

## **Officer Report On Planning Application: 19/00074/FUL**

<b>Proposal :</b>	The erection of 142 dwellings together with associated infrastructure including access/highway improvements, drainage and attenuation, play area, open space and landscaping.
<b>Site Address:</b>	Land East Of Crimchard Chard TA20 1LU
<b>Parish:</b>	Chard
<b>CHARD CRIMCHARD Ward (SSDC Member)</b>	Cllr Martin Carnell
<b>Recommending Case Officer:</b>	Colin Begeman
<b>Target date :</b>	22nd March 2019
<b>Applicant :</b>	Barratt Homes
<b>Agent: (no agent if blank)</b>	Origin 3 (C/O Miss Emily Ramsay) Tyndall House 17 Whiteladies Road Clifton Bristol BS8 1PB
<b>Application Type :</b>	Major Dwlg's 10 or more or site 0.5ha+

### **REASON FOR REFERRAL TO REGULATION COMMITTEE**

This application is referred to Regulation Committee for determination after being recommended for refusal by the Area West Committee for the following reasons.

It was resolved to refuse the application contrary to the officer's recommendation for the following reasons:

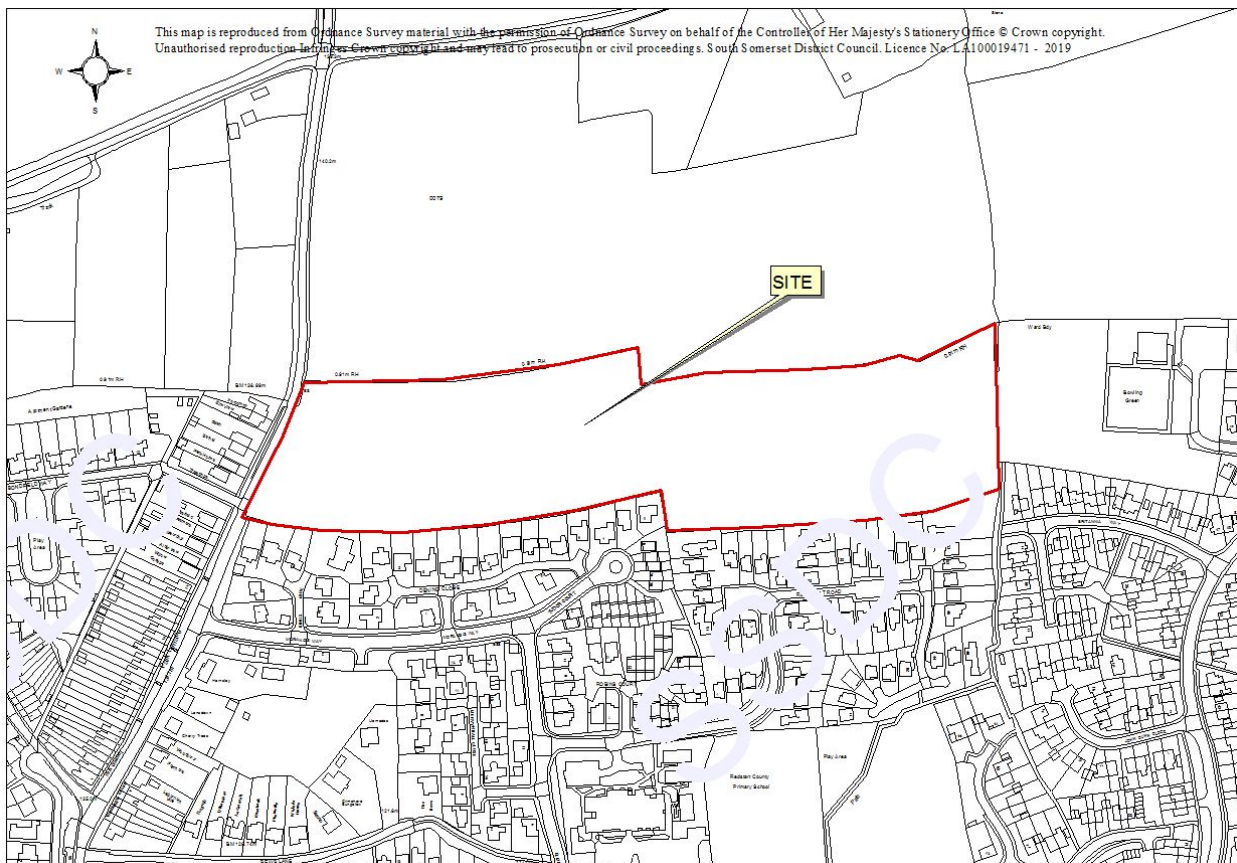
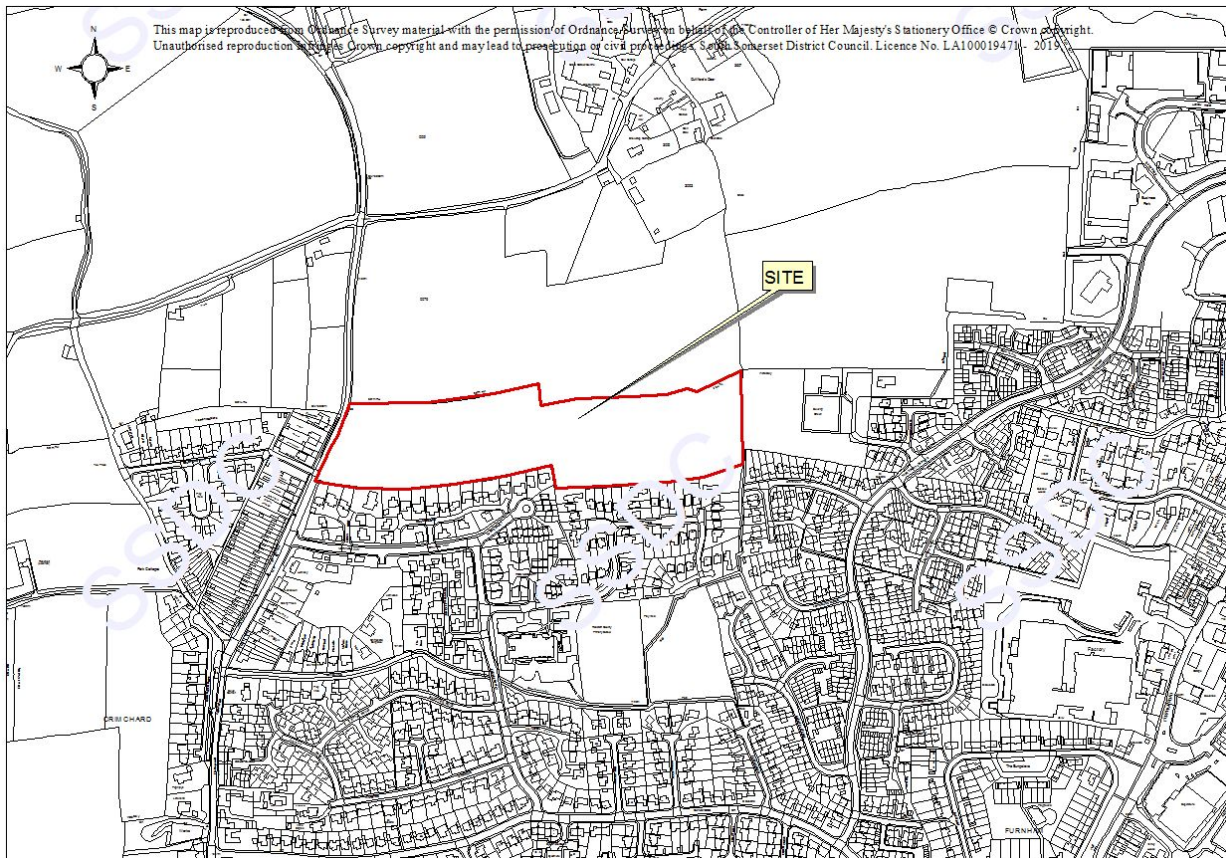
1. The application contains a transport assessment that has failed to take into account local conditions and circumstances and proposes access onto a busy, single carriageway width road with poor alignment. The proposal, therefore, fails to provide a safe and convenient access and is therefore contrary to policy TA5 of the South Somerset Local Plan (2006-2028).
2. The proposal prejudices the delivery of the Chard Regeneration Plan forming part of the Council's Local Plan and on which work has started; therefore, the proposal is contrary to policies PMT1, PMT2, SS3 and SS5 of the South Somerset Local Plan (2006-2028).

Under the Council's protocol procedure this application has been 2-starred under the Scheme of Delegation for referral of applications to the Regulation Committee for determination.

In collective agreement with the Leader, Portfolio Holder, Area Chairs, Director (Service Delivery), Monitoring Officer, and Lead Specialist (Planning) all major applications will be 2 starred for the immediate future to safeguard the Council's performance, pending a more substantive review.

The Area Committees are still able to approve and condition major applications. However, if a committee is minded to refuse a major application, whilst it will be able to debate the issues and indicate grounds for refusal, the final determination will be made by the Regulation Committee.

# SITE DESCRIPTION AND PROPOSAL



The site is located on the northern edge of Chard, adjoining residential properties to the south and west. To the north is an agricultural field, subject of a current outline mixed-use application, 18/04057/OUT, for up to 295 dwellings and various leisure-related uses. To the east is a bowling club. Crimchard Road bounds the site to the west with hedgerows on all four boundaries.

The site comprises 1 field in agricultural use extending to 4.6 hectares and slopes gently from west to east. All 4 boundaries are defined by hedgerows.

This application seeks full planning permission for the erection of 142 dwellings together with associated infrastructure including access/highway improvements, drainage and attenuation, play area, open space and landscaping.

The application has been accompanied by:

- Affordable Housing Statement
- Arboricultural Impact Assessment
- Design and Access Statement
- Ecological Impact Assessment
- Ecology Report
- Flood Risk Assessment
- Outdoor Lighting Report
- Planning Statement
- Statement of Community Involvement,
- Transport Assessment

Access into the site will be gained from Crimchard with the creation of a T junction. The development will be served with an internal estate road running centrally from west to east through the site with other roads leading off to serve the proposed dwellings.

A play/open space is proposed to be located towards the centre of the site. A surface water attenuation area and ecological habitat enhancement will be located at the east end of the site. New planting will be established along the southern and northern boundaries and instant hedging along the western boundary.

The Affordable Housing Statement sets out that the proposed development will make provision for 50 affordable dwellings of the proposed 142, equating to 35% affordable housing which complies with adopted local plan policy. It sets out the number, tenure and mix of the proposed affordable housing. The proposal will provide 35 social rented affordable dwellings (70%) and 15 shared ownership affordable dwellings (30%). The dwellings will range in size from 1 bedroom apartments to 4 bedroom houses.

The Design and Access Statement outlines the applicant's approach to the site, which is informed by an analysis of the character of the site and surrounding area. It outlines the relevant planning policies, both national and local policies and adopted and merging policies. Moreover, it talks about the suitability of the site for housing and relationship to the Chard regeneration proposals.

The Ecology Report outlines the presence of badgers with a main and subsidiary sett along the southern boundary. Mitigation is proposed in order to safeguard the badgers and their habitat. Dormice are also present within the hedgerows and again, habitat mitigation and enhancement are proposed.

The Flood Risk Assessment and Drainage Strategy confirm that the site is not within an identified floodplain or an area at risk of flooding. Surface water will be controlled and managed to existing local watercourses and existing drains to the east and west. A sustainable urban drainage basin proposed at the east end of the site will accommodate runoff arising from the development during periods of extreme

rainfall.

The Transport Assessment outlines that the site can be accessed via a T-junction from Crimchard. In addition, the assessment concludes that there will only be a very limited impact arising from the development on the town centre traffic and key town centre junctions. The report assesses the Travel Plan and outlines the proximity of service and facilities within walking distance of the site. Other measures will be introduced to encourage new residents to walk and cycle and use bus services. The applicant accepts the use of a condition to secure a Travel Plan.

The Tree Report has identified the trees on-site located within the hedgerows and will be retained as part of the scheme.

## **HISTORY**

Outline application 13/01535/OUT for up to 110 dwellings was refused and dismissed at appeal on 3rd June 2015. The application was considered at appeal together with a larger application on the adjoining site to the north, for 450 dwellings, sports provisions, and community uses. (App No: 12/04518/OUT).

The absence of technical objections was acknowledged by the Planning Inspector when considering the appeal for the larger site and was dismissed solely on the grounds of allowing time for the recently adopted Local Plan to deliver the growth for Chard anticipated. The Appeal Decision is attached as Appendix 1 in the preceding Agenda Item: Mount Hindrance (18/04057/OUT).

### Environmental Impact Assessment:

An Environmental Impact Assessment Screening Opinion was undertaken in September 2018 and concluded that the development is not considered to constitute 'EIA Development'.

Legal advice was sought regarding the cumulative need for an EIA in conjunction with the proposed development and Mount Hindrance and that advice was that the proposal would not require an EIA.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 repeats the duty imposed under S54A of the Town and Country Planning Act 1990 and Paragraphs 2, 11, and 12 of the National Planning Policy Framework requires that decision must be made in accordance with relevant Development Plan Documents 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)

SD1 - Sustainable Development  
SS1 - Settlement Strategy  
SS4 - District Wide Housing Provision  
SS5 - Delivering New Housing Growth  
SS6 - Infrastructure Delivery  
PMT1 - Chard Strategic Growth Area  
PMT2 - Chard Phasing  
EP3 - Safeguarding Employment Land  
HG3 - Provision of Affordable Housing

HG5 - Achieving a Mix of Market Housing  
TA1 - Low Carbon Travel  
TA4 - Travel Plans  
TA5 - Transport Impact of New Development  
TA6 - Parking Standards  
HW1 - Provision of open space, outdoor playing space, sports, cultural and community facilities in new development  
EQ1 - Addressing Climate Change in South Somerset  
EQ2 - General Development  
EQ3 - Historic Environment  
EQ4 - Biodiversity  
EQ5 - Green Infrastructure  
EQ7 - Pollution Control

#### National Planning Policy Framework - March 2019

Part 2 - Achieving sustainable development  
Part 5 - Delivering a sufficient supply of homes  
Part 8 - Promoting healthy and safe communities  
Part 9 - Promoting sustainable transport  
Part 11 - Making effective use of land  
Part 12 - Achieving well-designed places  
Part 14 - Meeting the challenge of climate change, flooding and coastal change  
Part 15 - Conserving and enhancing the natural environment  
Part 16 - Conserving and enhancing the historic environment  
Part 17 - Facilitating the sustainable use of minerals

#### Planning Practice Guidance (PPG)

#### National Design Guide October 2019

#### Other

Somerset County Council Parking Strategy (September 2013)  
Somerset County Council Highways Development Control - Standing Advice (June 2017) Policy PMT1

The Chard Regeneration Framework

### **CONSULTATIONS**

#### **Chard Town Council:**

That this application should be refused due to the lack of parking, the impact on Convent Junction using up capacity in an unplanned way. Traffic conditions in Crimchard with cars accessing the A303 via Combe St Nicholas and Wadeford. Protected species of dormice are also evidenced in the plot. Out of phasing of the Chard strategic growth area, the play area is isolated. A lack of infrastructure including schools, suitable roads and doctors would not support this application.

This application should be refused due to concerns over the traffic management plan, the lack of supporting infrastructure and the planning portal does not show all documents for scrutiny. There would also be an impact on wildlife such as badgers, bats and dormice.

#### **Adjacent Parish - Combe St Nicholas Parish Council:**

The Parish Councillors still object to the amount of traffic that will be generated on this narrow section

of road between Combe St. Nicholas and Chard. Traffic is bound to then turn right at the Cuttifords Door crossroads, using this narrow rat-run out to the A358 or come along through Combe St. Nicholas to get to the Eagle Tavern junction for the A303 or Taunton.

None of these unclassified roads are suitable to increase in traffic.

### **Highway Authority:**

I refer to the above-mentioned planning application received on 21 January 2019 and after carrying out a site visit on 24 September 2018 have the following observations on the highway and transportation aspects of this proposal:-

The principle of development on this site has already been accepted under the application numbered 13/01535/OUT. Whilst this application was ultimately refused on planning grounds, the Highway Authority did not raise any objections.

Whilst this application increases the number of units, the level of increase is not considered to be onerous and will not lead to a highway safety or efficiency issue.

It is understood that, in accordance with current national policy directions, the Local Planning Authority are keen to provide a development which concentrates on the aspect of place, rather than function, for the internal road layout. In this regard discussions are on-going between the Highway Authority and the Developer with regard to the details of the potential highway infrastructure and adoption thereof.

Based on the above information provided a ghost island right turn access arrangement would normally be suitable in accordance with TD 42/95 Geometric Design of Major/Minor Priority Junctions figure 2/2.

However, due to the semi-rural environment and low number of the vehicles on Crimchard a simple T junction will be acceptable to the Highway Authority subject to the requirements of visibility.

This Authority has been advised that visibility splays of 2.4m x 43m measured to the kerb line of Crimchard can be provided in accordance with the guidance set out in the Manual for Streets.

Recent discussions have also confirmed the following details can be provided at the point of access;

- 5.5m road width
- 6m junction radii subject to amended swept-path drawings
- Appropriate pedestrian infrastructure

Whilst this Authority would not normally accept an internal access road, running parallel to Crimchard served off the proposed new development access very close to the junction with Crimchard, the existence of the underground water main limits the ability to amend the road layout.

### **Drainage**

1. The attenuation pond is located in very close proximity to one of the estate roads and adjacent footway which raises concerns with respect to the safety of the public. The designer will need to consider whether safety mitigation measures are appropriate.
2. The CIRIA SuDS Manual advises that the maximum gradient of the side slopes of attenuation ponds should be 1 in 2 for safety and maintenance purposes.
3. An additional road gully should be provided on the western channel of Park Terrace immediately upstream of the new proposed uncontrolled pedestrian crossing to intercept surface water run-off running along the carriageway channel line.

In the event of permission being granted, I would recommend that conditions are imposed.

### **On-street car parking survey**

A further transport study was carried out by the applicant assessing the effect car parking levels have on traffic flow and issued this on the 21 January 2020. This was undertaken to assist the Committee in understanding the effect of car parking on Crimchard and if it creates an impediment to traffic. The report concludes that “there is no unacceptable impediment to the free-flow of traffic as a result of on-street car parking, despite local perception.”

The Highway Authority has reviewed the report and agree with its findings.

### **Local Lead Flood Authority**

Awaiting final response to be presented at Committee. It is anticipated that the LLFA response will be positive.

### **Highways Agency:**

No Comment.

### **Planning Policy:**

As noted in the appellant's Planning Statement the proposal site was previously considered and dismissed at appeal (application no. 13/01535/OUT) it was considered along with an unrelated proposal for 450 dwellings, sports provisions, and community uses (application no. 12/04518/OUT).

The development plan for the purposes of determining this planning application consists of the South Somerset Local Plan 2006-2028. The Council is currently undertaking a Local Plan Review (LPR) covering the period 2016-2036. The LPR is still at an early stage of preparation having undergone Issues and Options consultation from October 2018 until January 2019 (Regulation 18). Public consultation on the Preferred Options (Regulation 18) is expected to take place later this year. You will note that the planning application site has been identified as a preferred option in the draft document put before District Executive on 7th February 2019. However, at this stage in the process, the emerging Local Plan Review can be given very limited weight.

Chard is the second-largest settlement South Somerset and Policy SSI of the Local Plan designates it as a Primary Market Town. Policy SS5 sets a housing requirement of at least 1,852 dwellings in Chard. This includes the 1,220 homes to be delivered during the plan period with at least a further 1496 being delivered post 2028 within the Chard Eastern Development Area (CEDA) (Policy PMT2). Policy PMTI allocates the whole 2,716 dwellings to be delivered within the plan period and beyond. This allocation takes forward the masterplan devised as part of the Chard Regeneration Framework, and supporting Implementation Plan, 2010.

The proposal site lies outside of the Development Area for Chard and outside of the CEDA allocation (Policies PMTI and 2). It is located within a Mineral Safeguarding Area — Policy SMP 9 of Somerset Minerals Plan.

Table 20 of the Authority Monitoring Report, October 2018 (AMR) shows that between 1st April 2006 and 31st March 2018 a total of 670 (net) dwellings have been completed and 474 (net) dwellings were committed. Between 1st April 2018 and 31st December 2018 a further 54 (net) homes were granted planning permission and 1 (net) was completed.

Whilst 78 dwellings have reserved matters permission within CEDA (Morrish Builders site) and there are

pending planning applications for around 515 dwellings, so far no new homes have been completed. The infrastructure costs associated with the delivery of the allocation are significant and this is recognised by a CIL nil tariff and the inclusion of elements of the road infrastructure being included on the Council's CIL Regulation 123 list.

A key issue for Chard is the impact of development proposals on the central Convent Link junction, as part of any balancing exercise, the contents of the transport assessment and the views of SCC as the Highway Authority will be of particular importance on this issue.

A significant material consideration is the National Planning Policy Framework, 2019 (NPPF). Paragraph 11 d) states:

- d) 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:
  - i. 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
  - ii. 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 of the NPPF clarifies that for applications involving housing 'out-of-date' includes, situations where the local planning authority is unable to demonstrate a five-year supply of deliverable housing sites. Based upon the report published in January 2020, South Somerset District Council is unable to demonstrate a five-year housing land supply, having 4.5 years. This means that paragraph 11 d) of the NPPF is activated.

In conclusion, this proposal is contrary to Local Plan Policies SS5, PMTI and PMT2 however, the lack of a five-year housing land supply means that paragraph 11 d) comes into force and in conjunction with the responses from other consultees you should undertake a balancing exercise to determine whether any adverse impacts of approving the proposal would outweigh the benefits of approving 142 new homes in Chard.

**Environment Agency:**

No objection

**Landscape Officer:**

I have reviewed the application seeking outline consent for 110 dwellings on land immediately to the north of Chard's current edge (adjacent Denning Close and Redstart Road). I am also familiar with the site, having appraised the general area when undertaking the peripheral study of Chard and having undertaken a more detailed consideration of the area in relation to the Mount Hindrance application.

The application site lays within the scope of the peripheral landscape study of Chard which was undertaken during the Spring of 2008. This study reviewed the town's immediate surround with the objective of identifying land that has a capacity for development, looking both at the character of the town's peripheral landscape, and the visual profile and relationship of open land adjacent the town's edge. For the detailed evaluation I would refer you to; [http://www.southsomerset.gov.uk/media/230799/peripheral%20landscape%20study\\_chard.pdf](http://www.southsomerset.gov.uk/media/230799/peripheral%20landscape%20study_chard.pdf). The outcome of the study is represented by 'figure 5 - landscape capacity', which is a graphic summary of the preceding evaluation. Fig 5 indicates that the application field is found to have a high capacity to accommodate built development, despite the sensitivity of land to the north of the site. Consequently, there is no landscape objection to the principle of development of this field.

**Arborist:**

The tree survey of the site was helpful and I particularly welcome the submitted suggestions to

regenerate and restore the site boundary features with tree and shrub planting. It appears that the most valuable trees are intended to be retained within Public Open Space. I have no objections, subject to imposing a condition in respect of a scheme for tree protection and planting.

**County Archaeology:**

South West Heritage Trust has commented that: there are limited or no archaeological implications to this proposal and we, therefore, have no objection on archaeological grounds.

**Community, Health, Leisure and Open space:**

No objection subject to contributions secured through a s106 agreement.

Changing Room Contribution of £100,991

Changing Room Contribution commuted sum of £8,124

Community Health and Leisure Service Administration Fee sum of £4,111

Playing Pitches Contribution of £55,248

Playing Pitches commuted sum of £33,535

Public Open Space Contribution sum of £6,408

The commuted sum payable to the Council for the future maintenance of the LEAP and Youth Facilities Area is £74,802

A total of £539,205.24 is sought for local and strategic facilities. The Local facilities include equipped play space, youth facilities, playing pitches, changing rooms, and community halls. These will all either be on-site or within Chard. The total = £302,661.

Strategic facilities including theatres, artificial grass pitches, swimming pools, indoor tennis and sports halls. The contributions will be directed to the CRESTA centre other than in respect of the Octagon Theatre, Yeovil and Yeovil Sports Zone. Total = £131,403.

The remainder of the total contribution sought shall be directed towards commuted sums.

**Wessex Water:**

No objection. The developer will need to agree points of connection with Wessex Water.

**Housing Officer:**

I would expect 50 affordable units - (based on 142 in total) - 67% social rent and 33% shared ownership or other intermediate solutions. I would expect the affordable units to be pepper potted throughout the site. I would suggest that the units are developed to blend in with the proposed house styles.

**Ecologist:**

Thank you for forwarding the Ecological Impact Assessment v3 to inform the proposed development at Land East of Crimchard. The report includes a desk study and extended Phase 1 habitat walkover survey undertaken during September and October 2018 (updating previous data collected during March 2013). Detailed bat, badger, dormouse and reptile surveys were undertaken during 2019. The results were as follows:

Habitats

The site comprises an arable field bounded by hedgerows/banks, some of which contain mature trees. A drainage ditch is also present along the site's eastern boundary, which does not support wetland vegetation. The field is ploughed to the boundaries with no retained margins.

Sites

The Mount Hindrance Farm Hedges Local Wildlife Site (LWS) comprises a network of hedgerows designated for supporting a legally protected species (dormice).

Dormice

The LWS includes the site's eastern boundary and several linked hedgerows to the north and east of the site. The site's southern boundary hedgerow also supports dormice; no dormice were recorded using the northern or western boundary features during the 2019 surveys.

### Bats

No bat roosts would be affected by the proposed development and no important commuting routes have been identified within the site. Very low levels of bat activity have been recorded on site (primarily common pipistrelle, but also soprano pipistrelle, noctule, serotine, myotis, lesser horseshoe, brown long-eared and possibly also Nathusius' pipistrelle). The level of activity by those bat species which are particularly light averse, such as lesser horseshoe, brown long-eared and myotis, is very low.

### Badgers

Two large badger setts are present on the site's southern boundary. Smaller setts, which are occasionally used, are also present.

### Slow worms

A population of slow-worms is present, associated with the eastern end of the hedgebank which forms the site's northern boundary and the hedgebank forming the site's western boundary.

### Birds

The site is likely to support small numbers of breeding and over-wintering birds typical of farmland and urban fringe habitats, and bullfinch, skylark, song thrush, linnet, grey wagtail and dunnock may, therefore, occur within the site boundaries along with other species of conservation concern, such as yellowhammer (*Emberiza citrinella*), starling (*Sturnus vulgaris*) and house sparrow (*Passer domesticus*). Given the size and location of the site, it is considered unlikely to support significantly valuable populations of any such species.

### Other species

The site is also likely to be used by hedgehogs and will support a variety of invertebrates.

### SSDC Recommendations

In accordance with local and national policy, wildlife legislation, and to follow the requirements of the mitigation hierarchy and for biodiversity net gain, conditions should be attached to any planning permission granted.

The Council's Ecologist is satisfied and broadly in agreement with the conclusions of the submitted ecological appraisal. The report identified two main issues:

- 1 The presence of dormice in the boundary hedges. Satisfied with the proposed mitigation/compensation and recommend submission of details via the condition.
- 2 Badgers have a main and annexe setts on site. Satisfied with the retention and buffering of the setts and eastern access corridor. However, does recommend the site layout is amended to also include a badger corridor running north-south across the centre of the site.

### Case Officer Comment:

Conditions would be imposed on any approval in relation to the mitigation measures outlined by the ecologist in respect of dormice, badgers, lighting and biodiversity enhancement.

### **Natural England:**

No objection

### **Somerset Wildlife Trust: (summary)**

Object to the proposal on the grounds of impact on hazel dormouse and inadequate survey for badgers.

**Environmental Health Officer:**

No objections.

**County Education Officer:**

The primary schools in the town would not have the capacity to accommodate new pupils arising from the anticipated growth of Chard, and the catchment Redstart School is already over-capacity. There is also a shortage of pre-school places in Chard. Whilst Holyrood has some capacity at present, the combined impact of the anticipated level of development for the town will mean that additional accommodation will need to be provided here as well; in the meantime, it is only correct for each development to make a pro-rata contribution.

There would not be a requirement for Early Years contributions but will require primary and secondary contributions in this location.

Using the up to date pupil yields and costs to build 142 dwellings in this location would require the following education contributions:

Primary  $0.32 \times 142 = 45.44$  (46 pupils)

Secondary  $0.14 \times 142 = 19.88$  (20 pupils)

$46 \times 17,074 = \text{£}785,404$  for primary school places in the Chard school catchment area

$20 \times 24,861 = \text{£}497,220$  for Holyrood secondary

Total:  $\text{£}1,282,624$

**County Rights of Way Officer:**

Confirms that there is a public Right of Way which abuts the proposed development (footpath CH31/5). Request improved surfacing of the existing right of way.

**Designing Out Crime:**

No objection

**REPRESENTATIONS**

69 letters/emails have been received objecting to the development.

Below is a summary of the comments:

**Chard Regeneration Plan**

- Development is contrary to the development plan and to the Chard Regeneration Plan
- Development is in the wrong place
- Would compromise regeneration plans for Chard.
- Years of work creating the proposals for Chard would be severely jeopardised.

**Sustainability**

- The development would not be sustainable
- Does not provide any infrastructure to service the development
- No employment provision will only provide short term construction employment

**Highways**

- Increased traffic congestion at key junctions in the town and on local roads within the town and to villages outside of Chard.
- Local roads not suitable to serve the development, narrow, poor visibility.
- The car parking survey was not carried out within acceptable periods to reflect that existing situation and cannot be considered to be reliable

- While not shown on the plans it is the intention to create a vehicular link with the neighbouring application to create a link between Crimchard and Thorndun Park Road

### **Car Parking Survey**

- The previous application was submitted in 2013 with an appeal in 2014 and local conditions have changed
- The assessment took place between the periods of 08:00hrs to 09:30hrs and 14:30hrs to 16:00hrs to allow for school traffic. The peak time is 14:30-17:30. Furthermore, cars are less likely to be parked outside homes before 16:00 and so the timing is disingenuous.
- Width of the road and space needed to pass
- The data regarding the occurrence of vehicles meeting is incorrect
- While not shown on the plans it is the intention to create a vehicular link with the neighbouring application to create a link between Crimchard and Thorndun Park Road which means that the car parking survey is inaccurate because it did not take this into account

### **Landscape**

- Adverse harm to the local landscape much valued by local residents.

### **Agricultural land**

- Loss of good quality agricultural land.
- Land used for growing crops.
- Loss of agricultural land places greater reliance on imported food which is not sustainable.

### **Wildlife**

- The harmful impact on wildlife
- The development would act as a deterrent to wildlife and will not return to the site.

### **Flooding**

- Known flooding issues in the vicinity of the development.
- Local roads flood, often become impassable
- Water has run from the west through the site, leaving debris on the road.
- Development can only increase flooding

### **Education**

- Local schools are at their limit
- No additional capacity
- Children would have to travel to other schools in the town increasing congestion
- The Chard Plan will cater for new schools in the right places

### **Procedural**

- Quality of due diligence checks undertaken by South Somerset District Council of the applicants submitted information
- Lack of clear demonstration of the checks and approvals processes of Planning Officers reports to ensure a critical document is accurate and has been approved by a senior manager of the planning department,
- Accurate representations of the objections from the public within the report
- Incomplete analysis of construction impact on surroundings
- Lack of consideration of highlighted errors in traffic survey and access statement

## **CONSIDERATIONS**

There are a number of key considerations in respect to this development and each of these are addressed below.

### **Principle of Residential Development**

At the present time, SSDC cannot demonstrate a five-year housing supply. In these circumstances, paragraph 11 of the National Planning Policy Framework states that policies that are relevant to the supply of housing, i.e. Local Plan Policies SS1, SS4 and SS5, are to be considered to be out of date. It further advises that under these circumstances planning permission should be granted unless:

- 1) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or
- 2) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

As a result, applications should be considered in the context of the presumption in favour of sustainable development. Moreover, applications should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.

In this case, it is considered that while the Council currently does not have a 5 year supply of housing, the approval of this application would not result in an adverse impact that would be so significant to outweigh any benefits of the scheme. It is considered that approval of this application would comply with the National Planning Policy Framework and the Council's approved planning policy.

The Chard Regeneration Framework has been formulated over a period of years following the non-delivery of the Chard Key Site. It is supported by the Town Council and local residents. It proposes an appropriate level of growth for the town to 2028. It is clear that Chard requires growth to be delivered in a properly planned and undertaken in a strategic manner. Key to the successful future growth of Chard is a need to ensure that the homes, employment, schools and other services and facilities are built with the necessary infrastructure. The Chard Regeneration Framework will deliver the regeneration of the town. However, it is not considered that the proposed development will provide any of the required infrastructure needed in the town. Importantly, the site is not included within the Council's Growth Option 3 as outlined in the Chard Regeneration Framework which details the preferred strategic growth areas for Chard. It is true to state that the site is located within Growth Option 4. However, this was clearly rejected by the Council as development beyond Option 3 would result in traffic problems re-emerging in the town. Accordingly, the proposed development is not in accord with the Council's planned and strategic approach to the town.

However, notwithstanding this, as outlined previously, it is considered that the conflict with the Chard Regeneration Plan would not result in an adverse impact that significantly and demonstrably outweighs the benefits of the scheme.

### **Highways**

The traffic implications of the proposed development have caused a significant amount of concern from local residents, the Town Council and from the Council's Economic Development and Planning Policy Officers. It is an aspirational desire that the future development of Chard must be undertaken in a strategic, not ad hoc, manner. Key to the success of the regeneration of the town is the bringing forward of new and improved highway infrastructure. In particular, to direct traffic away from the Central Junction.

A Transport Assessment was submitted by the applicant and this has been fully assessed by The Highway Authority. As will be noted from their comments outlined above, The Highway Authority do not raise an objection on technical grounds, concluding that with the installation of the MOVA system, 'the capacity issues do not amount to a reason for refusal on their own since the capacities of the junctions

would not be exceeded by the inclusion of the development traffic'.

The MOVA system was introduced to increase capacity at the junction to accommodate the early phases of development in the Chard Regeneration Plan.

## **Ecology**

Strong concerns have been raised by third parties regarding the harmful impact of the development on the wide range of wildlife and habitat within the site. An Ecological Impact Assessment was undertaken and submitted as part of the application. The report identified 2 main issues in respect of dormice and badgers. This report has been assessed by the Council's Ecologist and, as can be noted from his conclusions and recommendations outlined above, does not raise an objection subject to mitigation. The applicant is proposing a wildlife management plan and a condition will be imposed on any consent.

## **Flooding/Drainage**

Concerns have been raised with regard to the regular flooding of local roads and to the site itself being waterlogged. The site is classed as being in Flood Zone 1, although the evidence from local residents clearly shows that parts of the site do become waterlogged. The Flood Risk Assessment (FRA) confirms that the results of permeability tests taken across the site reveal that infiltration is low, thus surface water runoff will need to be adequately attenuated. The FRA confirms that the surface water will be attenuated by the use of a surface water attenuation pond at the east end of the site.

The Environment Agency (and previously the Council's Engineer) have assessed the FRA and are satisfied that surface water can be satisfactorily controlled to ensure that the risk of flooding downstream of the site is not increased. Whilst the evidence received from residents clearly shows that the local area has and continues to suffer from flooding, the FRA has demonstrated, with the agreement of the Environment Agency, that this development can be adequately mitigated to ensure that there is no increase in terms of flood risk to adjacent and other sites.

## **Landscape**

Previously the Council's Landscape Officer did not raise an objection to the proposal confirming that residential use of the site would be compatible with existing housing development to the south. Moreover, this site was included within the scope of the peripheral landscape study undertaken in 2008 by the landscape officer. This project sought to identify land that has a capacity for development and concluded that this site has a 'high' capacity to accommodate built development. Thus there is no landscape objection to the principle of residential development in this field.

## **Employment**

The lack of employment provision within the development has been raised by third parties and the Planning Policy Officer. Careful consideration has been given to this particular issue. The Government through the NPPF is clearly seeking the promotion of sustainable forms of development, a key element of which is economic development and creation of employment opportunities. The NPPF seeks the creation of balanced development that seeks to provide new and existing communities with the housing, jobs, services and facilities it needs.

In this case, it is considered that the lack of employment land within this application is not sufficient to warrant refusal of the application. The future growth of the town as outlined in the Chard Regeneration Framework makes provision for employment land up to 2028. The Crimchard proposal does not directly compromise future employment land, nor was it proposed for employment use as part of growth Option 4.

## **The Previous Appeal Decision**

The previous appeal decision is a material consideration of significant weight. The Appeal Decision is attached as Appendix 1 in the preceding Agenda Item: Mount Hindrance - 18/04057/OUT. The Inspector found that all aspects of the proposal were acceptable however was of the opinion that it was important to allow time for the Local Plan to deliver the anticipated growth:

"It seems to me that the approach to development in Chard, enshrined in the recently 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.

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."

It is clear that the strategy for Chard has not performed as anticipated and given SSDC's lack of a 5-year housing land supply reduces the weight that can be given to the LP strategy for Chard.

## **Loss of Agricultural Land**

The development would result in the loss of agricultural land and has been used for the growing of arable crops. Council records indicate that the land is classed as good quality Grade 3a agricultural land. The NPPF states that the economic and other benefits of the best and most versatile agricultural land should be taken into account. It is clear that from reading a few recent planning appeals where the loss of agricultural land has been raised, the issue is an important consideration although possibly not in itself sufficient to warrant refusal. In this case, whilst it is clearly productive as evidenced by the recent growing of crops, on balance, in the absence of evidence regarding the economic benefits of crops grown on the site, and the fact that the Council has identified the land as suitable for development beyond the full implementation of the Chard Regeneration Plan, it is not considered that the loss of agricultural land warrants refusal of the application.

## **Viability**

Members will be aware that an increasing number of development schemes are facing viability issues and put simply, are not viable with fully policy compliant planning obligations. Moreover, the government have made it clear through the NPPF and the recently introduced right for developers to appeal against affordable housing requirements, that Local Planning Authorities should, 'be sufficiently flexible to prevent planned development being stalled'. The developer, in this case, has not stated that the contributions as sought in terms of affordable housing, play, sport and open space requirements, highway works and education contributions would make the scheme unviable. A draft s106 agreement has been submitted by the applicant outlining the likely planning obligations.

The applicant has offered an implementation date of 1 year rather than the standard 3 year period as way of its confidence in the market and the viability of the scheme and as a way of commitment to delivering the project in a timely manner.

## **Residential Amenity**

The layout offers an arrangement that should allow future residents and existing neighbouring residents to enjoy a good level of residential amenity. In terms of overlooking and general loss of privacy as a

result of this development, the proposal represents an acceptable scheme that avoids any demonstrable harm to existing local residents. It is acknowledged that the outlook of adjacent neighbouring residents will be altered by the development, however, loss of a view is not a material planning consideration and in any case, the view will change from fields to one that is suburban in character which is not out of keeping given the context of the site. Overall this outline scheme raises no substantive residential amenity concerns.

### **Design.**

The proposed dwellings are compatible with the architectural character for this part of Chard. They represent a mix of hip-end and gable-end roofs incorporating a complimentary mix of finishing materials and colours.

### **Conclusion**

Given the lack of demonstrable harm and the benefits that this scheme would provide in the provision of housing, including affordable dwellings, an economic benefit during construction and the spend of new occupants in the Town. In addition, money from the Community Infrastructure levy, of which 15% will go to the Town Council. On this basis, the application is recommended for approval subject to the completion of s106 Agreement.

### **RECOMMENDATION**

#### **Grant permission**

#### **SUBJECT TO THE FOLLOWING:**

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

a) The prior completion of a section 106 planning obligation (in a form acceptable to the Council's Solicitor(s) before the decision notice granting planning permission is issued, the said planning permission to cover the following terms/issues:

1. The provision of affordable housing,
2. Contribution towards the provision of sport, play, open space and strategic facilities.
3. Highway infrastructure and works.
4. Education contribution
5. A Travel Plan

For the following reason:

Notwithstanding the local concerns, the provision of 142 houses together with access/highway improvements, drainage and attenuation, play area, open space and landscaping in this sustainable location would contribute to the council's housing supply without demonstrable harm to the local landscape, the character of the settlement, residential or visual amenity, ecology, archaeology, flooding and drainage or highway safety, and without compromising the provision of services and facilities. As such the scheme is considered to comply with the aims and objectives of policies SD1, SS1, SS4, SS5, SS6, PMT1, PMT2, HG3, TA1, TA4, TA5, TA6, HW1, EQ1, EQ2, EQ3, EQ4, EQ5 and EQ7 of the South Somerset Local Plan (2006-2028) and the provisions of the National Planning Policy Framework.

01. The development hereby permitted shall be begun before the expiration of one year 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 approved shall be carried out in accordance with the following approved plans as set out in Drawing and Document Register - Job No. 18-083 14/11/2019 Rev A

- 1848\_1000\_Location Plan /A
- 1848\_1100\_Planning Layout - /L
- 1848\_1111\_Materials Plan /E
- 1848\_1112\_Storey Heights Plan /C
- 1848\_1113\_Waste Collection Plan /C
- 1848\_1114\_Enclosures Plan /C
- 1848\_1115\_Land Ownership Plan /C
- 1848\_1116\_Parking Plan /C
- 1848\_1117\_External Work Plan /C
- 1848\_1118\_Affordable Housing Plan /C
- 1848\_1120\_POS Areas Plan /C
- 1848\_1150\_Sections /B
- 1848\_1170\_Streetscenes /C

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

03. The development shall be undertaken in accordance with the submitted Ecological Impact Assessment Report recommendations Report ref: C037/R6/v3 Date: September 2019

Reason: To protect ecological interests to accord with Policy EQ4 of the South Somerset Local Plan.

04. Prior to commencement of the development the Tree Protective Fencing identified within the Arboricultural Method Statement (December 2018) - including signage shall be installed and made ready for inspection. A site meeting between the appointed arboricultural consultant, the appointed building/groundwork contractors and a representative of the Council (to arrange, please call: 01935 462670) shall then be arranged at a mutually convenient time. The locations and suitability of the tree and hedgerow protection measures shall be inspected by a representative of the Council and confirmed in-writing by the Council to be satisfactory prior to any commencement of the development (including groundworks). The approved tree and hedgerow protection requirements shall remain implemented in their entirety for the duration of the construction of the development and the protective fencing and signage may only be moved 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.

05. Prior to construction above damp proof course the final access arrangement shall be agreed in writing with the Highway Authority. The agreed access arrangement shall be constructed to the satisfaction of the Highway Authority prior to occupation of any new dwellings.

Reason: In the interest of highway safety to accord with Policy TA5 of the SSLP.

06. There shall be no obstruction to visibility greater than 300 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43 metres either side of the access. Such visibility shall be fully provided before the development hereby permitted is occupied and shall thereafter be maintained at all times.

Reason: In the interest of highway safety to accord with Policy TA5 of the SSLP.

07. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed before first occupation and thereafter maintained at all times.

Reason: In the interests of highway safety to accord with TA5 of the SSLP

08. The proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: In the interest of highway safety to accord with Policy TA5 of the SSLP

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

Reason: In the interest of highway safety to accord with Policy TA5 of the SSLP.

10. The development hereby permitted shall not be brought into use until that part of the service road that provides access to it has been constructed in accordance with the approved plans.

Reason: In the interests of highway safety to accord with TA5 of the SSLP.

11. The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10 and shall be permanently retained at that gradient thereafter at all times.

Reason: In the interests of highway safety to accord with Policy TA5 of the SSLP.

12. Plans showing the car and motorcycle parking layout, details of secure cycle parking and facilities for the charging of electric vehicles shall be submitted to and approved in writing by the Local Planning Authority before construction above damp proof course level. All motor vehicle parking areas shall be properly consolidated before the buildings are occupied and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: In the interest of highway safety to accord with Policy TA5 of the SSLP.

13. Prior to the construction above damp proof course level of the development, a Travel Plan is to be submitted to and approved in writing by the Local Planning Authority. Such Travel Plan should include soft and hard measures to promote sustainable travel as well as targets and safeguards

by which to measure the success of the plan. There should be a timetable for implementation of the measures and for the monitoring of travel habits. The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should continue to be implemented as long as any part of the development is occupied.

Reason: To promote alternative modes of transport to accord with the NPPF and SSLP.

14. No development shall commence unless a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:

- Construction vehicle movements;
- Construction operation and delivery hours;
- Construction vehicular routes to and from site;
- Construction delivery hours;
- Expected number of construction vehicles per day;
- Car parking for contractors;
- Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
- A scheme to encourage the use of Public Transport amongst contractors; and
- Measures to avoid traffic congestion impacting upon the Strategic Road Network.
- Measures to ensure all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to the commencement of construction works, and thereafter maintained until construction discontinues.
- A Condition Survey of the existing public highway will need to be carried out and agreed with the Highway Authority prior to any works commencing on site, and any damage to the highway occurring as a result of this development is to be remedied by the developer to the satisfaction of the Highway Authority once all works have been completed on site.

Reason: In the interest of highway safety and to protect the amenity of adjoining residents to accord with Policy TA5 and EQ2 of the SSLP.

15. The dwellings hereby approved shall be constructed in accordance with the proposed materials indicated on drawing 1848\_1111\_Materials Plan revision E unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the area and setting of the Conservation Area to accord with Policy EQ2 of the SSLP.

16. No dwellings hereby approved shall be constructed above damp proof course level until, foul and surface water drainage details to serve the development, shall be submitted to and approved in writing by the Local Planning Authority and such approved drainage details shall be completed and become fully operational before the development hereby permitted is first brought into use. Following its installation such approved scheme shall be permanently retained and maintained thereafter.

Reason: To ensure that the development hereby approved is properly drained.

17. No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity), incorporating the key mitigation hierarchy requirements set out within Section 6. Assessment of impacts and mitigation measures of the Blackdown Heights, Crimchard, Chard Ecological Impact Assessment (MD Ecology, 2019)], has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- Risk assessment of potentially damaging construction activities.
- Identification of "biodiversity protection zones".
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- The location and timing of sensitive works to avoid harm to biodiversity features.
- The times during construction when specialist ecologists need to be present on site to oversee works.
- Responsible persons and lines of communication.
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that ecological mitigation measures are delivered and that protected/priority species and habitats are safeguarded in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended, The Hedgerow Regulations 1997, Circular 06/2005, the National Planning Policy Framework (in particular section 11), and Policy EQ4: Biodiversity of the South Somerset Local Plan 2006-2028 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

18. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the occupation of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management. Including all biodiversity enhancements outlined within Section 7. Enhancement measures / biodiversity net gain of the Blackdown Heights, Crimchard, Chard Ecological Impact Assessment (MD Ecology, 2019)
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) On-going monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers

the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To ensure the development contributes to the Government's target of no net biodiversity loss as set out in the National Planning Policy Framework; South Somerset District Council Local Plan - Policy EQ4 Biodiversity; and the council's obligations for biodiversity under the Natural Environment and Rural Communities Act 2006. To ensure the success of mitigation measures are sustained for the duration of the development and that there is no net biodiversity loss in the long term as per Government and local minerals planning policy. Furthermore, the recently updated National Planning Policy Framework states in section 15, paragraph 170, that "Planning policies and decisions should contribute to and enhance the natural and local environment by: ... d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

19. The residential development hereby permitted shall achieve an improvement over building regulations (current at the date of this permission) of 19% reduction in carbon emissions across the entire residential development. The dwellings shall not be occupied unless all measures have been fully carried out.

Reason: To ensure the development addresses climate change by utilising sustainable construction methods to minimise carbon dioxide emissions in accordance with Policy EQ1 of the South Somerset Local Plan (2006-2028) and the aims and objectives of the National Planning Policy Framework.

#### **Informatives:**

01. The Highway Authority have advised that the applicant will be required to secure an appropriate legal agreement/ licence for any works within or adjacent to the public highway required as part of this development, and they are advised to contact Somerset County Council to make the necessary arrangements well in advance of such works starting.
02. The County Rights of Way Officer has advised the following: Development, insofar as it affects a right of way should not be started, and the right of way should be kept open for public use until the necessary (diversion/stopping up) Order has come into effect. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.

In addition:

#### **2. General Comments**

Any proposed works must not encroach onto 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-andplanning/rights-of-way/apply-for-a-temporary-closure-of-a-right-of-way/>