

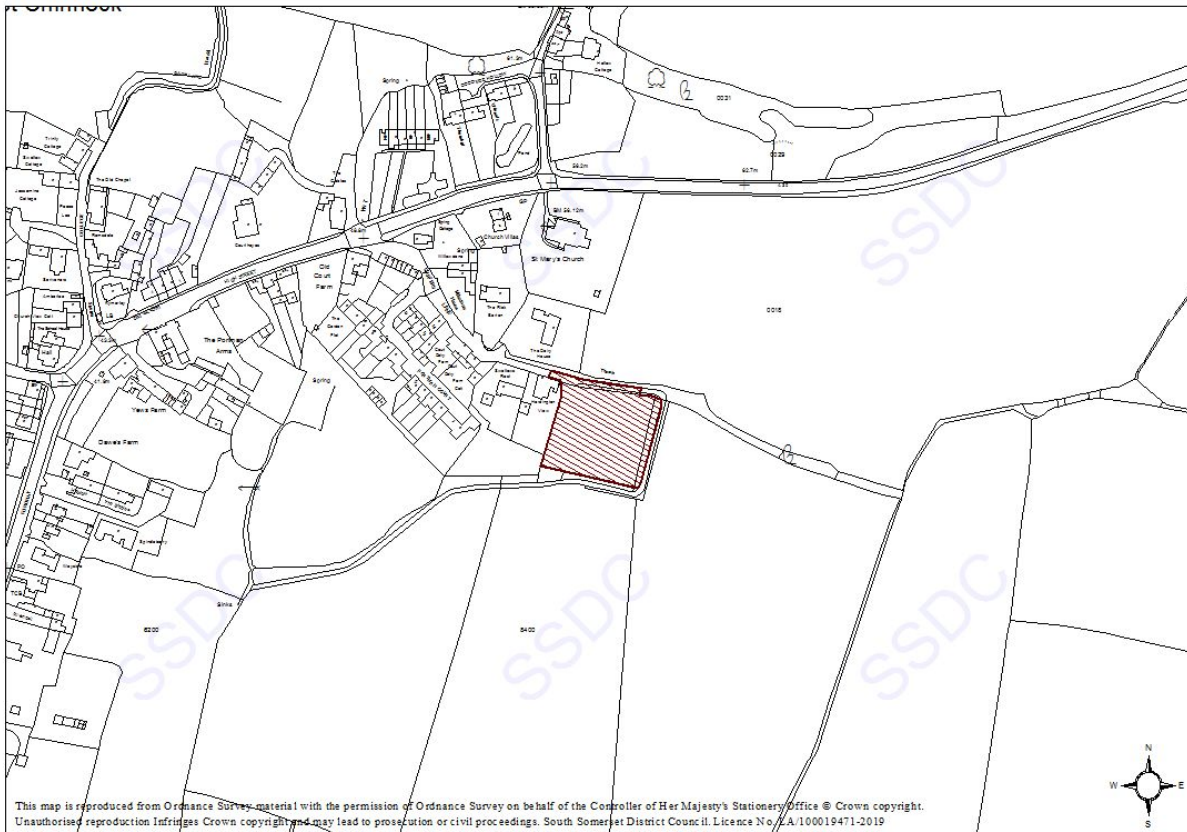
Officer Report On Planning Application: 18/03425/FUL

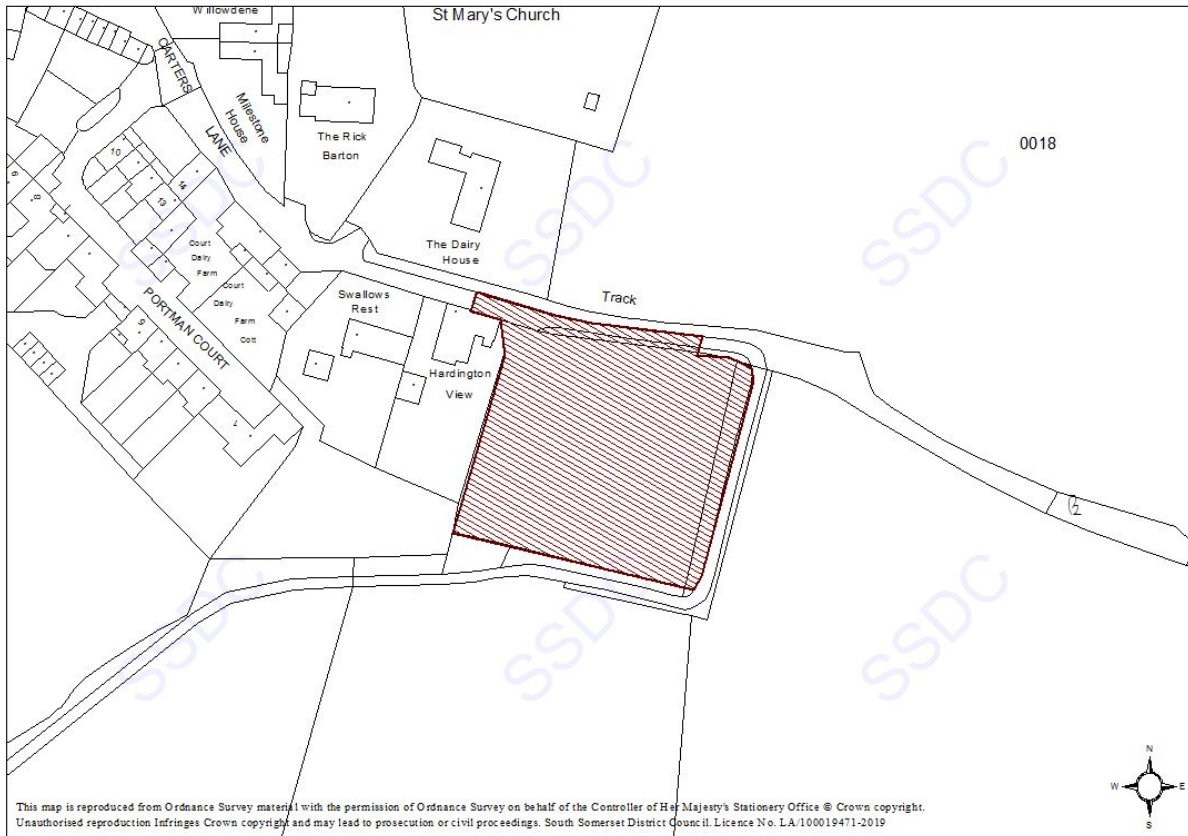
Proposal :	Erection of two detached dwellinghouses, formation of access and associated works
Site Address:	Land At Carters Lane East Chinnock Yeovil
Parish:	East Chinnock
PARRETT Ward (SSDC Member)	Cllr R Pallister
Recommending Case Officer:	Stephen Baimbridge Tel: (01935) 462497 Email: stephen.baimbridge@southsomerset.gov.uk
Target date :	14th December 2018
Applicant :	Mrs P & Messrs D & B Higdon & Corbett
Agent: (no agent if blank)	Greenslade Taylor Hunt Winchester House Deane Gate Avenue TAUNTON TA1 2UH United Kingdom
Application Type :	Minor Dwellings 1-9 site less than 1ha

REASON FOR REFERRAL TO COMMITTEE

The application is a repeat application following a previous refusal. The Ward Member considers that there is insufficient justification for the change in recommendation and that this needs to be debated by the Planning Committee.

SITE DESCRIPTION AND PROPOSAL





The site consists of a plot of land located adjacent to the eastern end of East Chinnock. The site is located at the eastern end of Carters Lane an unclassified highway. To the west, Carters Lane joins the main road the A30.

Carters Lane is also a public right of way and the right of way continues along the eastern and southern boundaries of the site. There is a grade II listed church located to the north of the site.

HISTORY

16/03543/FUL: The erection of 2 No. detached dwellinghouses and garages and formation of access. Refused (8 June 2018).

POLICY

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006 2028 (adopted March 2015).

Policies of the South Somerset Local Plan (2006-2028)

- Policy SD1 - Sustainable Development
- Policy SS1 - Settlement Strategy
- Policy SS2 - Development in Rural Settlements
- Policy SS4 - District Wide Housing Provision
- Policy SS5 - Delivering New Housing Growth

Policy SS6 - Infrastructure Delivery
Policy HG3 - Provision of Affordable Housing
Policy HG4 - Provision of Affordable Housing - Sites of 1-5 Dwellings
Policy EQ2 - General Development
Policy EQ3 - Historic Environment
Policy TA5 - Transport Impact of New Development
Policy TA6 - Parking Standards

National Planning Policy Framework - March 2018

2. Achieving sustainable development
5. Delivering a sufficient supply of homes
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
16. Conserving and enhancing the historic environment

Planning Practice Guidance (PPG)

Climate change
Community Infrastructure Levy
Conserving and enhancing the historic environment
Design
Health and wellbeing
Rural housing

Other

Somerset County Council Parking Strategy (September 2013)
Somerset County Council Highways Development Control - Standing Advice (June 2015)

CONSULTATIONS

East Chinnock Parish Council: Whilst it is acknowledged that efforts have been made to overcome previous points of objection the Parish Council raised the following reservations:

- 1) The housing survey for the Village Plan highlighted that smaller 2 bedroomed dwellings are what the village lacks to enable downsizing and for young people buying their first property.
- 2) There are concerns regarding the additional vehicles which another 2 dwellings would generate on an already busy and narrow roadway which has a difficult junction with the A30.
- 3) It is noted that the design includes cladding which is not traditional in this area and therefore does not blend in as well as reconstituted hamstone.
- 4) This development is beyond the established eastern boundary of the village and the council would be reluctant to support an extension into open countryside.
- 5) The revised plans would encroach into undeveloped pasture that forms an integral part of the setting of the Grade II listed church and interrupt views of the church from the adjoining public rights of way, this causing harm to the setting of the Grade II listed church.

Highways Authority: Standing Advice applies. See PROW Y 8/9 - red lines different see road record plan.

Highways Consultant: I refer to the comments I made in response to the previous planning application on this site under reference number 16/03543/FUL. The same comments apply equally to the current submission. For the 2016 application, the consultant made the following comments:
I recall providing the planning department with advice on this development proposal at pre-application

stage. The junction of Carters Lane with the A30 is not ideal in terms of its alignment but it would appear that the appropriate visibility splays are available at the junction and the increase in use of the junction and of Carters Lane itself is unlikely to be severe as a result of the development scheme. On-site parking and turning provision, and the proper consolidation and surfacing of the access road leading to the site should be the subject of suitably-worded planning conditions.

Rights Of Way: I can confirm that there is a public right of way (PROW) recorded on the Definitive Map that runs along the access to the site at the present time (public footpath Y 8/9) and PROWs which run adjacent to the site (public footpaths Y 8/10 and Y 8/13). I have attached a plan for your information. We have no objections to the proposal, but the following should be noted:

1. Specific Comments

The local planning authority needs to be confident that the applicant can demonstrate that they have an all-purpose vehicular right to the property along path Y 8/9. If they are unable to and permission is granted, then the local planning authority could potentially be encouraging criminal activity through permitting driving on a public path without lawful authority.

Please note the need for authorisation from SCC Rights of Way Group if any change to the surface of the PROWs is proposed (see General Comments below). If surface works are proposed, the attached authorisation form will need to be completed and returned to Mr Les Braunton (Rights of Way Officer - email: LBraunton@somerset.gov.uk).

2. General Comments

Any proposed works must not encroach on to the width of the PROW.

The health and safety of the public using the PROW must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) has maintenance responsibilities for the surface of a PROW, but only to a standard suitable for the public use. SCC will not be responsible for putting right any damage occurring to the surface of a PROW resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a public footpath, public bridleway or restricted byway unless the driver has lawful authority (private rights) to do so.

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group:

- A PROW being made less convenient for continued public use.
- New furniture being needed along a PROW.
- Changes to the surface of a PROW being needed.
- Changes to the existing drainage arrangements associated with the PROW.

If the work involved in carrying out this proposed development would:

- make a PROW less convenient for continued public use; or
- create a hazard to users of a PROW, then a temporary closure order will be necessary and a suitable alternative route must be provided. For more information, please visit Somerset County Council's Rights of Way pages to apply for a temporary closure: <http://www.somerset.gov.uk/environment-and-planning/rights-of-way/apply-for-a-temporary-closure-of-a-right-of-way/> .

South West Heritage Trust: As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.

REPRESENTATIONS

One letter of objection has been received which can be found on the Council's website. In summary, the following points are raised:

- The proposal is better than the earlier application. On the basis that there is going to be development, this proposal has a lesser impact.
- It would be better for there to be no development of this part of the village, so close to the Church and open countryside.
- The application could result in potentially 8 vehicles. Carter's Lane already has too many vehicles. More houses mean more residents' and delivery vehicles along a severely restricted road where some of the houses, even recent ones, have been built along what is now the roadway. There is no footpath or other reservation for pedestrians.

CONSIDERATIONS

Principle of Development

Paragraph 11 of the NPPF explains that decision should apply a presumption in favour of sustainable development, and that for decision-taking that means:

- *approving development proposals that accord with an up-to-date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

Footnote 7, page 6, of the NPPF states that the policies which are most important for determining the application are out-of-date if "*...for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites...*

The Council is currently unable to demonstrate that it has a 5 year supply of deliverable housing land. Therefore, the policies which are most important for determining this housing application must be considered out-of-date, and the application should be approved unless points i and ii apply.

According to the Supreme Court judgement, *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)*, "*[i]f the policies for the supply of housing are not to be considered as being up to date, they retain their statutory force, but the focus shifts to other material considerations. That is the point at which the wider view of the development plan policies has to be taken.*

Having regard to the above, the planning merits of the proposal are considered against the Local Plan and the aims of the NPPF, and these considerations are set out below:

Sustainability of the Settlement

It is considered that the settlement is a sustainable location for some housing development given the facilities that it provides.

It is considered that the development would be acceptably located in relation to facilities and furthermore would be likely to provide additional support for facilities through increased patronage.

Having regard to the above it is considered that the development would comply with the relevant sections of the NPPF in respect to locating housing within existing communities where existing services and facilities would be maintained and enhanced.

Policy SS1 - Settlement Hierarchy

In line with the Secretary of State's interpretation that a settlement hierarchy need not be considered a specific restrictive policy in NPPF terms (APP/N4720/W/17/3168897), Policy SS1 it is not considered to be a policy which is most important for determining the application, and as such it should be allocated full weight in the decision-taking process.

Allowing this application would not permit such a quantum of housing growth that it would result in harm to the settlement hierarchy. It would not therefore be contrary to policy SS1.

Policy SS2 - Development in Rural Settlements

Policy SS2 is a policy which seeks to restrict new housing development in Rural Settlements tier of the settlement hierarchy. The policy requires new housing in Rural Settlements, in which this site is located, to increase the sustainability of the settlement through the provision of employment opportunities appropriate to the scale of the settlement; and/or creation or enhancement community facilities and services to serve the settlement; and/or meeting identified housing need, particularly for affordable housing.

This proposal is not compliant with policy SS2 but as a policy to restrict housing growth it should be afforded limited weight in accordance with the NPPF.

Landscape Character, Visual Amenity, and Historic Environment

The original application was refused on the basis that:

"The proposal by reason of its siting beyond the established eastern boundary of the settlement would be contrary to the established pattern and layout of development in the area at a variance to local distinctiveness causing harm to the landscape character of the area. Additionally the proposed dwellings would encroach into undeveloped pasture that forms an integral part of the setting of the grade II listed church would interrupt views towards the church from the adjoining public right of way. Accordingly the setting of the Grade II Listed church would be harmed. As such the proposal would not accord with policies EQ2 and EQ3, of the South Somerset Local Plan (2006-2028) and the aims and the objectives of Chapter 12 of the National Planning Policy Framework (2012)."

The proposed development presents two dwellings of a much less suburban form than the original application. The development appears to be more rural in character and whilst projecting beyond the built up area of the settlement, does not appear at odds with local character. As such, the development is not considered to be demonstrably harmful to landscape character, the historic environment, or the visual amenity of the area. Therefore, notwithstanding the objections received, the proposal is considered to accord with policies EQ2 and EQ3.

It is necessary to remove from the dwellings permitted development rights for extensions or alterations. Otherwise, the dwellings could be altered in such a way that would depart from their barn-like character and could result in harm to the character of the area and setting of the listed buildings.

Residential Amenity

It is not considered that the proposed dwellings would result in undue overlooking/ loss of privacy, an overbearing relationship with neighbouring properties, or a loss of light. Accordingly, the proposal accords with policy EQ2 in that it would not result in demonstrable harm to residential amenity.

Ecology

The ecology report submitted with the application found no evidence of protected species on site and appears to make suitable recommendations for biodiversity enhancement. Conditions will be imposed to secure biodiversity enhancements.

Rights of Way

The Rights of Way Officer raised no objection to the proposal but raised specific and general comments

to be noted.

One matter raised was that *"The local planning authority needs to be confident that the applicant can demonstrate that they have an all-purpose vehicular right to the property along path Y 8/9. If they are unable to and permission is granted, then the local planning authority could potentially be encouraging criminal activity through permitting driving on a public path without lawful authority."*

Nevertheless, the view of the Inspector in determining appeal ref. APP/R3325/A/13/2191744 is taken, namely:

"The granting of planning permission is essentially neutral. It does not require the applicant/appellant to implement the permission. Moreover, it is a well-established principle that decisions on planning appeals must be made on planning merits alone and cannot take into account considerations that are not material. Private property disputes are amongst such considerations as an Inspector has no power under the Town and Country Planning Acts to resolve such matters."

Nor does the grant of planning permission affect other legal rights or constraints that may exist over land. It remains the appellant's responsibility, if permission is granted, to ensure that its implementation would not conflict with other legislation."

Accordingly, it is not considered that the local planning authority must be confident that the applicant can demonstrate that they have an all-purpose vehicular right to the property along path Y 8/9.

The other comments raised are for the benefit of the agent/ applicant.

Highway Safety

The County Highway Authority state that their Standing Advice applies and drew attention to the Right of Way and the red line area shown being different to their road records plan.

The access proposed is onto Carters Lane - an unclassified road - and is considered to be acceptable given the status of the road and the number of properties accessing it.

The two four-bed properties each have two outside parking spaces. Additionally, Unit 1 has a double garage, and Unit 2 has a single garage. There is also additional space for informal parking and turning.

Notwithstanding the objection received, and in accordance with the Highways Consultant, it is not considered that the increase in vehicle movements along Carters Lane would prejudice highways safety.

Conditions will be imposed to secure on-site parking and turning provision, and the proper consolidation and surfacing of the access road leading to the site.

It is not considered that the proposal would prejudice highways safety, and it is considered to accord with policies TA5 and TA6 of the Local Plan.

Contributions

Policies HG3 and HG4 of the adopted South Somerset Local Plan requires either on site provision of affordable housing (schemes of 6 or more units) or a financial contribution towards the provision of affordable housing elsewhere in the district.

In May 2016 the Court of Appeal made a decision (SoS CLG vs West Berks/Reading) that clarifies that Local Authorities should not be seeking contributions from schemes of 10 units or fewer or 1,000 square metres or fewer.

It is considered that whilst policies HG3 and HG4 are valid, the most recent legal ruling must be given

significant weight and therefore it is not possible to seek an affordable housing obligation from this development. In addition, it is no longer appropriate to seek any contributions towards Sports, Arts and Leisure (Policy SS6) as the same principle applies.

The development is liable to pay the Community Infrastructure Levy (CIL).

Conclusion

The Council's lack of a five year housing land supply lends significant weight when considering the planning balance. In this case, the site is considered to have access to a reasonable range of services and facilities. The proposal is not considered to result in a significant and adverse impact upon the landscape character, historic environment, visual amenity, residential amenity, or highway safety. Therefore, in terms of the 'planning balance', it is considered that there are no adverse impacts that would 'significantly and demonstrably' outweigh the benefits of providing a dwelling in this sustainable location.

RECOMMENDATION

Permission be granted subject to conditions

01. The proposed development would provide two dwellings within a sustainable location without causing significant and demonstrable harm to the landscape character, historic environment, visual amenity, residential amenity, or highway safety to outweigh the benefit of the dwellings to the Council's five year housing land supply. As such, the proposal is in accordance with policies SD1, SS4, SS5, TA5, TA6, EQ2, and EQ3, of the South Somerset Local Plan 2006-2028 and the aims and objectives of the NPPF.

SUBJECT TO THE FOLLOWING:

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

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

02. The development hereby permitted shall be carried out strictly in accordance with the following approved plans:
2269-PL-11; 2269-PL-12; 2269-PL-13; 2269-PL-14; 2269-PL-15; 2269-PL-16; 2269-PL-17; and 2269-PL-18.

Reason: In the interests of proper planning and for the avoidance of doubt.

03. Development hereby permitted shall not take place above ground level prior to particulars of the following have been submitted to and approved in writing by the Local Planning Authority:
 - a) all external materials (including the provision of samples where appropriate); these details shall be supported by a sample panel of natural stone indicating coursing and pointing which shall be made available on site prior to commencement;
 - b) full design details and material and external finish to be used for all windows, all external doors, lintels, boarding and openings;
 - c) details of all eaves and fascia board detailing, guttering, downpipes and other rainwater goods; and
 - d) details of the surface material for the parking and turning area; and
 - e) details of all boundary treatments, including entrance gate.

Reason: To safeguard the character and appearance of the area in accordance with policies EQ2 and EQ3 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

04. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) (with or without modification) no extensions or alterations shall be made to the dwellings hereby permitted without prior consent of the local planning authority.

Reason: To safeguard the character and appearance of the area in accordance with policies EQ2 and EQ3 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

05. Prior to occupation of the dwellings hereby permitted, the areas shown for parking and turning of vehicles shall be provided and shall be maintained and retained thereafter for the parking of vehicles ancillary to those dwellings, without obstruction.

Reason: In the interests of proper parking provision and highways safety, in accordance with policies TA5 and TA6 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

06. Prior to first occupation of the dwellings hereby permitted, electric charging points (of a minimum 16amps) for electric vehicles shall be provided for each dwelling adjacent to their designated parking spaces or garages shown on the approved plan. Sufficient electric charging points for at least one per dwelling shall be provided in this way. Once installed such parking points shall be retained and maintained in working order, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development is resilient and sustainable in accordance with Policy TA1 (Low Carbon Travel) of the adopted South Somerset Local Plan and the provisions of the NPPF.

07. Prior to occupation of the dwellings hereby permitted, the area of Carters Lane within the red line area of the Site Location Plan (drawing number 2269-PL-11) shall be properly consolidated and surfaced to the satisfaction of the local planning authority.

Reason: In the interests of highways safety and to secure an appropriate access to the site, in accordance with policy TA5 of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

08. Prior to commencement of the development, site vegetative clearance, demolition of existing structures, ground-works, heavy machinery entering site or the on-site storage of materials, a scheme of tree and hedgerow protection measures shall be prepared in-writing and submitted to the Council for their approval. Upon approval in writing by the Council, the scheme of tree and hedgerow protection measures (specifically any required ground-protection, fencing and signage) shall be installed and made ready for inspection. Prior to commencement of the development, the suitability of the tree and hedgerow protection measures shall be confirmed in-writing by a representative of the Council (to arrange, please contact us at planning@southsomerset.gov.uk or call 01935 462670). The approved tree and hedgerow protection requirements shall remain implemented in their entirety for the duration of the construction of the development and may only be moved, removed or dismantled with the prior consent of the Council in-writing.

Reason: To preserve existing landscape features (trees and hedgerows) in accordance with the Council's policies as stated within The South Somerset Local Plan (2006 - 2028); EQ2: General Development, EQ4: Bio-Diversity & EQ5: Green Infrastructure.

09. No works shall be undertaken until there has been submitted to and approved in writing by the Local Planning Authority, a scheme of landscaping. The submitted scheme shall clearly confirm the details and dimensions of any intended tree or shrub planting, earth-moulding, seeding, turfing and surfacing. All planting stock shall be confirmed as UK-grown, and details shall be provided in regards to the planting locations, numbers of individual species, sizes, forms, root-types/root volumes and the intended timing of planting. The installation details regarding ground-preparation, weed-suppression, staking/supporting, tying, guarding, strimmer-guarding and mulching shall also be included within the submitted scheme. All planting comprised in the approved scheme shall be carried out within the dormant planting season (November to February inclusively) following the commencement of any aspect of the development hereby approved; and if any trees or shrubs which within a period of ten years from the completion of the development die, are removed or in the opinion of the Council, become seriously damaged or diseased, they shall be replaced by the landowner in the next planting season with trees/shrubs of the same approved specification, in the same location; unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the planting of new trees and shrubs in accordance with the Council's statutory duties relating to The Town & Country Planning Act, 1990 (as amended)[1] and the following policies of The South Somerset Local Plan (2006 - 2028); EQ2: General Development, EQ4: Bio-Diversity & EQ5: Green Infrastructure.

10. Prior to occupation of the dwellings hereby permitted, the following biodiversity enhancements shall be provided on site:
One bat tube or shelter installed on each new dwelling, on a warm wall (south-east or south-west) and above 3 metres from ground level; and at least four bird boxes (hole type) to be appropriately installed.

Reason: To compensate for habitat loss and provide biodiversity enhancement in accordance with policy EQ4 (Bio-Diversity) of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

11. The development hereby permitted shall be carried out in line with the recommendations of the Protected Species Survey (April 2016).

Reason: In the interests of biodiversity and in accordance with policy EQ4 (Bio-Diversity) of the South Somerset Local Plan (2006-2028) and the provisions of the NPPF.

Informatives:

01. Please be advised that approval of this application by South Somerset District Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice.

You are required to complete and return Form 1 Assumption of Liability as soon as possible and to avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place. Please complete and return Form 6 Commencement Notice.

You are advised to visit our website for further details <https://www.southsomerset.gov.uk/cil> or email cil@southsomerset.gov.uk

02. Please note that the consolidation and surfacing of Carters Lane, as an unclassified road and public right of way, will need to be to the satisfaction of Somerset County Rights of Way and Highways Authority.
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