

Officer Report On Planning Application: 20/03160/OUT

Site Address:	Land OS 7519 (part) Holloway Lopen
Ward :	SOUTH PETHERTON AND ISLEMOOR
Proposal : CIL Liable = N	Outline application for the erection of 9 dwellings including the creation of a new access point and the demolition of existing buildings with all matters reserved except access.
Recommending Case Officer:	Sarfaraz Khan
Target date/Ext of time	30th December 2020 1st September 2023
Applicant :	Lopen LVA LLP
Type : 06	Minor Dwellings 1-9 site less than 1ha

Reasons for a report to Planning/Ward Committee:

This application is appropriate for determination under the Council's delegated procedures as no observations have been received that are contrary to the officer recommendation.

Site and its Surroundings:

The application site falls within the southern rural outskirts of Lopen Village just outside the built-up limits of the village. The site is located on the corner of Mill Lane and Holloway and is situated on the northern side of the junction between Mill Lane and Holloway. The site is served by its own dedicated existing gravel access track which has an established vehicular access secured by a swinging field gate and located within the north-eastern corner of the field and which leads onto Holloway. The vehicular access located along Holloway adjoins the southern boundary of the dwelling known as 'Brooklyn'. The application site comprises of an approximately broadly rectangular circa 1.21 acres (0.49 hectares) agricultural field bounded by hedgerows of various depth, height and maturity. The site is broadly flat although the land slopes gently to the East toward the adjoining field & South toward Mill Lane. The wider site is bounded to the north by the grounds of the residential dwelling known as 'Brooklyn', to the east by another agricultural field forming part of the surrounding agricultural farmland and rural countryside, to the south by the public highway of Mill Lane and to the west by the public highway of Holloway. The site is outside but adjacent to the Lopen Conservation Area.

Proposal:

The current application follows application reference: 18/00022/PAMB which sought prior approval consent for the change of use of existing agricultural building to a dwelling. The previous prior approval application was refused on the following grounds:

- o It had not been adequately demonstrated that the development could be carried out without building operations beyond the scope of a conversion, contrary to the provisions of Class Q, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015,
- o The introduction of residential use would be harmful to the established character and appearance of the setting, including the setting of a designated heritage asset (the Conservation Area), contrary to the stated aims and objectives of the National Planning Policy Framework.
- o The location and siting of the existing agricultural buildings is considered to make it impractical and undesirable for their change from agricultural use to a use falling within Class C3 (dwellinghouses).

The applicant has therefore submitted the current planning application which seeks outline planning consent for the erection of 9 dwellings within the northern portion of the site including the creation of a new adopted T-shaped road with 3 access points, including a western access point leading onto Holloway, an eastern access point leading onto the neighbouring field and a southern access point leading onto the remaining undeveloped southern portion of the existing field. The proposals also involve the formation of a new access point along Holloway and the demolition of existing buildings. The site comprises of agricultural land formerly used as a paddock but currently vacant, and the applicants therefore wish to redevelop the site for housing. The proposal seeks to establish the following matters as part of the current outline application:

- o Principle of Development &
- o Access

To fully consider the Principle of Development as part of the current application, it also becomes necessary to consider the additional following issues as part of the current application which would be closely related with the principle of the development:

- o Design;
- o Ecology & Biodiversity &
- o Somerset Levels and Moors - Phosphates

The following matters are reserved and do not therefore fall within the ambit of the current outline application, but are to be considered in a future reserved matters application:

- o Appearance;
- o Landscaping;
- o Layout;
- o Scale.

The submitted Design & Access statement indicates the following details of the proposed plots:

- o Plot 1 - 3 Bed 6 Person dwelling with 2 car-parking spaces.
- o Plot 2 - 4 Bed 7 Person dwelling with 4 car-parking spaces.
- o Plot 3 - 3 Bed 6 Person dwelling with 2 car-parking spaces.
- o Plot 4 - 4 Bed 8 Person dwelling with 2 car-parking spaces.
- o Plot 5 - 4 Bed 8 Person dwelling with 4 car-parking spaces.
- o Plot 6 - 3 Bed 6 Person dwelling with 2 car-parking spaces.
- o Plot 7 - 4 Bed 7 Person dwelling with 4 car-parking spaces.
- o Plot 8 - 3 Bed 6 Person dwelling with 2 car-parking spaces.
- o Plot 9 - 4 Bed 8 Person dwelling with 4 car-parking spaces.

Although details regarding the appearance, landscaping, layout & scale are to be submitted as part of a future reserved matters application and will therefore not be assessed as part of the current outline application, the applicant has provided some plans and a Design & Access Statement alongside the current outline application which show the proposed site layout and which provide a brochure showing some of the types of the proposed materials to be used in the walls and roofs of the proposed dwelling. No plans or supporting information have been provided as part of the current outline application which show the number of storey's, internal layouts, fenestration, elevational designs or gross internal floorspaces of each dwelling.

Planning History:

18/00022/PAMB - Notification for prior approval for the change of use of existing agricultural building to a dwelling.
- 31.01.2018 - Application Refused.

13/04703/AGN - The erection of an agricultural building for storage of farm machinery. - 12.12.2013 - Planning Permission Not Required.

08/05279/FUL - The formation of a junction with Mill Lane and the change of use of part of engineering workshop to bus depot (GR: 343209/114244) - 13.02.2009 - Application Withdrawn.

Supporting information supplied by the applicant:

- o Application Form.
- o Historic Environment Desk Based Assessment (Project Reference: AH1060).
- o Ecological Impact Assessment (Final Report ver. 1.3).
- o South Somerset Housing and Employment Land Availability Assessment - Site Assessment Form.
- o Landscape and Visual Impact Assessment (Reference: 3950-BB-L-RE-910 Rev G).
- o Technical Note 1 RV1: Nutrient Assessment.
- o Covering Letter (Reference: MF/CD/44734/3753/F).
- o Gradiometer Survey Report (Reference: 20-0014.01).
- o Design & Access Statement (Reference: 3753).
- o Appeal Decision (Appeal Reference: APP/Z2830/W/20/3261483).
- o Planning Statement.
- o Addendum to Planning Statement following the Councils Publication of their Latest Five-Year Land Supply Document (Reference: AT/SL/44574/3753/F).
- o Transport Note (Document Reference: 16325-HYD-XX-XX-RP-TP-4001).
- o Shadow Habitats Regulations Assessment (File Reference: eg230214).
- o Nutrient Neutrality Assessment and Mitigation Strategy (Report Reference: RMA-C2352).

Consultation:

Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS:

Lopen Parish Council - Objects to the proposals on the following grounds:

o Concerns about Environmental Impact, Sustainability, and Land Use

- 1) Residents expressed concern about the proposed development's impact on local wildlife habitats. They emphasized the need for an ecological assessment.
- 2) Some comments highlighted potential harm to green spaces and loss of biodiversity due to construction.
- 3) A few individuals raised questions about sustainable building materials and energy efficiency.
- 4) Concerns were voiced regarding noise pollution during construction and after completion.
- 5) Several residents advocated for preserving existing trees and green corridors.

o Infrastructure and Services (Community Impact)

- 1) Residents worried about increased traffic congestion and strain on existing roads.
- 2) Comments highlighted the need for improved public transportation and additional healthcare facilities.
- 3) Concerns were raised about sewage and drainage capacity.
- 4) Some individuals emphasized the importance of adequate schools and recreational spaces.
- 5) A few residents questioned the availability of parking spaces for new residents.

o Overdevelopment and Population Increase

- 1) Multiple comments expressed fear of overdevelopment altering the community's character.
- 2) Concerns centred around increased population density and its impact on local amenities.
- 3) Residents questioned whether the infrastructure could support the proposed development.

o Economic Considerations

- 1) Some individuals saw economic benefits in terms of job creation during construction.
- 2) Others worried about potential negative effects on property values.
- 3) A few comments discussed the impact on local businesses.

o Community Impact

- 1) Residents emphasized the importance of community engagement and transparency.
- 2) Concerns were raised about social cohesion and the potential for conflict.
- 3) A few individuals praised the project's potential positive impact on community spirit.

o Government and Planning Policy

- 1) Comments referenced specific planning policies and guidelines.
- 2) Some individuals questioned the alignment of the proposal with local planning regulations.

o Other Notable Comments

- 1) A minority expressed overall support for the development.
- 2) A small group highlighted the need for affordable housing.
- 3) Concerns about noise pollution during construction were reiterated.

OTHER CONSULTEES:

Somerset Ecology Services -

o No objections to the proposals on phosphate grounds subject to a condition requiring the development to be implemented in accordance with the submitted Nutrient Neutrality and Mitigation Strategy (NNAMS) and further conditions in relation to the proposed package treatment plant (PTP) alongside an informative in relation to foul water treatment.

o No Objections to the proposals on ecological grounds subject to conditions in relation to the provision of a Construction Environmental Management Plan (CEMP), external lighting and the provision of Biodiversity Net Gain (BNG).

Heritage Advisor - No Objections but have made the following comments:

o No objection to the principle of a small sensitive development within the proposed site provided it avoids a suburban appearance and takes greater reference from the agrarian landscape setting and the immediacy of the various listed farmhouses, so as to better respond to the wider and historic setting.

o The importance of this gateway location into the Conservation Area also needs to be safeguarded by appropriate design and scale.

- o The indicative scheme with its entirely detached form of dwellings and their scale and placement, along with the lack of justification for the loss of the undesignated heritage asset, known as the Bleaching House, is not supported.
- o To achieve support for a development in this open location within the wider setting of several designated and undesignated heritage assets, the scheme will need to undergo substantial modification to overcome the present concerns.
- o As to the access, this will breach a field boundary and introduce a degree of modernity into this landscape setting, however if suitably conditioned to mitigate the intrusion and ensure the natural character of the highway approach into the designated area is maintained there is no objection in principle.

Southwest Heritage Trust (Archaeology) - No Objections subject to a condition requiring the provision of a Programme of Works in Accordance with a Written Scheme of Investigation.

Natural England - Natural England - No Objections subject to conditions requiring upgrading of the existing septic tank prior to the occupation of any dwellings to be approved on-site, requiring the provision of a suitable maintenance schedule for both Package Treatment Plants (PTPs), requiring any future replacement of the new PTP 1 to be subject to a requirement to achieve the same effluent phosphorus concentration or better and that the proposed new development limits water use to 110 litres per person per day.

Wessex Water - No Objections.

Open Spaces Team - No Comments or Objections Received at time of Writing.

Leisure Policy Co-Ordination Team - No Comments or Objections Received at time of Writing.

Planning Policy - The proposal for a further nine dwellings would not be out of scale with what might be expected in an SS2 Rural Settlement such as Lopen. However, more evidence of how this proposal will meet local need is required especially with regards to the tenure and mix of homes proposed.

Environment Agency - No Comments or Objections Received at time of Writing.

Former Somerset County Council Education Department - I have removed my holding objection as we are now satisfied that the school system will be able to accommodate children from this development in Lopen, who are more likely to travel to the South to Hinton St George.

South Somerset County Council Highways (now replaced by Somerset Council Highways) - No Objections subject to conditions requiring the provision of a Construction Environmental Management Plan, provision for the disposal of surface water so as to prevent its discharge onto the highway, the construction of elements of the wider development (such as estate roads, footways etc.) to be constructed and laid out in accordance with details to be approved by the Local Planning Authority, construction of the proposed roads and footpaths and turning spaces in a manner whereby each dwelling is served by a properly consolidated and surfaced footpath and carriageway, the obtaining of an appropriate right of discharge for surface water prior to development, the provision of parking spaces for each dwelling and properly consolidated and surfaced turning spaces within the wider site and the prohibition of obstructions to visibility splays at the access to the wider site as measured from the edge of the highway.

South Somerset District Council Highways (now replaced by Somerset Council Highways) - Somerset County Council Highways has stated that it will be considering this planning application further and will provide comments and a recommendation to the planning officer.

Publicity Carried Out:

This application has been publicised by way of a Site Notice displayed near the site, expiring 14th January 2021, by advertisement in the Western Gazette expiring 14th January 2021 and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was 08th September 2021.

Material 3rd Party Comments Received:

Ninety-two neighbours/third parties have been consulted by letter in relation to the current application.

The following is a brief summary of objections received from fifty-one neighbours/third parties:

- o Concerns such as the lack of local amenities (shops, schools, play areas).
- o Increased traffic congestion, road safety issues, flooding risks, impact on the village's character and

infrastructure.

- o The potential destruction of open green spaces and countryside views.
- o The proposed development is not in line with local planning policies, lacks community consultation, and does not address the needs of the existing residents.
- o The unsuitability of the location.
- o The absence of infrastructure to support additional housing.
- o The danger of the roads, and the negative impact on the overall quality of life in the village.
- o Concerns about the lack of affordable housing, potential flooding risks
- o Disregard for the ecological and historical significance of the area.

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).

South Somerset Local Plan 2006-2028 (SSLP):

- o SD1 - Sustainable Development
- o SS1 - Settlement Strategy
- o SS2 - Rural Settlements
- o SS4 - District Wide Housing Provision
- o SS5 - Delivering New Housing Growth
- o HG3 - Provision of Affordable Housing
- o HG5 - Achieving a Mix of Market Housing
- o TA1 - Sustainable Travel
- o TA5 - Transport Impact of New Development
- o TA6 - Parking Standards
- o EQ1 - Addressing Climate Change in South Somerset
- o EQ2 - General Development
- o EQ4 - Biodiversity
- o EQ5 - Green Infrastructure

National Planning Policy Framework (NPPF) [2023]:

- o Chapter 2 - Achieving Sustainable Development
- o Chapter 5 - Delivering a Sufficient Supply of Homes
- o Chapter 6 - Building a Strong, Competitive Economy
- o Chapter 9 - Promoting Sustainable Transport
- o Chapter 11 - Making Effective Use of Land
- o Chapter 12 - Achieving Well Designed Places
- o Chapter 14 - Meeting the challenge of Climate Change, Flooding and Coastal change
- o Chapter 15 - Conservation and Enhancement of the Natural Environment
- o Chapter 16 - Conservation and Enhancement of the Historic Environment
- o Footnote 55 - Assessment of Land which may be subject to Sources of Flooding if a Vulnerable Use is Introduced
- o Annex 3 - Classification of Vulnerable Uses

Other Material Considerations:

- o Somerset County Council Parking Strategy (September 2013).
- o Paul Newman New Homes Ltd v MHCLG & Aylesbury Vale District Council [2021] EWCA Civ 15.
- o Planning Appeal Reference: APP/J0405/W/18/3203307.
- o Somerset County Council Highways Development Control - Standing Advice (June 2017).
- o Flood Risk Standing Advice published by the Environment Agency and Department for Environment, Food & Rural Affairs on 1st April 2012 and updated on 8th February 2022.
- o Planning (Listed Buildings and Conservation Areas) Act 1990.

Consideration of the Planning Issues:

The principal issues in deciding this application are:

- o Principle of Development;

- o Design;
- o Ecology & Biodiversity;
- o Somerset Levels and Moors - Phosphates.

taking into account the relevant planning policy background as set out above.

Principle of Development:

The site falls directly adjacent to the settlement of Lopen. Lopen is identified as a rural settlement by Local Plan Policy SS1. Policy SS2 of the South Somerset Local Plan which would be of most relevance, limits and controls development in rural settlements unless such a development provides employment opportunities, creates or enhances community facilities/services which serve the settlement or meet an identified housing need (such as affordable housing). However, Paragraph 70 of the NPPF (2023) recognises that 'small and medium sized sites can make an important contribution to meeting the housing requirement of an area. Furthermore, paragraph 83 of the NPPF (2023) acknowledges that smaller villages and rural settlements can function as clusters and use local facilities in complex ways, sharing churches, village halls, schools, and other services. The South Somerset District Council Housing Needs Assessment (2021) also finds that there is the greatest housing need within the district for affordable 2 and 3-bedroom houses. In this regard, Local Plan Policy HG3 specifies that rural settlements which are considered to be acceptable by nature of their sustainability as permitted by Local Plan Policy SS2, must provide an affordable housing target of at least 35% where it is viable to do so. Local Plan Policy HG5 states that small sites should provide housing types and sizes which when taken in the context of existing surrounding dwellings, contribute to the provision of sustainable, balanced communities. Somerset Council cannot currently demonstrate a five-year supply of housing land. The Council therefore acknowledges that the tilted balance in paragraph 11 d) of the National Planning Policy Framework, 2023 (NPPF) now applies to the decision-making process. The tilted balance specifies that where there are no relevant policies, or if the most relevant Local Plan policies for determining a planning application are 'out of date' planning permission should be approved. In this case, this therefore means that less weight must be afforded to parts of policy SS2 which did not accord with national policy at the time at which the current outline application was submitted such as the parts of Local Plan Policy SS2 which require development proposals to have access to two or more key services listed at Paragraph 5.4.1 and which must therefore be considered out of date, as well as Policy SS4 of the SSLP which must be considered as no longer up to date in its entirety.

However, there are exceptions to the tilted balance such as where a proposal is in a protected area (as defined by the NPPF) or where the harms caused by the proposed development significantly outweigh its benefits. APP/J0405/W/18/3203307 represents a recent appeal concerning an outline application for 50 homes in the countryside made to the planning Inspector, who concluded that the presumption in favour of development did not apply as the proposal's benefits did not outweigh specific harms related to character and appearance. The Planning Inspectorate in this appeal provided the following guidance on applying paragraph 11(d) of the National Planning Policy Framework (NPPF):

- o The tilted balance is not engaged by there being no relevant development plan policies because Policy GP.35 of the Aylesbury Vale District Council Local Plan is relevant. This is the case even though Policy GP.35 of the Aylesbury Vale District Council Local Plan is the only policy relevant to my determination of the appeal.
- o Policy GP.35 is not "out of date" and so paragraph 11d of the Framework is not engaged because the policies most important for determining the application are out of date.
- o The tilted balance in paragraph 11d of the National Planning Policy Framework (2023) does not apply solely because housing policies in a local plan are time expired.
- o The proposed development would harm the rural character and appearance of the area causing conflict with Policy GP.35 of the development plan. This conflict carries significant weight in my decision.
- o The provision of housing, and affordable housing in particular, is a material consideration in favour of the proposal. However, because the Council complies with national policy in respect of housing delivery, this consideration does not outweigh the harm I have found.
- o Similarly, taken together with the housing benefit, the more general economic benefit of the proposal does not outweigh the specific harm I have found.
- o I therefore conclude that the proposal should be determined in accordance with the development plan.

The applicants sought to appeal the Planning Inspectorates decision and therefore brought a legal case before the Court of Appeal under Paul Newman New Homes Ltd v MHCLG & Aylesbury Vale District Council [2021] EWCA Civ 15. The Court of Appeal confirmed that the Inspector's approach to paragraph 11(d) was lawful and provided the following further guidance on applying paragraph 11(d) of the National Planning Policy Framework (NPPF):

- o Current NPPF policies should be interpreted based on their own wording, without reference to previous iterations.
- o The natural interpretation of the language in paragraph 11(d) is that a single relevant local plan policy that is in accordance with national policy (i.e. not out of date) can prevent the tilted balance from applying.
- o Policies dealing with issues of detailed design can still be relevant to the determination of outline permissions

where they relate to the question of whether a satisfactory development could be achieved in principle.

In light of the appeal decisions above, weight must still be afforded to Local Plan Policies HG3 and HG5 as well as parts of Local Plan Policy SS2 which were in accordance with national policy at the time which the current outline application was submitted. Parts of Policy SS2 which would accord with national policy at the time which the current outline application was submitted include those parts of Policy SS2 which permit development proposals meeting an identified housing need (particularly for affordable housing) and which also permit development which generally has the support of the local community following robust engagement and consultation. Local Plan Policy HG3 also accorded with national policy, as the NPPF (2021) which was the most relevant national planning policy at the time which the current application was submitted, has several provisions which were applicable to the current application including sections 20, 34, 62, 63 and 64, all of which outline the need for affordable housing including the levels and types of affordable housing provision which should be clearly set out by development plan policies. Local Plan Policy HG5 also accorded with national policy, as the NPPF (2021) which was the most relevant national planning policy at the time which the current application was submitted, has several provisions which were applicable to the current application including section 62 which outlined that development plan policies should assess and reflect the size, type and tenure of housing needed for different groups in the community. In this regard, consultation has been carried out with the Planning Policy Team who advise that whilst the proposal for a further nine dwellings would not be out of scale with what might be expected in an SS2 Rural Settlement such as Lopen, more evidence of how this proposal will meet local need is required especially with regards to the tenure and mix of homes proposed. The application does not demonstrate that the proposed development meets an identified housing need, particularly for affordable housing, or that it has the support of the local community, as no pre-application engagement has been undertaken, (despite being a requirement of the policy and the applicant also being advised to undertake this task in both pre-application reports) and the numerous letters of objection to the proposals which have been received by the Local Planning Authority, including the Parish Council. This is further evidenced by the wider site layout which creates an artificial subdivision of land to avoid affordable housing as the site is clearly in the corner of the field with access for further expansion. On this basis, the application fails to meet the requirements of Local Plan Policies SS2, HG3 and HG5.

The applicant has put supporting arguments forward to support the case, such as the application being identified as N/LOPE/0001, within the recent HELAA's as being 'Suitable, Available and Achievable', for around 48 dwellings by the former South Somerset District Council (SSDC), meaning that it would be reasonable to suggest that planning policy believe the site has potential for development. However, within the HELAA, it also clearly states that *"The HELAA only identifies opportunities for housing and economic development on sites which are considered to be suitable, available and achievable/ developable. It does not allocate sites to be developed. The allocation of sites for future housing or economic development will be identified through the preparation of Local Plans and Neighbourhood Development Plans. The identification of potential sites within the HELAA does not imply that planning permission would be granted if an application were to be submitted. The HELAA is a high-level assessment. All planning applications will continue to be considered against the appropriate policies within the adopted Development Plan, having regard to any other material considerations"*.

In conclusion, a sufficient 'tilted balance' from any benefits of the proposals cannot be applied in this instance to outweigh the harm caused by the proposed development. Consequently, the proposals are contrary to policy SS2 of the local plan and the principle of residential development would therefore be unacceptable.

Design and Heritage:

Design would fall under the heading of appearance which constitutes a reserved matter to be assessed as part of a future reserved matters application. Furthermore, limited details detailing the proposed site layout, number of storeys, fenestration, elevational designs and gross internal floorspaces and internal layout of the newly proposed dwellings have been provided. Whilst the current outline application will not fully assess the design aspects of the proposals, consideration still must be given to the site's size and the capability of providing a development that does not result in a visually unacceptable addition. This is further necessitated by the fact that the site is situated adjacent to the boundary of the Lopen Conservation Area, and that the Grade II Listed Ballarat Farmhouse (List Entry Number: 1177586) is situated 43 metres to the west of the site and that the Grade II Listed Shores Farmhouse (List Entry Number: 1177556) is situated 49 metres to the northwest of the site. As such, it needs to be assessed as to whether the proposed development would cause any harm to the Grade II Listed Buildings or Conservation Area or whether there would be 'less than substantial harm' and, if the latter the level of such harm within that spectrum.

The proposal seeks consent for nine dwellings, and the size of the site is capable of delivering this without resulting in a cramped or contrived development. Whilst the proposed dwellings would extend part of the southern built-up limits of Lopen further southwards into the rural countryside, most of the southern boundary of Lopen has already been extended southwards past the dwelling of Brooklyn, including the four dwellings of Paddock House, Orchard House, The Brambles and The Willows, all of which are located further southward than the dwelling of Brooklyn.

Limited details detailing the number of storeys, fenestration and elevational designs of the newly proposed dwellings have been provided. This makes it difficult to accurately assess the impact of the proposed dwellings upon the setting and significance of the nearby Grade II Listed Ballarat Farmhouse and nearby Grade II Listed Shores Farmhouse and adjacent Lopen Conservation Area. However, consultation has been carried out with an external heritage consultant who raises no objection to the principle of a small sensitive development within the proposed site provided it avoids a suburban appearance and takes greater reference from the agrarian landscape setting and the immediacy of the various listed farmhouses, so as to better respond to the wider and historic setting. The external Heritage Consultant further stresses the importance of the gateway location into the Conservation Area which also needs to be safeguarded by appropriate design and scale. The external heritage consultant does not support the indicative scheme with its entirely detached form of dwellings and their scale and placement, along with the lack of justification for the loss of the undesignated heritage asset, known as Bleaching House.

To achieve support for a development in this open location within the wider setting of several designated and undesignated heritage assets, the heritage advisor advises that the scheme will need to undergo substantial modification to overcome the present concerns. In relation to the proposed access, the heritage consultant advises that this will breach a field boundary and introduce a degree of modernity into this landscape setting, however if suitably conditioned to mitigate the intrusion and ensure the natural character of the highway approach into the designated area is maintained, the heritage consultant has no objection in principle to the proposed highway access.

Subject to the provision of details regarding scale, design and layout in any subsequent reserved matters application and amendments of the proposals in-line with the heritage consultants' recommendations, the proposals have the potential to accord with the requirements of policies EQ2 and EQ3 of the South Somerset Local Plan, Section 16(2) and Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraph 201 of the NPPF (2023) and the aims and provisions of the NPPF (2023) if modified.

Residential and Neighbour Amenity:

Residential and Neighbour Amenity would fall under the headings of layout and scale both of which constitute reserved matters to be assessed as part of a future reserved matters application. The current outline application will therefore not fully assess the Residential and Neighbour Amenity aspects of the proposals but will only consider (and where appropriate attach) any relevant conditions as recommended by any consultees who have made Residential and Neighbour Amenity related comments in relation to the current outline application. In this regard, the Environment Agency have been consulted but raises no comments or objections to the proposals. It is therefore not appropriate to attach any conditions in relation to the protection of residential or neighbour amenities for the purposes of the current application. Furthermore, given the large size of the application site and distances at which the proposed dwellings will sit from neighbouring dwellings, it is not anticipated there will be any impact to residential amenity as a result of the proposals, but this will be further considered in a subsequent reserved matters application.

Drainage & Flood Risk:

Drainage & Flood Risk would fall under the heading of landscaping which constitutes a reserved matter to be assessed as part of a future reserved matters application. The current outline application will therefore not assess the Drainage & Flood Risk aspects of the proposals but will only consider (and where appropriate attach) any relevant conditions as recommended by any consultees who have made Drainage & Flood Risk related comments in relation to the current outline application. In this regard, both Wessex Water and the Environment Agency have been consulted. Wessex Water raises no objections and the Environment Agency have raised no comments or objections to the proposals at the time of writing. Furthermore, given that the proposals are for minor development and that the application site is situated in flood zone 1 and not in an area with identified critical drainage problems, it is not anticipated there will be any negative drainage or flood risk impacts as a result of the proposals, however, this will be further considered in a subsequent reserved matters application.

Ecology & Biodiversity:

The application as a minor application was received by the former South Somerset District Council on 04th November 2020 and prior to 02nd April 2024 (which was when the Biodiversity Net Gains for minor development came into effect) and would therefore be exempt from Biodiversity Net gain Requirements.

The application site is situated close to several SSSI impact Risk Zones and Great Crested Newt Risk Zones. Furthermore, the site comprises of former agricultural land which is currently vacant, and which therefore contains significant areas landscaping which also incorporate hedging, planting and other natural features. The proposals involve the erection of nine dwellings and although limited details regarding garden, hardstanding, softstanding, and car-parking and manoeuvring areas have been provided as part of the current outline application, the

proposals will nonetheless necessitate the creation of such areas which will be associated with the future residential use of the proposed dwellings. To accommodate both the dwellings and associated garden, hardstanding, softstanding, and car-parking and manoeuvring areas, the proposals will inevitably lead to the loss of landscaped areas throughout the site and may also impact any existing areas of planting, hedging or trees which may contain habitats for legally protected species such as nesting birds. However, the applicant has submitted an Ecological Impact Assessment (Final Report ver. 1.3) which provides details in relation to ecological impacts and recommends enhancement, avoidance, and mitigation measures. Somerset Ecology Services have also been consulted and raise no objections to the proposals on ecological grounds subject to conditions in relation to the provision of a Construction Environmental Management Plan (CEMP), external lighting and the provision of Biodiversity Net Gain (BNG).

The conditions as recommended by Somerset Ecology Services alongside a compliance condition requiring any enhancement, avoidance and mitigation measures to be carried out as detailed within the submitted Ecological Impact Assessment and several informatives in relation to bats, birds, badgers & other legally protected species would ensure that the proposals promote potential biodiversity net gains and avoid biodiversity net losses in line with the aims and objectives of policy EQ4 of the Local Plan, and the aims and provisions of the NPPF (2023). Given that the current application has been recommended for refusal, it not necessary to attach the conditions and informatives as recommended by Somerset Ecology Services.

Somerset Levels and Moors - Phosphates

The site is identified as being within the Somerset Levels and Moors Ramsar Site Catchment Area and more specifically falls within the Paret Catchment. As the competent authority, the Local Planning Authority is required by Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017, to undertake an Appropriate Assessment of the implications of the development in view of the Ramsar site's conservation objectives. The LPA may only to agree to the proposal after having ascertained that it will not adversely affect the integrity of the Ramsar site.

A phosphate mitigation strategy has been submitted by the applicant which proposes that the proposals will reach nutrient neutrality by following the remaining 3.63ha of land in the ownership of the developer which will mitigate 0.58kgP/year. This figure falls short of the 4.96kgP/year required to achieve phosphate neutrality at the site. Therefore, further mitigation in the form of 0.55ha area of constructed wetland area at the south-eastern corner of the developer owned land at Lopen will provide phosphate neutrality at the site. A Shadow Habitats Regulations Assessment (HRA) and Fallow Management Plan are also required to set out the necessary methods for following of the land. The SHRA concludes that the project will not adversely affect the integrity of the Somerset Levels and Moors Ramsar Site, either alone or in-combination with other plans or projects, subject to the mitigation identified in section 2.14 being secured in perpetuity.

The LPA has consulted with Natural England and Somerset Ecology Services on the proposed mitigation strategy and their comments are summarised above. The LPA must have regard to these consultation responses in carrying out the Appropriate Assessment (Regulation 63(3)). In summary, Somerset Ecology Services (SES) raises no objections to the proposals on phosphate grounds subject to a condition requiring the development to be implemented in accordance with the submitted Nutrient Neutrality and Mitigation Strategy (NNAMS) and further conditions in relation to the proposed package treatment plant (PTP) alongside an informative in relation to foul water treatment. SES has subsequently concluded through the Habitat Regulations Assessment that the Appropriate Assessment is passed. Natural England initially advised that the proposals have the potential to add to nutrient loads (phosphorous) within the catchment of the Somerset Levels & Moors Ramsar Site, and therefore may require mitigation and be subject to a Habitats Regulations Assessment (HRA). Having re-consulted Natural England on 06/08/2024 and providing them with the submitted SHRA and associated endorsement of this SHRA by Somerset Ecology Services, Natural England raises no objections subject to conditions requiring upgrading of the existing septic tank prior to the occupation of any dwellings to be approved on-site, requiring the provision of a suitable maintenance schedule for both Package Treatment Plants (PTPs), requiring any future replacement of the new PTP I to be subject to a requirement to achieve the same effluent phosphorus concentration or better and that the proposed new development limits water use to 110 litres per person per day.

Subject to securing the implementation and maintenance of the mitigation strategy through the planning conditions as recommended by SES, it is considered that the proposed development will not adversely effect on the integrity of the Ramsar Site (Regulation 63(5)). However, given that the current application has been recommended for refusal, it not necessary to attach the conditions and informatives as recommended by both Somerset Ecology Services and Natural England to the current application.

Car Parking & Highway Safety:

The application site falls within the southern rural outskirts of Lopen Village just outside the built-up limits of the village. This means that future occupiers can rely upon the variety of bus and other transport links offered within

Lopen which is located near to, and which is accessible from the site.

As part of the consultations in relation to the current application, both Somerset County Council Highways and South Somerset District Council Highways have been consulted. Due to the formation of Somerset Council as a unitary authority in April 2023, both Somerset County Council Highways and South Somerset District Council Highways have now been replaced by Somerset Council Highways. However, given that the current application was received on 04th November 2020, by the former South Somerset District Council and prior to the creation of the unitary authority of Somerset Council, weight must still be afforded to the comments made by both the former Somerset County Council Highways and South Somerset District Council Highways departments. South Somerset District Council Highways raise no objections but have advised that the matter is escalated to Somerset County Council Highways for comment. Somerset County Council Highways raises no objections subject to conditions requiring the provision of a Construction Environmental Management Plan, provision for the disposal of surface water so as to prevent its discharge onto the highway, the construction of elements of the wider development (such as estate roads, footways etc.) to be constructed and laid out in accordance with details to be approved by the Local Planning Authority, construction of the proposed roads and footpaths and turning spaces in a manner whereby each dwelling is served by a properly consolidated and surfaced footpath and carriageway, the obtaining of an appropriate right of discharge for surface water prior to development, the provision of parking spaces for each dwelling and properly consolidated and surfaced turning spaces within the wider site and the prohibition of obstructions to visibility splays at the access to the wider site as measured from the edge of the highway. It is noted that no details have been provided on the submitted plans in terms of Electric Vehicle Charging Points (ECVPs) or the provision of covered and secure cycle storage within the site curtilage.

The proposals involve the creation of a new adopted T-shaped road with 3 access points, including a western access point leading onto Holloway, an eastern access point leading onto the neighbouring field and a southern access point leading onto the remaining undeveloped southern portion of the existing field. The proposals also involve the formation of a new access point along Holloway and the demolition of existing buildings. Therefore, it would be justifiable to attach conditions in relation to the newly proposed highway access, elements of the wider estate (such as estate roads, footways etc.) and areas allocated for parking and drainage to prevent water discharge onto the adopted highway as well as landscaping conditions requiring further details of any materials to be used in any hardstanding areas. It is also noted that ECVPs are dealt with under Part S of Building Regulations. Therefore, it would be disproportionate to attach any ECVP related conditions requiring full technical details of any vehicle charging points to be provided to ensure that they are appropriate for the intended residential use. However, a condition requiring the location of any ECVPs within the site curtilage to be shown for each dwelling would instead be more appropriate. Given that the proposals do not appear to include any garages or carports, the proposals also appear to offer no provision for covered and secured cycle storage. To promote the uptake of low carbon methods of transportation, a condition requiring details of the provision of covered and secure cycle storage within the site curtilage would also be relevant. With such conditions attached, the proposals would allow for the manoeuvring and parking within the proposed site curtilage as per the Somerset County Council Highways Development Control - Standing Advice guidelines and would provide a level of car-parking which also meets the guidelines contained within Somerset County Council Parking Strategy. However, given that the current application has been recommended for refusal, it is not necessary to attach any such condition to the current application.

Given that the proposals are a minor development for nine dwellings only, the proposals are unlikely to lead to any significant increases in generated trips to and from the site. The proposals are therefore unlikely to have any adverse impact upon the local highway network in terms of traffic and public/highway safety and would accord with Policies TA1, TA5 & TA6 of the South Somerset Local Plan (2006-2028) and relevant guidance within the NPPF (2023).

Historic Environment:

The site is situated outside the settlement boundary of Lopen and would fall just outside the boundary of the Area of High Archaeological Potential known as 'Lopen'. However, the site falls within the boundary of a designated archaeological site known as 'Textile industry site, Lopen'. The applicant has submitted a Historic Environment Desk Based Assessment in support of the proposals which assesses the archaeological impacts of the proposals and specifies that the potential for buried archaeology at the Site has been assessed as generally low to moderate and concludes that there is no significant heritage or archaeological constraints to the proposed development at the site. Furthermore, Southwest Heritage Trust (Archaeology) have been consulted and confirm that they have no objection subject to a condition requiring the provision of a Programme of Works in Accordance with a Written Scheme of Investigation. Given that the current application has been recommended for refusal, it is not necessary to attach any such condition to the current application. Therefore, no further archaeological information, or controls are required as part of the current outline application.

Conclusions:

The proposal does not comply with all relevant national and local plan policies and is therefore recommended for

refusal.

Recommendation:

Refuse for the reasons set out below:

SUBJECT TO THE FOLLOWING:

01. The application seeks outline planning consent for the erection of 9 dwellings including the creation of a new access point and the demolition of existing buildings with all matters reserved except access (Use Class C3). The principle of the development would not be acceptable as no evidence of how the proposals will meet local need in terms of tenure and mix of homes proposed has been provided particularly in relation to affordable housing. This is further evidenced by the wider site layout which creates an artificial subdivision of land to avoid affordable housing as the site is clearly in the corner of the field with access for further expansion. Therefore, a sufficient 'tilted balance' from any benefits of the proposals cannot be applied in this instance to outweigh any potential harm caused by the proposed development. Such potential harm for the purposes of the current application includes but is not limited to the indicative schemes entirely detached form of dwellings and their scale and placement and the impact which this may or may not have upon the adjacent Lopen Conservation Area, and setting and significance of the nearby that the Grade II Listed Ballarat Farmhouse and Grade II Listed Shores Farmhouse, aswell as the lack of justification for the loss of the undesigned heritage asset, known as Bleaching House. As such, the proposals in their current form would be contrary to Policies SS2, HG3 & HG5 of the South Somerset Local Plan 2006-2028, Section 16(2) and Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraph 201 of the NPPF (2023).

Case Officer Signed :.....

Date :...../...../20.....

Agreed: YES/NO

Senior Officer Signed: :.....

Date :...../...../20.....