth, phasing sequences should be justified and it should be demonstrated that the proposal will not compromise the delivery of total growth.
28. The background to these policies is set out in the supporting text of the LP. Paragraph 7.21 tells us that the Chard Regeneration Plan of October 2009, prepared by LDA Design presented four options for the future growth of Chard. Option 3 (CEDA) has been chosen as the most appropriate location for strategic growth providing a scale of growth that will enable Chard to achieve and maximise its needs for employment, housing, retail, and associated amenities, as well as improved highway infrastructure.

⁵ The National Planning Policy Framework

⁶ The Planning and Compulsory Purchase Act 2004

⁷ Referred to hereafter as LP

⁸ Referred to hereafter as CEDA

29. In terms of implementation, paragraph 7.38 sets out that there will be a phased approach to growth on the basis of the Chard Regeneration Framework Implementation Plan of October 2010. According to paragraph 7.40, the key driver of the phasing sequence is the need to incrementally increase the capacity of the highways infrastructure to accommodate the traffic flows as the town grows.
30. This infrastructure includes improvements to the Convent junction traffic lights, some of which has already taken place, and the eventual provision of the Millfield Link Road. The latter may require the Council to exercise compulsory purchase powers and it is intended to fund the link road, at least in part through financial contributions from the development coming forward, furnished through CIL⁹, or planning obligations under S.106.
31. The LP Inspector noted that there is a robust commitment to securing the proposed growth in Chard and found there was insufficient evidence to justify the adoption of a different approach at this stage. On that basis, he found that Policies PMT1 and PMT2 are sufficiently flexible and provide the basis on which decisions about the future of the town can be taken.
32. It is argued on behalf of the appellants that the proposals do not fall foul of Policies PMT1 and PMT2. I cannot agree with that. These policies are predicated upon CEDA and the Chard Strategic Growth Area is clearly shown in figure 5. Apart from a part of the site covered by the Appeal A proposal, which is in any event intended for employment generating uses, the appeal sites are not identified for development. It is axiomatic, therefore, that the proposals at issue do not accord with LP Policies PMT1 and PMT2.
33. That is not the end of the matter, however. As Section 38(6) of the Act points out, decisions should be made in accordance with the development plan, unless material considerations indicate otherwise. The Framework is such a material consideration.

Housing Supply

34. To boost significantly the supply of housing, paragraph 47 of the Framework sets out a number of requirements for local planning authorities. These include using their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing.
35. Moreover, it is incumbent on them to illustrate the expected rate of housing delivery through a housing trajectory and set out a housing implementation strategy for the full range of housing describing how they will maintain delivery of a five-year supply of housing land to meet their housing target.
36. LP paragraph 5.60 sets out that the evidence base has established that the full objectively assessed need for housing growth in South Somerset is 15,950 homes to be built over the period April 2006 to March 2028. This is confirmed in LP Policy SS4. Broadly speaking, the main parties accepted this figure and I have no good reason to dispute it.
37. The Council contends that whether the base date is taken to be 31 March 2014, or 31 July 2014, it can demonstrate a five-year supply of deliverable housing sites. That is based on a calculation that runs as follows.

⁹ Community Infrastructure Levy

38. The sum of 15,950 homes over 22 years equates to 725 a year. That makes the base requirement for the first five years 3,625 homes. Given that there has been a record of persistent under delivery of housing, the Council accepts that the appropriate buffer is 20%. By their calculation, this makes the requirement for the first five years 4,350.
39. To that, says the Council, needs to be added 880 dwellings undelivered in the previous plan period, giving a total requirement of 5,230. It is suggested by the Council that as of 31 March 2014, it had a supply of 5,356 homes, or 5 years and 1 month, or on the basis of 31 July 2014, 5,789 dwellings, or 5 years and 5 months.
40. There is, however, a difficulty with that calculation. As the PPG tells us¹⁰, local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period, where possible. No good reasons were advanced to suggest that dealing with the backlog from the previous plan period in the first 5 years is not possible in South Somerset.
41. On that basis, the requirement for the first five years is 3,625 homes plus the backlog of 880 giving a total requirement of 4,505. It is at that point that the buffer of 20% should be added meaning that the total requirement for the first 5 years is 5,406 homes.
42. The Council suggests that the 20% buffer should not be applied to the backlog as this would result in additional housing. That is incorrect. All it would do is bring forward housing provision from later in the plan period to allow the backlog to be dealt with effectively in the first five years. The buffer affects the supply side; it does not alter the requirement.
43. It is clear, therefore, on the basis of their own figures, that as of 31 March 2014, the Council could not demonstrate a five-year supply of deliverable housing sites. The 5,789 figure presented for 31 July 2014 is of doubtful provenance because it is not clear that the Council took 31 July 2009 as the start point for their calculation. In any event, as the appellants pointed out, there are other difficulties with that figure.
44. It is clear from the Council's ready acceptance that there has been persistent under-delivery that the South Somerset housing market is weak. Moreover, the longstanding failure of the regeneration plans for Chard shows that the market there too is difficult. Evidence was adduced by the Council to support other aspects of their case which referred to the housing market as 'soft', with plans and schemes vulnerable to being blown off-course.
45. A number of individual sites regarded as deliverable within five years were examined at the Inquiry and it is clear that an appreciable number have issues, including around viability, which means that they might not come forward in that period, or indeed, at all. There is a wider, linked, point. The Council's projections rely on housing being brought forward, year-on-year, between March or July 2014 and March or July 2019, well in advance of historic rates of completion. While there might be some pent up demand, the record of delivery, suggests that the Council's forecasts are rather optimistic in the face of the competition between different house-builders that would arise. In that light, I find it difficult to foresee with any confidence that the 5,356 figure,

¹⁰ Planning Practice Guidance Paragraph 035 Reference ID: 3-035-20140306

based on March 2014, or the 5,789 figure for July 2014, promulgated by the Council, will in fact be delivered.

46. On that overall basis, it is my conclusion, in the light of the evidence presented to me, that the Council cannot demonstrate a five-year supply of deliverable housing sites.
47. I recognise that this conclusion puts me at odds with the Inspector who dealt with the LP examination, and the Inspector who dealt with the recent appeal in Crewkerne. The former found that the Council could demonstrate a supply of 5 years and 1 month based on a requirement in the first five years of 5,230. While I am not party to the evidence before the LP Inspector, the figure of 5,230 suggests to me that the 20% buffer was not applied to the backlog. It is very clear from paragraph 52 of the decision letter that the Inspector who dealt with the Crewkerne appeal, on the basis of the evidence before him, followed that same path. For the reasons set out, I cannot agree with that approach.
48. There is a question too about whether it is proper for me to form a conclusion on this matter at odds with that of the LP Inspector. The PPG¹¹ says that the examination of Local Plans is intended to ensure that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications and appeals where only the applicant's/appellant's evidence is likely to be presented to contest an authority's position. Be that as it may, given the importance attached to it in the context of how I reach a decision as a consequence of the Framework, and paragraphs 49 and 14 in particular, I cannot avoid examining the evidence on housing land supply presented to me and forming my own conclusions on the matter.
49. Paragraph 49 of the Framework says that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In that they direct the provision of housing in Chard, in terms of location and quantity, LP Policies PMT1 and PMT2 are obviously relevant policies for the supply of housing. In the light of my conclusion that the Council cannot demonstrate a five-year supply of deliverable housing sites, despite having been adopted only very recently, they cannot be considered up-to-date. In those circumstances, the decision-maker is directed to paragraph 14 of the Framework.

The Implications of the conclusion on housing supply

50. Paragraph 14 tells us that at the heart of the Framework is a **presumption in favour of sustainable development** which should be seen as a golden thread running through both plan-making and decision-taking. For decision-making, unless material considerations indicate otherwise, this means that where the development plan is absent, silent, or as is the case here, relevant policies are out-of-date, the decision-maker is directed to grant permission unless any adverse impacts of doing so would significantly and demonstrably

¹¹ Paragraph 033 Reference ID: 3-033-20150327

outweigh the benefits, when assessed against the policies in the Framework, taken as a whole¹².

51. I have been invited down the path of *Davis* and the suggestion therein that a preliminary assessment of whether a proposal is sustainable development, or not, is necessary before paragraph 14 can properly be applied¹³. In my view, that is not a correct reading of the Framework. Paragraph 14 directs those dealing with plan-making or decision-taking in how to decide whether a plan, or a proposal, benefits from the presumption in favour of sustainable development. Nowhere does it suggest that there is any need for a preliminary assessment of whether a proposal represents a sustainable form of development, and in the absence of any unambiguous definition of 'sustainable development' in the Framework, it is difficult to see how that assessment could properly be approached.
52. The Council suggests that I should analyse the proposal against the three dimensions outlined in paragraph 7 of the Framework, the economic role, the social role, and the environmental role, and perform a balance between all three in order to reach a preliminary conclusion on whether the proposal represents sustainable development. However, save for a balancing provision more favourable towards development, that is more or less the same process one carries out in asking the question whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
53. Further, if a simple preliminary balancing exercise of the sort proposed by the Council led to a finding that a proposal would represent a sustainable form of development, what then would be the point of the decision-maker posing the question of whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole? That question would already have been answered in the affirmative.
54. In that overall context, following the line of Patterson J¹⁴ in *Dartford*, I cannot accept the elevation of *Davis* to a formulaic sequential approach to paragraph 14, in the manner suggested by the Council. I accept that Patterson J says in *Dartford* that '*I agree with Lang J in her conclusion that it would be contrary to the fundamental principles of the Framework if the presumption in favour of development in paragraph 14 applied equally to sustainable and non-sustainable development*' but do not believe that the application of paragraph 14, in the way I have set out, would lead to such an outcome. Whether a proposal benefits from the presumption in favour of sustainable development is an outcome of applying paragraph 14, not an input.
55. Put very simply, in cases like those at issue, if, when assessed against the policies in the Framework taken as a whole, the benefits of a proposal are not significantly and demonstrably outweighed by adverse impacts, then the proposal benefits from the presumption in favour of sustainable development. While my approach does not strictly accord with *Davis*, it is endorsed in the

¹² On the basis that the appeal sites are not ones where specific policies in the Framework indicate that development should be restricted.

¹³ *William Davis Limited, Jelson Limited v Secretary of State for Communities and Local Government, North West Leicestershire District Council* [2013] EWHC 3058 (Admin)

¹⁴ *Dartford BC v SoS for Communities and Local Government and Landhold Capital Ltd* [2014] EWHC 2636 (Admin)

Colman, Stratford, and Tewkesbury judgements¹⁵. It might be argued that the *Davis* judgement post-dates them but nowhere does *Davis* seek to distinguish itself from these decisions.

56. Bringing that all together, in order to decide whether the proposals benefit from the presumption in favour of sustainable development, it is necessary for me to address the question of whether any adverse impacts of granting permission would significantly and demonstrably outweigh any benefits, when assessed against the policies in the Framework taken as a whole.

Accessibility

57. This alleged adverse impact was referred to many times at the Inquiry as the 'sustainability' of the appeal sites. In my view, bearing in mind the way the term is used in the Framework, that is inaccurate. Rather, the question is one of accessibility. Paragraph 37 of the Framework says that planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education, and other activities. Part of the reason for that approach is set out in paragraph 93. This says that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change. Paragraph 32 sets out that decisions should take account of whether, amongst other things, the opportunities for sustainable travel modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure.
58. The LP designates Chard as a Primary Market Town and the idea is that it will grow and continue to expand its identified role. There can be no question that Chard has the capacity to accommodate additional housing. However, put simply, the argument advanced by the Council and interested parties is that the location of the appeal sites, on the periphery of the town, is such that residents and other users of the proposals would be overly reliant on the private car, and that the measures put forward to secure modal shift would be insufficient to alleviate the adverse environmental impacts flowing from that.
59. The sites are located on the edge of the settlement. It is clear that walking distances from the appeal sites to facilities like schools, the town centre shops and other facilities, and places of employment would, in most cases, be well beyond the 800 metres seen as acceptable to walk in Manual for Streets, and other, similar measures. However, the analysis of accessibility cannot be so reliant on suggested distances because it is largely a behavioural matter. Some people will be motivated to walk much further than 800 metres to school, or work, or the shops. Others will prefer to use the car for even shorter distances. The essential question, it seems to me, is whether the proposals would offer residents a reasonable opportunity to use more environmentally-friendly modes of transport than the private car.
60. I walked the likely routes residents of the proposals would use to access education, retail and employment facilities and, despite refuse and recycling collections which restricted pavement widths in places, and some relatively

¹⁵ *Stratford on Avon DC v SoS for Communities and Local Government, J S Bloor (Tewkesbury) Ltd, Hallam Land Management Ltd, RASE* [2013] EWHC 2074 (Admin) and *Tewkesbury BC v SoS for Communities and Local Government, Comparo Ltd, Welbeck Strategic Land LLP* [2013] EWHC 286 (Admin)

gentle gradients, did not find any of them particularly onerous. Even if one factors in the need to carry schools bags, or shopping, escort children, or use pushchairs, I do not believe that anyone reasonably motivated, or able, would choose not to walk to access those facilities because of the length, or nature, of the routes involved. The improvements to pedestrian connectivity proposed as part of Appeal A would assist too. Similarly, there was nothing that I saw that would put off someone who wanted to cycle to work, or school, or to the shops.

61. It is also relevant to note that the Appeal A scheme includes provision for a Local Centre that would include a relatively small shop, secured by condition. This would allow residents of the schemes, and other residents in the vicinity, the option of a shop in closer proximity that could be accessed on foot or bicycle. I recognise that this would not replace a major supermarket trip, but it would certainly go a long way towards obviating the use of the car for convenience shopping trips.
62. Moreover, both schemes include Travel Plans. These drew some criticism in terms of lack of ambition, and their approach to bus services, in particular. However, it would be difficult to do a great deal in terms of bus services given the limited nature of the existing service. What is proposed in the Travel Plan associated with Appeal A seems proportionate in that context. Most importantly, given my conclusions about the location of the sites, and the capacity for walking and cycling to and from them, I do not regard either Travel Plan as inadequate. They would go a reasonable way towards assisting residents in choosing more environmentally acceptable modes of travel than they might otherwise. It is also relevant to note that the County Council has approved the Appeal B Travel Plan.
63. It must be borne in mind that a significant amount of housing development is planned for Chard, some of which is relatively remote from the town centre. Notwithstanding associated infrastructure improvements that might come about, that is inevitably going to lead to increased car use. In that context, I see nothing inherently difficult about the appeal sites in terms of accessibility by means of travel other than the private car, and both schemes include measures that would go some way to reduce dependence on that mode. All in all, there is no good reason why the developments proposed should be rejected on accessibility grounds.

Whether the proposals would prejudice the LP strategy for Chard

64. There are two main planks to this issue. The first revolves around the suggestion that the proposals would use up capacity at the traffic-light controlled Convent junction in an unplanned way and that this would provide a barrier to other, planned, schemes that rely on the existence of the available capacity of the Convent junction to work, in traffic generation terms.
65. Dealing with the Appeal B scheme first, the Council's witness accepted in cross-examination that the impact of the traffic generated by the scheme on the Convent junction would be negligible. It is difficult to see how, in that context, the Appeal B scheme would prejudice the delivery of planned schemes for Chard, in that respect at least.
66. The Appeal A scheme includes as a part of it proposed works to the arrangement of the Convent junction, involving the prohibition of certain turning manoeuvres, which would increase capacity. I recognise that the

Council has certain misgivings about the impact that prohibiting some turning manoeuvres would have, and I am sure that it would be inconvenient for some. However, on my analysis, the proposal as promulgated would undoubtedly increase capacity at the Convent junction, and more than offset any impact the proposal would have on its capacity. It would not prejudice the ability of other schemes to come forward, because of the capacity limitations of the Convent junction, as a consequence. Indeed, it would increase the capacity of the junction and thereby make it easier for other schemes to be accommodated.

67. I accept that the works to the Convent junction proposed would require a TRO¹⁶. However, the appellant is prepared to accept a Grampian condition restricting implementation of the development until the TRO is confirmed. The Council sees difficulties with that arrangement but to my mind, it is perfectly legitimate. It is correct to say that there is a risk that the TRO would not be confirmed but there is at least a prospect of it being. In that context, the Grampian condition put forward is reasonable and if for some reason the TRO was not confirmed, then the proposal could not take place in a way that would use up capacity at the Convent junction and prejudice other schemes that might come forward. On that basis, Appeal A is acceptable, in this regard.
68. The other plank of the Council's case relates to the housing market in South Somerset, and Chard in particular. As set out above, there can be no real doubt that it is a 'soft' market. The record, during, and coming out of, the recession, shows as much. While not the only reason, difficulties with the market have certainly contributed to the lack of delivery of development, and regeneration, in the town.
69. As set out, to allow for development and regeneration to come forward, LP Policy PMT2 envisages at least 1,220 dwellings coming forward in the plan period, on sites earmarked for that purpose. Paragraph 7.21 of the LP is clear that the number of homes expected to come forward in the plan period reflects market deliverability. Appeal A would bring forward 335 dwellings and Appeal B, 110 dwellings, on unplanned sites. Viewed separately, or together, the provision of this many dwellings, on sites seemingly unencumbered by the restraints of others envisaged by LP Policy PMT2, would be very likely, in my view, to blow the LP strategy off-course. I cannot see why, given the capacity of the market in Chard, developers would seek to provide housing on more difficult regeneration sites, when relatively significant numbers of dwellings might have already been delivered, or be in the process of coming forward simultaneously, on edge of settlement sites, much less constrained, and therefore more profitable, to develop.
70. On that basis, while I acknowledge the doubts expressed on behalf of the appellants about whether the regeneration of Chard will ever get off the ground, a matter I return to below, I agree with the Council that the proposals, viewed separately, or together, would prejudice the LP strategy for Chard.

Highway Safety

71. It is important, first of all, to set out the approach of paragraph 32 of the Framework. Decisions must take account of whether, of relevance under this particular issue, safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network

¹⁶ Traffic Regulation Order

that cost-effectively limit the significant impacts of the development.

Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

72. Viewed individually, the schemes at issue in Appeals A and B, as promulgated (access being before me in each case) would not cause any impact that could reasonably be described as severe. If they are considered together, as they are put forward, with each having their own separate access on to Crimchard, the one for Appeal A signal controlled, then the result would be a rather contrived arrangement that would make for rather difficult traffic conditions on Crimchard, which, as I observed during my site visits, is relatively narrow, and can carry relatively significant volumes of traffic, at certain times of the day. Adding the additional traffic from the schemes on to Crimchard, in that way, would lead to some difficulties in highway safety terms, though it would be stretching credulity to describe those impacts as severe.
73. However, the appellants are quite prepared to consider the imposition of conditions that would, in effect, mean that the two separate developments would function with one access on to Crimchard. So long as that access was properly designed, with signals if deemed necessary, something that could be dealt with through the conditions, the additional traffic generated could be accommodated with no significant detrimental impact in highway safety terms. On that basis, there would be accord with paragraph 32 of the Framework.

Landscape

74. It is one of the core principles of the Framework that the intrinsic character and beauty of the countryside should be recognised. Both appeal sites are currently in use as pasture and are clearly perceived as part of the countryside, beyond the confines of the settlement. Following discussions with the appellant about the extent of housing in Appeal A, reflected in a Statement of Common Ground, the Council takes no issue with either scheme in landscape terms. Local residents take a rather different view.
75. Put simply, if the intrinsic character and beauty of the countryside is to be recognised, then extending the built form of the settlement into green fields at the edge of the town must be deemed harmful in character and appearance terms. The question is to what extent would it be harmful?
76. The scheme at issue in Appeal B would lead to a relatively limited northern extension of Chard. Given that there is already development to the west, on the opposite side of Crimchard, south, and east, it would represent a logical rounding off of the settlement. In that context, the degree of landscape harm inherent in the appeal B scheme would be very limited.
77. The scheme in Appeal A would be significantly greater in area and extend the built form of Chard much further northwards. Notwithstanding the potential for landscape buffers and the provision of open space, in effect, the scheme would fill the existing gap between Chard and the small settlement of Cuttifford's Door. Cuttifford's Door would, to all intents and purposes, lose its identity and become a part of the town. In that way, the scheme in Appeal A would cause much more harm, in character and appearance terms, than the scheme in Appeal B.

Benefits

78. Given the exhortation in the Framework to boost significantly the supply of housing, the provision of market housing, in a situation where there is a prevailing under-supply, must be seen as a significant benefit that weighs in favour of Appeals A and B.
79. I heard too that there is a significant shortfall of affordable housing in South Somerset. Both schemes provide for policy compliant levels of affordable housing. Normally, one would not attach any additional weight to that because it is what a development should bring forward in any event. However, it is clear that South Somerset has had difficulties with delivering policy compliant levels of affordable housing because of issues around viability. In that context, the ability of the proposals at issue to deliver a policy compliant amount of affordable housing counts as a significant benefit.
80. Appeal A has other characteristics that require consideration. As set out above, it includes provision for a local centre that might include facilities such as a shop. The appellant was quite content to accept a condition requiring their inclusion in the scheme that would come forward at reserved matters stage.
81. Even acknowledging that some of them would most likely be part-time, I find it difficult to accept that such a facility might generate 100-150 jobs, as the appellant claimed. However, it would generate some employment and, given the focus in the Framework on securing economic growth¹⁷, that must be seen as an advantage of the scheme. The same is true of the construction activity and the jobs that would be generated or secured as a result of that.
82. Of more import, the Appeal A scheme includes provision for the relocation of Chard Town Football Club. I heard clear and persuasive evidence of the importance of the football club to the town and acknowledge that its current facilities are a great drag on progress. Paragraph 7.10 of the LP notes that the relocation of the football club has been a longstanding issue.
83. I heard from representatives of the football club about the way in which new facilities could be funded and provided - the existing ground has a value and any funds generated from sale would be matched by the Football Association. Whatever might be said about public access to the facilities that would come forward, if one could be sure that the Appeal A scheme would provide for a relocated Chard FC then that would be a weighty matter indeed.
84. The difficulty is that one cannot be sure. While it is a part of the scheme, the necessary transfer of land to the football club cannot be required by condition. Neither has any Obligation under S.106 been provided to ensure that the transfer takes place.
85. All I have is a letter written on behalf of the S E Blackburn Discretionary Trust which says that if Appeal A is successful and outline planning permission is granted for the proposal, then they are prepared to transfer the land identified, to the football club, free of charge. I have no good reason to doubt the intention but the letter is not contractual, or enforceable, and no guarantee that the transfer will take place. That severely limits the weight I can attach to this matter.

¹⁷ Paragraphs 18 and 19 in particular

86. The appellants have put forward Obligations under S.106 to make various financial contributions. Those pooled contributions towards theatres and arts centres and a new indoor tennis centre are no longer pursued by the Council. The other contributions, that accord with CIL Regulation 122, and advice in paragraph 204 of the Framework, are all designed to mitigate impacts. As such, they are neutral, and carry no weight in favour of the proposals.
87. Similarly, while concern was raised at application stage about likely impacts on biodiversity, and dormice in particular, both schemes make provision for proper mitigation. However, that mitigation means the impact of the proposals will be neutral. It is neither a benefit, nor an adverse impact.

Conclusion

88. As set out above, in order to decide whether the proposals benefit from the presumption in favour of sustainable development set out in the Framework, it is necessary for me to address the question of whether any adverse impacts of granting permission would significantly and demonstrably outweigh any benefits, when assessed against the policies in the Framework taken as a whole. In terms of Appeal A, there are adverse impacts in terms of the effect on character and appearance, and in terms of prejudicing the delivery of the LP strategy for Chard. Appeal B would have a limited negative impact on the landscape, and, something of a prejudicial impact on the LP strategy.
89. On the other hand, the Appeal A scheme would bring forward market and policy compliant affordable housing, and a local centre, with attendant jobs, increase capacity at the Convent junction, subject to confirmation of a TRO, and hold out at least the potential for the relocation of Chard Town FC. Appeal B would bring forward market and policy compliant affordable housing. Both would bring forward economic benefits through construction activity.
90. There is a prevailing undersupply of housing and obvious and acknowledged hurdles, like the provision of the Millfield Link, and the potential necessity for CPOs, which call into question whether the LP strategy for Chard is realistic. In that context, viewed as separate schemes, or together, as one larger scheme, the adverse impacts of the proposals would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework considered as a whole. On that basis, the proposals, whether viewed separately, or together, benefit from the presumption in favour of sustainable development.
91. That is not the end of the matter, however. The proposals are contrary to LP Policies PMT1 and PMT2 and the approach of the LP to future development in Chard. As the Framework readily acknowledges¹⁸, it is but a material consideration. It does not change the statutory status of the development plan as the starting point for decision making. It is incumbent upon me to make decisions that accord with the development plan, unless material considerations indicate otherwise.
92. The LP, and the approach therein to development in Chard, has only very recently been found sound, and adopted. The Council, and local people, have clearly invested much time, and energy, in ensuring that outcome. It seems to me that the approach to development in Chard, enshrined in the recently

¹⁸ Paragraphs 2 and 12 in particular

adopted LP, needs to be given some time to succeed before it could reasonably be set aside. To do otherwise would undermine the primacy of the plan-led system. On that basis, the fact that the proposals benefit from the presumption in favour of sustainable development, as set out in the Framework, is not a material consideration of sufficient weight to justify setting aside the policies of the LP, at this stage.

93. As the LP Inspector points out, in paragraph 93 of his report, any failure to deliver will be picked up by the Council's monitoring and should that situation arise, then the Council could take appropriate remedial action at that time, as a matter of urgency. If the LP strategy for Chard does falter, or fail completely, then the conclusion on similar proposals to those at issue in these appeals in the future, might well be different.

94. For the reasons given above I conclude that the appeals should be dismissed.

Paul Griffiths

INSPECTOR

APPEARANCES

INQUIRY 1

FOR THE LOCAL PLANNING AUTHORITY:

John Pugh-Smith of Counsel	Instructed by Angela Watson, Legal Services Manager, SSDC
He called	
John Gallimore	Principal Planning Liaison Officer, Somerset County Council
MCInstCES	
Patrick Moss	Director, Moss Naylor Young Ltd
BSc(Hons) DipTP MRTPI	
Andrew Gunn	Team Leader, Area West Planning Team, SSDC
BA DipTP MRTPI	
Lynda Pincombe	Community Health and Leisure Manager, SSDC
BA(Hons) CMI	

FOR MacTAGGART & MICKEL HOMES LTD AND THE S E BLACKBURN DISCRETIONARY TRUST

Anthony Crean QC	Instructed by D2 Planning
He called	
Sean McIntyre	Director, Key Transport Consultants Ltd
BSc(Hons) CEng MICE	
MCIHT	
Des Dunlop	Managing Director, D2 Planning
BA(Hons) MRTPI	

INTERESTED PERSONS:

Mike Hone	Director, Chard Town FC
Tony Prior	Chard Town Councillor
Ros Roderigo	District Councillor, Blackdown Ward
Jenny Kenton	District Councillor, Crimchard Ward
Elizabeth Quantrell	Mount Hindrance Action Group
Martin Wale	District Councillor, Combe Ward
Alan Quantrell	Local Resident
Helen Lock	Secretary of Cuttiford's Door & District Residents' Association
Michael Lee	Local Resident
Brennie Halse	District Councillor, Chard Holyrood
Jenny Sayers	Combe St Nicholas parish Council
Sue Pargeter	Local Resident
Vicky Atoe	Local Resident
John Gallagher	Local Resident
Brian Beer	Chard Town FC
David Bulmer	District Councillor, Jocelyn Ward and Town Councillor
Marcus Fysh	County & District Councillor, Parliamentary Candidate

INQUIRY 1 DOCUMENTS (I1D)

- 1 Statements of Common Ground (Planning, Transport, Ecology and Landscape) and Landscape Masterplan (Figure PJR-2 Drawing No: 11-26-08 Revision D)
- 2 Residential Travel Plan Revision A dated March 2014
- 3 Opening Statement on behalf of the Council
- 4 Submission of Mr Sayers, Chair, Combe St Nicholas Parish Council
- 5 Comments of Somerset County Council Strategic Transport Planning on Residential Travel Plan Revision A dated March 2014 with attachments
- 6 Submission of Mike Hone, Director of Chard Town FC
- 7 Diagram of Chard Development Options (Development Option 3) as outlined by Patrick Moss (clean copy plus annotated copy)
- 8 Copies of 11128(L)0001 Revision C and 11128(L)100 revision B with red line boundaries
- 9 Submission of Jenny Kenton, District Councillor, Crimchard Ward
- 10 Submission of Liz Quantrell, Mount Hindrance Action Group
- 11 Submission of Martin Wale, District Councillor, Combe Ward
- 12 Submission of Alan Quantrell
- 13 Submission of Helen Lock, Secretary of Cuttiford's Door & District Residents' Association (including Traffic Survey)
- 14 Submission of Michael Lee
- 15 Submission of S M Pargeter
- 16 Draft Unilateral Undertaking with comments thereon
- 17 Map of Crimchard Ward
- 18 Copy of APP/D3315/A/12/2170249
- 19 Copy of APP/R3325/A/12/2170082
- 20 Submission of John Gallagher
- 21 Bundle of documents relating to Chard Town FC put in by Brian Beer
- 22 E-mail trail regarding the Millfield Link
- 23 Objection to Proposed Main Modifications to South Somerset Local Plan 2006-2028 on behalf of David Wilson Homes Ltd
- 24 Draft Conditions
- 25 Submission of Cuttiford's Door & District Residents' Association on proposed relocation of Chard Town FC
- 26 Lists of Possible Grampian Conditions
- 27 Response by Sean McIntyre to representations of Councillor Bulmer
- 28 Copy of Statutory Instrument 1996 No.2489: Road Traffic The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996
- 29 Letter of Intent relating to the relocation of Chard Town FC put in on behalf of S E Blackburn Discretionary Trust dated 23 May 2014
- 30 Letter dated 22 May 2014 from AP Planning on behalf of David Wilson Homes South West Ltd relating to ecological matters
- 31 Letter dated 23 May 2014 from D2 Planning relating to ecological and highway matters and withdrawing their Rule 6 status at Inquiry 2
- 32 Copy of Judgement in *Barrow upon Soar Parish Council v SoS for Communities and Local Government and Charnwood BC and Jelson Ltd* [2014] EWHC 274 (Admin)
- 33 Copy of Judgement in *William Davis Ltd and Jelson Ltd v SoS for Communities and Local Government and NW Leicestershire DC* [2013] EWHC 3058 (Admin)
- 34 Closing Statement on behalf of Council
- 35 Closing Statement on behalf of Appellant

INQUIRY 2

FOR THE LOCAL PLANNING AUTHORITY:

John Pugh-Smith of Counsel	Instructed by Angela Watson, Legal Services Manager, SSDC
He called	
Patrick Moss	Director, Moss Naylor Young Ltd
BSc(Hons) DipTP MRTPI	
Andrew Gunn	Team Leader, Area West Planning Team, SSDC
BA DipTP MRTPI	
David Anthony Clews	Corporate Planning Officer, Somerset County Council
BSc(Hons) DipTP MRTPI	
Lynda Pincombe	Community Health and Leisure Manager, SSDC
BA(Hons) CMI	
David Norris	Development Manager, SSDC
Paul Wheatley	Principal Spatial Planner, SSDC
BA(Hons) DipTP MRTPI	

FOR DAVID WILSON HOMES SOUTH WEST LTD:

Paul Cairnes of Counsel	Instructed by AP Planning
He called	
Richard White	Managing Director, FMW Consultancy Ltd
BSc(Hons) MSc MCIT	
MIHT M.IPENZ (Civil)	
MITE FFB	
Jan Kinsman	Associate Director, EFM Ltd
CEng MICE BSc(Eng)	
ACGI	
Andrew Penna	AP Planning
BA(Hons) MA MRTPI	

FOR MacTAGGART & MICKEL HOMES LTD AND THE S E BLACKBURN DISCRETIONARY TRUST

Giles Cannock of Counsel	Instructed by D2 Planning
He called	
Des Dunlop	Managing Director, D2 Planning
BA(Hons) MRTPI	

INTERESTED PERSONS:

G Sayers	Chair, Combe St Nicholas Parish Council
Brennie Halse	District Councillor, Chard Holyrood
Martin Wale	District Councillor, Combe Ward
Jenny Kenton	District Councillor, Crimchard Ward
Michael Lee	Local Resident
Helen Lock	Secretary of Cuttiford's Door & District Residents' Association
Alan Quantrell	Local Resident
Elizabeth Quantrell	Mount Hindrance Action Group
John Gallagher	Local Resident
Richard Manley	Resident of Ilminster

INQUIRY 2 DOCUMENTS (I2D)

- 1 Unsigned Agreement under S.106 (1)
- 2 Unsigned Agreement under S.106 (2)
- 3 Summary Report on S.106 Agreements
- 4 Statement of Common Ground
- 5 Opening Statement on behalf of David Wilson Homes South West Ltd
- 6 Opening Statement on behalf of the Council
- 7 Draft Conditions
- 8 PoE of Mr Moss relating to Land at Mitchell Gardens, Chard
- 9 Copy of Judgement in *Dartford BC v SoS for Communities and Local Government and Landhold Capital Ltd* [2014] EWHC 2636 (Admin)
- 10 Submission of John Gallagher
- 11 Submission of Helen Lock (including Traffic Survey)
- 12 Extract from Report on the disposal of Council land in Chard to Henry Boot Plc
- 13 Comparison Table of Peter Brett Town Centre C Phase 1 and Henry Boot Plc Proposal
- 14 Letter from Stagecoach dated 13 February 2014 re Route 99/99A
- 15 Consultation Response from John Gallimore of SCC on highway and transportation aspects of the proposal dated 29 May 2013
- 16 Consultation Response from Keith Wheaton-Green on climate change mitigation dated 2 May 2013
- 17 Map of Walking Routes to Employment Sites prepared by FMW Consultancy (FMW1246-SK07)
- 18 Extract from PPG on prematurity
- 19 Copy of e-mail from David Norris of SSDC to Des Dunlop of D2 Planning dated 29 August 2014, about resumption of Inquiry
- 20 Extract from Executive Summary of CEDA Feasibility Report
- 21 Rebuttal PoE of P M Wheatley
- 22 Copy of e-mail from Andrew Gunn of SSDC to Andrew Penna of AP Planning dated 7 January 2014 about Travel Plan and reason for refusal No.3
- 23 Copy of e-mail trail about Travel Plan Revision B
- 24 Copy of letter from Andrew Penna of AP Planning to Angela Watson of SSDC about reasons for refusal, dated 14 August 2014
- 25 Response from Michael Jones of SSDC to Andrew Penna of AP Planning dated 20 August 2014
- 26 Copy of e-mail from Richard White of FMW Consultancy to Andrew Gunn of SSDC, dated 14 July 2014 dealing with SCC's acceptance of the Travel Plan (Revision E)
- 27 Note on Education Multipliers
- 28 Education Position Statement
- 29 Note on Education Issues by David Clews of SCC dated 27 August 2014
- 30 Response by David Clews of SCC to the Note by Stephen Clyne
- 31 Copy of e-mail from Jan Kinsman to David Clews about DfE Multipliers, dated 28 August 2014
- 32 Copy of LGA Media Release about school places, dated 27 August 2014
- 33 Copy of SSLP Policy ST3
- 34 Copy of Maps from SHLAA
- 35 Technical Note 6 by FMW Consultancy explaining LinSig assessment of the potential 4 arm traffic signals access arrangement for Crimchard
- 36 Note on Traffic Generation from Henry Boot Development by Patrick Moss, dated 1 September 2014
- 37 Copy of APP/R3325/A/12/2170082

- 38 Copy of APP/D3315/A/12/2170249
- 39 Copy of e-mail trail between David Norris of SSDC and David Lohfink of C G Fry & Son Ltd and others about the Chard housing market
- 40 Note from Inspector dealing with progress into Report into emerging Local Plan, dated 1 September 2014
- 41 Submission of Robert Trott
- 42 Technical Note 7 by FMW Consultancy dealing with Town Centre Regeneration, dated 3 September 2014
- 43 Memorandum of Disagreement dealing with UU submitted in relation to Appeal A
- 44 Costs application by Appellant on Appeal A
- 45 Response by Patrick Moss on behalf of SSDC to Technical Note 7, dated 4 September 2014
- 46 Technical Note 8 by FMW Consultancy dealing further with Town Centre Regeneration, dated 4 September 2014
- 47 Costs Application by Appellant on Appeal B
- 48 Copy of signed Agreement under S.106 dated 4 September 2014
- 49 Closing Statement on behalf of Council (Appeal B)
- 50 Closing Statement on behalf of Council (Appeal A)
- 51 Supplemental Closing Statement on behalf of Appellant on Appeal A
- 52 Closing Statement on behalf of Appellant on Appeal B
- 53 Costs Response by Council on Application relating to Appeal A
- 54 Costs Response by Council on Application relating to Appeal B

POST-INQUIRY DOCUMENTS

- 1 Agreement under S.106 relating to Appeal B Travel Plan
- 2 Copy of APP/R3325/A/13/2210545
- 3 Comments of SSDC on APP/R3325/A/13/2210545
- 4 Comments of AP Planning (on behalf of David Wilson Homes South West Ltd) on APP/R3325/A/13/2210545
- 5 Comments of D2 Planning (on behalf of MacTaggart & Mickel Homes Ltd and the S E Blackburn Discretionary Trust) on APP/R3325/A/13/2210545
- 6 Copy of the Inspector's Report on the Examination into the South Somerset Local Plan 2006-2028
- 7 Comments of SSDC on the Inspector's Report on the Examination into the South Somerset Local Plan 2006-2028
- 8 Comments of AP Planning (on behalf of David Wilson Homes South West Ltd) on the Inspector's Report on the Examination into the South Somerset Local Plan 2006-2028
- 9 Comments of D2 Planning (on behalf of MacTaggart & Mickel Homes Ltd and the S E Blackburn Discretionary Trust) on the Inspector's Report on the Examination into the South Somerset Local Plan 2006-2028
- 10 Copy of e-mail from SSDC dated 6 March 2015 regarding the adoption of the South Somerset Local Plan 2006-2028
- 11 Bundle of material relating to CIL Regulation 123(3)

PLANS: Appeal A

- A 11128(L)001 Revision D: Location Plan
- B 11128(L)100 Revision D: Site Block Plan
- C 0359-025: Access from Thorndun Park Drive
- D 0359-026 Revision A: Access from Crimchard
- E 11-26-08 revision D: Landscape Masterplan

PLANS: Appeal B

- A 003ii: Site Location
- B 012i Revision E: Illustrative Concept Masterplan
- C 013i: Parameter Plan
- D 013ii: Parameter Plan – Building Height
- E FMW1033-SK02: Proposed Site Access Arrangement

Costs Decision

Inquiry opened on 28 August 2014

Site visit made on 1 October 2014

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 03 June 2015

Costs application in relation to Appeal Ref: APP/R3325/A/13/2203867 Land East of Crimchard, Chard

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by David Wilson Homes South West Ltd for a partial award of costs against South Somerset District Council.
 - The inquiry was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for a residential development of up to 110 dwellings, open space, and SUDs basin, together with formation of new access and related works.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for the Appellant

2. These were made in writing and elaborated upon at the Inquiry.

The response by the Council

3. This was made in writing and elaborated upon at the Inquiry.

Reasons

4. As set out in paragraph 030¹ of the PPG², costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
5. Paragraph 049³ of the PPG sets out a series of examples of unreasonable behaviour by local planning authorities that might result in an award of costs. The appellant makes reference to several of relevance: failing to produce evidence to substantiate each reason for refusal on appeal; making vague, generalised and inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy; and refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed.

¹ Reference ID: 16-030-20140306

² Planning Practice Guidance

³ Reference ID: 16-049-20140306

6. In that context, the appellant draws attention to what it terms the unreasonable behaviour of the Council in relation to putative reasons for refusal Nos.2 and 3. Reason for refusal No.2 relates to the purported inadequacy of the submitted Travel Plan when measured against the guidance published by the County Council and the Framework⁴.
7. The County Council accepted and offered its approval of the Travel Plan. The Council's witness produced to deal with the Travel Plan accepted that the guidance published by the County Council accorded with the Framework. I accept the proposition put forward by the Council that it is free to take a different view of the Travel Plan than the County Council. However, if it is to do so, then it needs to produce evidence to substantiate its position. What was produced, in my view, were vague, generalised and inaccurate assertions, unsupported by any objective analysis.
8. On that basis the Council failed to produce evidence to substantiate reason for refusal No.2. That constitutes unreasonable behaviour and the appellant has been put to the expense of addressing this matter unnecessarily.
9. Reason for refusal No.3 relates to the failure of the proposed development to make what is termed any positive contribution to the Council's strategic approach to future development as outlined in the Chard Regeneration Framework, and in particular, provision for highway infrastructure critical for the future delivery of the Chard Regeneration Framework. As became evident to the appellant later, in correspondence, the provision sought was a financial contribution of £750,000.
10. Mirroring the statutory requirement of Regulation 122⁵, paragraph 204 of the Framework says that planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
11. The Council's witness accepted that the impact of the proposal on the Convent junction would be negligible. No substantive evidence was produced to show how the development proposed could reasonably be expected to contribute to any other piece of highway infrastructure relied upon for the Chard Regeneration Framework. In that light, the contribution sought by the Council fails all the tests of Regulation 122 and falls contrary to the advice in the Framework. In simple terms, the Council has sought to require that the appellant enter into a planning obligation which does not accord with the law or relevant national policy. That is unreasonable behaviour and the appellant has been put to the expense of addressing this matter unnecessarily.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Somerset District Council shall pay to David Wilson Homes South West Ltd, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in dealing with putative reasons for refusal Nos.2 and 3.

⁴ The National Planning Policy Framework

⁵ Of the CIL Regulations 2010

13. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Paul Griffiths

INSPECTOR

Costs Decision

Inquiry opened on 20 May 2014

Site visit made on 1 October 2014

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 03 June 2015

Costs application in relation to Appeal A: APP/R3325/A/13/2209680 Land East of Mount Hindrance Farm, Mount Hindrance Lane, Chard

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by MacTaggart & Mickel Homes Ltd and the S E Blackburn Discretionary Trust for a partial award of costs against South Somerset District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for mixed development comprising 335 (no.) new family homes, provision of a floodlit full size football pitch, unlit full size training pitch and mini pitches, with associated multi-use clubhouse, spectator facilities and vehicle parking area; hub for local neighbourhood facilities and other community uses; public open space; landscaping; drainage and other facilities; associated vehicular and pedestrian accesses; land regrading; associated infrastructure; and engineering works.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The Submissions for the Appellant

2. These were made in writing and elaborated upon at the Inquiry.

The Response by the Council

3. This was made in writing and elaborated upon at the Inquiry.

Reasons

4. As set out in paragraph 030¹ of the PPG², costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
5. Paragraph 047³ of the PPG says that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal.
6. Examples of unreasonable behaviour which may result in an award of costs include: lack of co-operation with the other party or parties; delay in providing information or other failure to adhere to deadlines; and introducing fresh and substantial evidence at a late stage necessitating an adjournment or extra expense for preparatory work that would otherwise not have arisen.

¹ Reference ID: 16-030-20140306

² Planning Practice Guidance

³ Reference ID: 16-047-20140306

7. The Inquiry opened on 20 May 2014, and sat for four days, closing on 23 May 2014 (Inquiry 1). It proceeded on its analysis of the proposal at issue on the basis, accepted between the main parties in a Statement of Common Ground, that the Council could not demonstrate a five-year supply of deliverable housing sites.
8. Well after the Inquiry closed, the Council drew to my attention evidence claiming that it could demonstrate a five-year supply of deliverable housing sites. Bearing in mind the importance of that claim for my determination of the appeal, I was left with no alternative but to re-open the Inquiry and conjoin it with that into Appeal B (Inquiry 2)⁴.
9. The evidence brought forward by the Council had a base date of 31 March 2014 and was submitted to the Programme Officer administering the examination into the South Somerset Local Plan 2006-2028 on 23 May 2014. It is evident therefore, that in the lead-up to Inquiry 1, and at the time when it was sitting, with the Council readily accepting that it could not demonstrate a five-year supply of deliverable housing sites, the Council was, in another forum, arguing strongly that it could. This is clearly unreasonable and demonstrates a lack of co-operation.
10. Even if the Council is right that the information on housing land supply was in no fit state to present to Inquiry 1 (something that I find hard to accept given that it was submitted to the Programme Officer on 23 May 2014), it could have outlined the position and requested an adjournment of Inquiry 1 to allow the information to be put together properly, and placed before their District Executive Committee. That would have been inconvenient but it would have saved everyone from proceeding with Inquiry 1 on a false premise. There is every possibility that had this course been taken, the matter could have been dealt with much more quickly, and easily.
11. Instead, the evidence was produced well after Inquiry 1 was closed; a clear failure to adhere to deadlines. The introduction of this fresh and substantial evidence at a late stage meant that the appellant had to incur extra expense for preparatory work for Inquiry 2 that would otherwise not have arisen. To make matters worse, in the lead up to Inquiry 2, the Council then produced a set of fresh figures, with a revised base date of 31 July 2014. This led to the appellant having to produce rebuttal proofs of evidence to address it.
12. Taking all those points together, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Somerset District Council shall pay to MacTaggart and Mickel Homes Ltd and the S E Blackburn Discretionary Trust, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in dealing with the unreasonable behaviour of the Council, outlined above.

⁴ APP/R3325/A/13/2203867

14. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Paul Griffiths

INSPECTOR

Agenda Item 13

Date and Venue for Next Meeting

The next scheduled meeting of the Committee will be held on Wednesday 15th July 2015 at 5.30pm. Venue to be confirmed.

Agenda Item 14

AREA WEST COMMITTEE

17th June 2015

ITEM FOR INFORMATION

Should members have questions regarding the item please contact the officer shown underneath the report.

1. Click into Activity

GET HEALTHY, GET ACTIVE ROUND 2 PROJECT SUMMARIES

PROJECT TITLE

Click into Activity

LEAD ORGANISATION

South Somerset District Council

KEY PARTNERS

CLICK GP Federation
University of the West of England, Bristol
Somerset Health and Wellbeing Board
Somerset Activity and Sports Partnership (SASP)

BRIEF DESCRIPTION

Click into Activity will deliver a range of physical activity interventions in the CLICK GP Federation area (Chard, Ilminster and Crewkerne). The target audience will be inactive males and female patients pro-dominantly aged 50-60 who are diagnosed as either diabetic, pre-diabetic or hypertensive.

The programme will address an existing gap in a lack of intensive healthy lifestyle interventions for those diagnosed. Identified patients will be referred to Exercise Specialists working across all GP surgeries in the federation who will offer 1-1 support, signposting, and a 'buddy system' to encourage participation in exercise and sports sessions specifically designed for inactive patients with a long term health condition. Changes to exercise levels will be monitored through the use of the MyActivityTracker platform. Cards will be issued to all who take part in the programme, coded with the individuals NHS number, the MyActivityTracker platform will allow us to monitor changes to health and subsequent cost savings to the GP Federation.

TOTAL PROJECT COST

£334,140.00

KEY OUTCOMES

- To develop a culture of activity and exercise promoting surgeries by changing the attitudes of health professionals who do not consider physical activity or sport as a valid treatment method. Increasing surgery staff's knowledge of the benefits of activity to health and the activity and exercise opportunities that they can signpost residents to in their local area
- To improve the health of those diagnosed as diabetic, pre-diabetic and hypertensive and subsequently reduce the cost of CLICK's prescribing budget for diabetes and hypertension
- To increase the number of patients taking part in sport and exercise at least once a week for 30 minutes within the targeted area

- To provide a more supportive system aimed at helping those patients who have one or multiple health conditions that find becoming active difficult and who otherwise would remain inactive.
- To enable sport and physical activity to be regularly commissioned to help reduce health and social care costs, by providing robust evidence that sport and activity can play a part in contributing to improving the public health of communities

CONTACT

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WEBSITE

N/A