

Public Agenda Pack



Notice of Meeting of

PLANNING COMMITTEE - EAST

Tuesday, 7 November 2023 at 2.00 pm

Council Chamber - Mendip

To: The members of the Planning Committee - East

Chair: Councillor Nick Cottle
Vice-chair: Councillor Edric Hobbs

Councillor Adam Boyden
Councillor Dawn Denton
Councillor Susannah Hart
Councillor Helen Kay
Councillor Tony Robbins
Councillor Alex Wiltshire

Councillor Barry Clarke
Councillor Martin Dimery
Councillor Bente Height
Councillor Martin Lovell
Councillor Claire Sully

For further information about the meeting, including how to join the meeting virtually, please contact Democratic Services - democraticserviceseast@somerset.gov.uk.

All members of the public are welcome to attend our meetings and ask questions or make a statement **by giving advance notice** in writing or by e-mail to the Monitoring Officer at email: democraticservicesteam@somerset.gov.uk by **12 noon on Friday, 3 November 2023**.

This meeting will be open to the public and press, subject to the passing of any resolution under the Local Government Act 1972, Schedule 12A: Access to Information.

The meeting will be webcast and an audio recording made.

Issued by David Clark (the Proper Officer) on Thursday 26 October 2023

AGENDA

Planning Committee - East - 2.00 pm Tuesday, 7 November 2023

Public Guidance Notes for Planning Committees (Agenda Annexe) (Pages 7 - 10)

Click here to join the online meeting (Pages 11 - 12)

1 Apologies for Absence

To receive any apologies for absence and notification of substitutions.

2 Minutes from the Previous Meeting (Pages 13 - 28)

To approve the minutes from the previous meeting held on 3 October 2023.

3 Declarations of Interest

To receive and note any declarations of interests in respect of any matters included on the agenda for consideration at this meeting.

(The other registrable interests of Councillors of Somerset Council, arising from membership of City, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes: [City, Town & Parish Twin Hatters - Somerset Councillors 2023](#))

4 Public Question Time

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have submitted any questions or statements, please note, a three-minute time limit applies to each speaker.

Requests to speak at the meeting at Public Question Time must be made to the Monitoring Officer in writing or by email to democraticservicesteam@somerset.gov.uk by 12 noon on Friday 3 November 2023.

5 Planning Application 2022_1427_FUL Land at Underhill Lane, Ston Easton, Wells, Somerset (Pages 29 - 90)

To consider an application for the demolition of Nos. 26 and 28 Orchard Vale and development of 54 new homes with open space, landscaping and all associated infrastructure.

6 Planning Application 2023_1735_HSE 6 Northcote Crescent, Frome, Somerset (Pages 91 - 96)

To consider an application for a single storey side and rear extension.

7 Planning Application 2023_0663_FUL Vereker House, Pitcot Lane, Stratton on the Fosse, Somerset (Pages 97 - 108)

To consider an application for the extension of residential curtilage to Barn 1 to include change of use of land from agricultural to residential and reorganisation of curtilage to Barn 2 in order to facilitate amended vehicular access to highway.

8 Planning Application 2022_1647_FUL Blackberry Farm House, Martin Street, Baltonsborough, Somerset (Pages 109 - 130)

To consider an application for the erection of one detached dwelling.

9 Planning Application 2023_1106_FUL Penning Barn, Down Lane, West Pennard, Somerset (Pages 131 - 146)

To consider an application for the replacement of an existing barn with a single storey dwelling and detached annexe.

10 Planning Application 2023_0490_FUL Land at Foghamshire Lane, Trudoxhill, Frome, Somerset (Pages 147 - 158)

To consider an application for the demolition of an outbuilding and erection of 1no 3 bed dwellinghouse.

11 Planning Application 2023_0897_FUL Laurel House Farm, Foghamshire Lane, Trudoxhill, Frome, Somerset (Pages 159 - 172)

To consider an application for the erection of an annexe/outbuilding with ancillary use to the main house and associated change of use of a parcel of land from agricultural to residential for the siting of the annexe.

12 Planning Application 2023_0574_FUL Land at 30 Wells Road, Wookey Hole, Somerset (Pages 173 - 186)

To consider an application for the erection of a dwelling and attached car port and formation of vehicular car access.

13 Appeals Report (Pages 187 - 232)

A report showing decisions made by the Planning Inspectorate between 19 September and 25 October 2023.

Other Information:

Exclusion of the Press and Public for any discussion regarding exempt information

The Press and Public will be excluded from the meeting when a report or appendix on this agenda has been classed as confidential, or if the Committee wish to receive confidential legal advice at the meeting. If the Planning Committee wish to discuss information in Closed Session then the Committee will asked to agree the following resolution to exclude the press and public:

Exclusion of the Press and Public

To consider passing a resolution having been duly proposed and seconded under Schedule 12A of the Local Government Act 1972 to exclude the press and public from the meeting, on the basis that if they were present during the business to be transacted there would be a likelihood of disclosure of exempt information, within the meaning of Schedule 12A to the Local Government Act 1972:

Reason: Para 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

(Or for any other reason as stated in the agenda)

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Public Guidance Notes for Planning Committees

Can I speak at the Planning Committee?

The Applicant or Agent, Parish, Town or City Council, Division Members and objectors or supporters are able to address the Planning Committee. **All speakers need to register – please see details on the next page.**

The order of speaking will be:-

- Those speaking to object to the proposal - maximum of 5 speakers of 3 minutes each
- Those speaking in support of the proposal - maximum of 5 speakers of 3 minutes each
- Parish, Town or City Council(s) - 3 minutes each
- Councillors of Somerset Council (non-Committee members) - 3 minutes each
- The applicant or their agent - 3 minutes

Public speaking will be timed and the Chair will be responsible for bringing the speech to a close. The speaker/s will be allowed to address the Committee during their registered slot only and will not be allowed to provide further clarification. If an item on the Agenda is contentious, with a large number of people attending the meeting, a representative speaking to object or support the proposal should be nominated to present the views of a group.

The Chair can exercise their discretion in consultation with the Legal Adviser and this maybe, for example, it maybe that comments are derogatory in which case the Chair will exercise discretion to prevent the speaker from continuing, or if balance was required in terms of speakers for and against or to make a specific point, to allow a further speaker.

Comments should be limited to relevant planning issues. There are limits to the range of issues that can be taken into account when considering planning applications.

Although not an exhaustive list, these might include:

- Government planning policy and guidance
- Planning legislation
- The suitability of the site for development
- Conflict with any planning policies such as the relevant Development Plan – which are available for inspection on the Council's website
- Adopted Neighbourhood Plans
- Supplementary Planning Documents (SPD)

- Previous planning applications and decisions
- Design, appearance, layout issues and relationship with the surrounding area.
- Living conditions such as privacy, noise and odour.
- Highway safety and traffic issues
- Biodiversity and ecology
- Impact on trees and the landscape
- Flood risk in identified areas at risk.
- Heritage assets such as listed buildings, conservation areas and archaeology
- The economy, including job creation/retention.
- Drainage and surface water run-off.

Issues that are not usually relevant will vary with each application, but the courts have established that the following matters cannot be taken into account when considering planning applications:

- The history or character of an applicant
- Perceived or actual impact of development on property values.
- Land ownership, restrictive covenants or other private property rights including boundary and access disputes or maintenance.
- An applicant's motivations or future intentions.
- Retrospective nature of applications;
- Impact on private views;
- The extent of public support or opposition for a proposal alone;
- Competition between businesses;
- Matters controlled by other (non-planning) legislation such as licensing and building regulations or other laws.

How do I register to speak at Planning Committee?

A request to speak must be made to the Council's Democratic Services team no later than 12 noon on the working day before the Committee meeting by email to democraticserviceseast@somerset.gov.uk . For those speaking to object or support the proposal, the speaking slots will be allocated on a first come first served basis. If there are numerous members of the public wishing to speak in one slot it is advisable to make arrangements for one person to make a statement on behalf of all. The meetings are hybrid and you can speak either in person at the meeting or virtually. If you wish to speak at the meeting virtually please inform Democratic Services so that they can advise you of the details. If you have registered to speak, the Chairman will invite you to speak at the appropriate time during the meeting.

Can I present information to the Committee?

Please be advised that you cannot present documents in any form to the Committee Members at the meeting – this includes photographs and presentations (including Powerpoint presentations).

How do I know what time an application will be heard?

If you have registered to speak in person, we recommend arriving at the meeting venue about 15 minutes before the start time. If joining virtually, please consider joining the meeting a few minutes early to ensure your technology is working correctly - you may have to wait in a lobby until being admitted to the meeting. It is not possible to estimate the exact time an application will be heard.

What if my Division Member does not sit on the Planning Committee?

If your local Councillor is not a member of the Planning Committee, he or she can still address the meeting to outline any concerns or points of support. However, they will not be permitted to take part in the main debate, to make or second a proposal or to vote on any item.

Presentation of planning applications

The Planning Officer will present the case to the Committee explaining the factual matters and any salient points which need to be drawn out with the use of a visual presentation. It is important to note that the Planning Officer is not an advocate for either the applicant or any third parties but will make an impartial recommendation based on the merits of the proposal and any relevant material considerations.

The role of Officers during the debate of an application

When an application is considered at Planning Committee, it is the Officers' role to explain why they have concluded that permission should be approved or refused and answer any questions that Members may have. Whilst the Committee has to reach its own decision bearing in mind the Officer advice, report and recommendation, the Lead Planning Officer and Council Solicitor in particular have a professional obligation to ensure that a lawful and unambiguous decision is made in accordance with the Council's Development Plan, planning legislation, regulations and case law. This means, in the event that a contrary decision is sought, they will need to explain the implications of doing so. This can sometimes mean that Officers need to advise and guide Members as to planning policy, what are or are not material considerations, what

legally can or cannot be considered or given weight and the likely outcome of any subsequent appeal or judicial review.

Officers' views, opinions and recommendations may, on occasion, be at odds with the views, opinions or decisions of the Members and there should always be scope for Members to express a different view from Officers. However, any decision by the Committee must be based on proper planning reasons as part of the overall aim to ensure that a lawful and unambiguous decision is made. Where this is contrary to that recommended within the Officer report, the Lead Planning Officer and Council Lawyer will advise Members in making that decision.

Recording of the Meeting

Please note that this meeting will be recorded, and the recording will be made available on the Council's website and/or on YouTube. You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the recording will be retained in accordance with the Council's policy. Therefore, unless you are advised otherwise, by taking part in the Council meeting during public participation you are consenting to being recorded and to the use of the sound recording for access via the website or for training purposes.

The Council supports the principles of openness and transparency. It allows filming, recording, and taking photographs at its meetings that are open to the public – providing this is done in a non-disruptive manner. Members of the public may use Facebook and Twitter or other forms of social media to report on proceedings, No filming or recording may take place when the press and public are excluded for that part of the meeting.

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Minutes of a Meeting of the Planning Committee - East held in the Council Chamber, Council Offices, Cannards Grave Road, Shepton Mallet BA4 5BT, on Tuesday, 3 October 2023 at 2.00 pm

Present:

Cllr Nick Cottle (Chair)
Cllr Edric Hobbs (Vice-Chair)

Cllr Barry Clarke	Cllr Martin Dimery
Cllr Susannah Hart	Cllr Bente Height
Cllr Helen Kay	Cllr Martin Lovell
Cllr Tony Robbins	Cllr Claire Sully

56 Apologies for Absence - Agenda Item 1

Apologies for absence were received from Councillors Dawn Denton, Alex Wiltshire and Adam Boyden. Councillor Philip Ham substituted for Dawn Denton and Councillor Heather Shearer for Alex Wiltshire.

57 Minutes from the Previous Meeting - Agenda Item 2

The Committee was asked to consider the Minutes of the meeting held on 1 August 2023.

Councillor Helen Kay proposed and Councillor Edric Hobbs seconded that they be accepted. These Minutes were taken as a true and accurate record and were approved.

The Committee was then asked to consider the Minutes of the meeting held on 5 September 2023.

Councillor Edric Hobbs proposed and Councillor Heather Shearer seconded that they be accepted. These Minutes were taken as a true and accurate record and were approved.

58 Declarations of Interest - Agenda Item 3

There were none.

59 Public Question Time - Agenda Item 4

There were none.

60 Planning Application 2023/0834/FUL Land At 371144 141521 Station Road Wanstrow Shepton Mallet Somerset - Agenda Item 5

Application for the erection of four dwellings with associated vehicular accesses and highway works.

The Officer's Report stated that these applications had been referred to the Planning Committee as the application site was located outside of the housing limits therefore representing a departure from the existing adopted Development Plan.

The Report continued that the site related to greenfield land to the east of Station Road on the periphery of the village of Wanstrow. The site adjoined existing dwellings to the north and open countryside to the south and east. To the west of the site are the residential properties nos. 1 – 6 Station Road. Outline planning consent (for access and layout) was granted at appeal in October 2022 for the erection of four dwellings on the site. The scheme comprises a pair of semi-detached, two-bedroom bungalows (plots 1 and 2) and two detached, three-bedroom dwellings (plots 3 and 4).

Wanstrow Parish Council had recommended refusal of the application for the following reasons:

- Drainage and flood risk.
- Harm to residential amenity of neighbours opposite the site (car headlamps shining into properties when residents of the new development exit access points).
- Highway safety and inconvenience (proposed access roads are opposite existing access points).
- Contaminated land issues (replacement of topsoil should be conditioned as minimum)
- Ecology (phase 1 report is incomplete, inaccurate, and lacking in detail).

There had been 2 letters of objection from local residents for reasons including harm to residential amenity, highway safety and contaminated land concerns.

The Highway Authority had no objection but requested further information regarding the new accesses and gradient.

In conclusion, the Officer's Report said there were no ecological, arboricultural, contaminated land, flooding or drainage issues which were not capable of being resolved through the attachment of appropriate conditions. Therefore, any adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in the NPPF taken as a whole. Paragraph 11 of the NPPF therefore directs that planning permission should be granted.

Overall, Officers had concluded that the proposal was a sustainable development and the application was therefore recommended for approval.

The Planning Officer explained the application to the Committee with the aid of a PowerPoint presentation.

The Committee was then addressed by a speaker on behalf of Wanstrow Parish Council. His comments included:

- The Parish Council recommended refusal and questioned whether the scheme is appropriate.
- Dwellings opposite would be flooded with light when cars leave the new site due to the location of the entry/exit point.
- No comment from Council's ecologist.
- Concerns about surface water drainage and flooding which has occurred to the dwellings opposite site.
- No comment from the Lead Flood Officer.
- Requested deferral to allow the drainage and surface water schemes to be published and consulted on.
- Requested the publication of the Flood Risk Management Plan for comment by the Parish Council.

The next speaker was the applicant's agent who made the following points:

- The applicant had purchased the site with outline planning permission for 4 dwellings.
- The appeal inspector had said the Council had acted unreasonably with regard to water and drainage issues.

- Proposal is a modest scheme of single storey dwellings suitable for an ageing population.
- Dwellings will be A-Rated, with air source heat pumps, the oak tree will be retained and wildflower meadows planted.
- Highways had already approved access in the outline permission.

In the discussion which followed Members made a number of comments including the following:

- The Parish Council should be provided with the information promised regarding the Flood Risk Management Plan.
- Gardens are very small and would not allow occupants to grow their own food.
- Concern over cattle with anthrax being buried on the site.
- Concern over light pollution for the dwellings opposite from car headlights.
- There will need to be a root protection zone for the oak tree.
- The development does not seem to be sustainable.
- The site embankment – there is flooding at the bottom, it is boggy and as it is clay it is difficult to drain.
- Pleased to see the scheme is for single storey dwellings.

In response to the comments made, the Planning Officers and Legal Advisor said the following:

- There is nothing in Planning policy to dictate the size of the gardens. Officers considered there was adequate amenity.
- At appeal the Inspector said flooding and contamination issues could be dealt with by conditions to ensure contamination and drainage schemes are in place.
- Recommended Condition 5 deals with the sustainable construction and the Ground Source Heat Pumps and Condition 9 covers the protection of the oak tree.

The Lead Planning Officer advised Members that the previous Council had been deemed to be unreasonable to refuse permission and were ordered to pay costs in relation to contamination and drainage issues. She added that if the proposal was deferred the applicant may appeal for non-determination. The Planning Officer added that conditions relating to contamination imposed by the Inspector had been discharged and the report was found to be acceptable.

At the conclusion of the debate, Councillor Philip Ham proposed that the application be deferred to enable more information to be provided regarding the contamination and flooding risks. This was seconded by Councillor Susannah Hart. On being put to the vote, this was not carried with 5 votes for deferral, 6 votes against and 1

abstention.

Councillor Heather Shearer then proposed to approve the application in accordance with the Officer's Recommendation with the additional informative that the Parish Council be consulted on the submitted surface water drainage scheme for the site. This was seconded by Councillor Edric Hobbs. On being put to the vote the proposal was carried with 6 votes in favour, 4 votes against and 2 abstentions.

RESOLVED

That planning application 2023/0834/FUL be **APPROVED** in accordance with the Officer's recommendation with an additional informative that Wanstrow Parish Council be consulted on the submitted surface water drainage scheme for the site.

Votes – 6 in favour, 4 against and 2 abstentions

61 Planning Application 2022/2434/VRC Millfield School Butleigh Road Street Somerset - Agenda Item 6

Application to vary conditions 2 (Plans List) and 5 (Floodlights - Hours of Illumination) of planning approval 2019/1949/FUL.

This application was withdrawn from the agenda.

62 Planning Application 2022/2313/FUL Land At 360261 146054 Thrupe Lane Masbury Shepton Mallet Somerset - Agenda Item 7

Application for the conversion of stone built agricultural barn into a dwelling.

The Officer's Report stated that this application had been referred to the Planning Committee as the Officer's recommendations differed from that of the Parish Council. The Divisional Member had requested the application be brought before the Planning Committee.

The Report continued that the application site formed part of a larger agricultural field and was accessed from West Lane, a single lane track off Thrupe Lane. The existing barn had been rebuilt and there had been retrospective planning permission granted for agricultural purposes. The site was outside of development limits and within the Somerset Levels and Moors Ramsar Risk Area. A previous application on 2021 to convert the barn to a dwelling had been refused by the LPA.

Croscombe Parish Council, Environment Protection, Contaminated Land, Drainage and Ecology had no objections. There had been 2 letters of support received from local residents.

In conclusion, the Officer's Report said that in assessing the proposal against the Council's conversion Policy (DP22), it was considered that the building was a newbuild development with no history of a rural use and therefore failed to accord with the key criteria of the Policy. Therefore, the principle of development was unacceptable as the site was isolated and unsustainable, wholly dependent on the use of the car and did not meet exception criteria set out in the NPPF or Local Plan. The proposal for residential development with associated domestic paraphilia failed to respect the character of this rural site.

Although the proposal would deliver a single dwelling and the need for housing in Mendip was acknowledged, it was considered that, in this case, this benefit was not outweighed by the significant and demonstrable harms identified in relation to the principle of development and the impact of the scheme on the character of the area. As such, the application was recommended for refusal.

The Planning Officer explained the application to the Committee with the aid of a PowerPoint presentation.

On behalf of Croscombe Parish Council, a speaker made the following points:

- The Parish Council supported the application.
- The proposal would have no detrimental visual impact on the village.
- Public transport within the village is poor and every resident has to use a private vehicle so this residence would be no different.
- Surprised the application is recommended for refusal considering the number of barn conversions approved in similar location.

The Chair then invited the applicant and his agent to share the next speaking slot. They made the following comments:

- This application had overcome the previous reasons for refusal in November 2021.
- There was no conflict with local or national planning policy.
- Disagree that the application should be regarded as a new build.
- The barn is used for hay and farm equipment and been in the applicants' ownership since 2006.
- The applicants are caring landowners and when the barn was damaged it was rebuilt using local materials.
- It is not in an isolated location and is located opposite the new Multi-user

path.

- The scheme proposes the same size and shape to the existing barn and would be virtually off-grid.

During the discussion which followed, Members made a number of comments including the following:

- There must be a consistent approach to planning applications. Other barns in the area have been granted permission for conversion and have enhanced the area.
- The support from the Parish Council and local residents should be taken into consideration.
- Happy to see the proposed orchard and solar panels.
- The applicant rebuilt the barn just one year ago to a very high standard and is now applying to convert it. Seems pre-meditated.
- There is sustainable transport within the village – an hourly bus to Shepton Mallet.

The Legal Adviser reminded Members that there were two reasons given by the Planning Officer to refuse the application – the principle of allowing development outside the development limits and the impact of the development on the countryside. If minded to approve, Members should delegate the imposition of suitable planning conditions to Officers in consultation with the Chair and Vice-Chair. The approval would also need to be advertised as a departure from the development plan prior to the decision notice being issued.

At the conclusion of the debate, it was proposed by Councillor Claire Sully and seconded by Councillor Edric Hobbs to approve the application, as a departure and contrary to the Officer's Recommendation on grounds that the benefits of the development outweighing the harms and the proposal would not have a harmful impact on the countryside. Conditions to be delegated to Planning Officers in consultation with the Chair and Vice- Chair.

On being put to the vote the proposal was carried with 10 votes in favour, 1 vote against and 1 abstention.

RESOLVED

That planning application 2022/2313/FUL be **APPROVED** contrary to the Officer's recommendation as a departure to the development plan, as the benefits of the scheme outweighed the harms and the proposal would not have a harmful impact on the countryside. That delegated authority be granted to Planning Officers to impose

planning conditions in consultation with the Chair and Vice-Chair.

Votes – 10 in favour, 1 against and 1 abstention

63 Planning Application 2023/0174/REM Newlyn Back Lane Draycott Cheddar Somerset - Agenda Item 8

Application for reserved matters following outline approval 2019/1157/OTA for the demolition of existing dwelling and construction of 5 new dwellings. Matters of access to be determined.

The Officer's Report stated that this application had been referred to the Planning Committee at the request of the Chair as the Parish Council had recommended refusal but the Officer had recommended to approve the application with conditions.

The Report continued that the application site consisted of a detached bungalow set within a generous plot. The site was within the development limits of Draycott and there was extant outline approval for the demolition of an existing dwelling and construction of 5no. new dwellings with all matters were reserved. This application sought reserved matters approval for the vehicular access for the site all other matters would be agreed by further applications which would cover layout, scale, appearance and landscaping. The vehicular access to serve the site was proposed from Back Lane. The recommendation was for approval.

Rodney Stoke Parish Council had recommended refusal and pointed out that the Construction Management Plan in Condition 7 of the previously approved outline planning permission had not been carried out. This was also noted by the Environmental Protection Officer. There had been 7 letters of objection from local residents for the following reasons:

- Highway safety
- Light pollution
- Loss of privacy
- Design of dwellings should be in keeping
- Impact on ecology
- Principle of dwellings on the site
- Reduction in wall height will reduce character

The Officer's Report stated that the Construction Management Plan as per Condition 7 of the outline planning permission for application 2019/1157/OTA has been mentioned in the representations received. It should be noted that the reserved

matters application had to be read in conjunction with the outline consent and as such the outline conditions were still relevant and enforceable. Following their assessment of the impact of the proposal, the Officer recommended the application be approved.

The Planning Officer explained the application to the Committee with the aid of a PowerPoint presentation.

There were no speakers.

As there was no debate amongst Members, it was proposed by Councillor Heather Shearer and seconded by Councillor Edric Hobbs to approve the application in accordance with the Officer's Recommendation.

On being put to the vote it was unanimously approved.

RESOLVED

That reserved matters application 2023/0174/REM be **APPROVED** in accordance with the Officer's Recommendation.

Votes - Unanimous in favour

64 Planning Application 2023/0814/FUL Land West Of Tanyard Lane North Wootton Shepton Mallet Somerset - Agenda Item 9

Application for the erection of dwellinghouse and garage/store outbuilding.

The Officer's Report stated that this application had been referred to the Planning Committee at the request of the Chairman as the officer recommendation was for refusal which was contrary to the views expressed by the Parish Council and the Divisional Member.

The Report continued that the application related to a field located between existing housing to the west of Tanyard Lane, in North Wootton. There was an existing access onto Tanyard Lane at the eastern end of the plot. The site was located outside defined development limits and was within a Site of Special Scientific Interest impact risk zone. It was also allocated as an open space within Mendip District Council's local plan. Previous planning permission applications which had been granted for a dwelling on the site have since lapsed.

The Parish Council had recommended approval saying that the applicant was a long-

standing member of the community. There had been one letter of concern from a local resident regarding potential damage to property and electricity lines from falling trees.

There were no objections from Environmental Protection Agency, Highways, Ecology or the Contaminated Land. However, the Tree Officer had asked for a condition to secure a detailed arboricultural method statement to support the provided Arboricultural Impact Assessment /Tree Protection plan.

In conclusion, the Officer's Report stated that proposed dwelling would be outside the settlement limits and remote from services and facilities and would therefore be contrary to planning policies. It was considered that the harm resulting from the unsustainable location and loss of open space would outweigh the benefit of providing one additional dwelling to the housing stock. Therefore, the recommendation was for refusal.

The Planning Officer explained the application to the Committee with the aid of a PowerPoint presentation.

On behalf of North Wootton Parish Council, the first person to speak made the following points:

- After careful consideration the Parish Council recommended approval of the application.
- Aware it is outside the settlement limits (although no longer recognised for North Wootton) but requests the Committee to be more favourable to applications on the village limits.
- The harm to the character of the village would be minimal.
- Applicant is a long-time resident.
- It would add a modest sized house to the housing stock.

The applicant's agent was the next to speak. He made the following comments:

- The site previously had reserved matters approval which had lapsed.
- Due to small change in planning policy, this application was recommended for refusal. However, the scheme was similar to the previously approved application.
- The location is sustainable as the village has a pub, village hall and church.
- A new dwelling located less than 100m away had been granted planning permission in September 2022 so the same should apply to this application.
- The Parish Council recommends approval.

During the discussion which followed Members made the following points:

- It would make sense to build on this site to fill in the gap in the lane. It may even protect the green space behind it.
- Green spaces are allocated for a reason. Should not build on a green space.
- Is not a sustainable location and would be car dependent.

At the conclusion of the debate, it was proposed by Councillor Heather Shearer and seconded by Councillor Edric Hobbs to approved the application contrary to the Officer's Recommendation. On being put to the vote, the motion was not carried with 4 votes in favour and 8 votes against.

It was then proposed by Councillor Philip Ham and seconded by Councillor Bente Height to refuse the application in accordance with the Officer's Recommendation. On being put to the vote the proposal was carried with 8 votes in favour, 3 votes against and 1 abstention.

RESOLVED

That planning application 2023/0814/FUL be **REFUSED** in accordance with the Officer's recommendation.

Votes – 8 in favour, 3 against and 1 abstention

65 Planning Application 2023/0734/FUL Land At 355328 131038 Castle Cary Road Lydford On Fosse Somerton Somerset - Agenda Item 10

Application for the erection of 1no. single storey dwellinghouse.

The Officer's Report stated that this application had been referred to the Planning Committee as it was a departure from the Local Plan.

The Report continued that the application site related to land which was outside the defined development limits, within and Air Limit MOD and a Mineral Consultation Area. Also, it was within the Somerset Levels and Moors Ramsar Risk Area and a Site of Special Scientific Interest Impact Risk Zone.

The Parish Council had recommended approval and just one letter of objection had been received from local residents due to the likely disturbance to amenity during construction.

In conclusion, the Officer's report stated that whilst it was acknowledged that the development would be beyond the settlement limits and therefore would represent a departure from local plan, the site was relatively close to the services within Keinton Mandeville and therefore could not be described as an isolated or unsustainable location.

The dwelling would make a modest contribution to housing in the district and there would be some economic benefits during the construction period. Therefore, on balance the application represented a sustainable form of development and was recommended for approval as a departure from the development plan, as the harms arising would not outweigh the benefits delivered.

The Planning Officer explained the application to the Committee with the aid of a PowerPoint presentation.

There were no speakers registered to speak.

In the brief discussion which followed Members made the following points:

- The Parish Council were supportive of the application.
- The black metal corrugated material proposed for the cladding and roof does not fit in with the character and appearance the surroundings and does not seem suitable.
- Solar panels would be beneficial. One Member requested this to be added as a condition, however, the proposer declined this.

At the conclusion of the debate, it was proposed by Councillor Claire Sully and seconded by Councillor Heather Shearer to approve the application in accordance with the Officer's Recommendation. On being put to the vote the proposal was carried with 11 votes in favour and 1 vote against.

RESOLVED

That planning application 2023/0734/FUL be **APPROVED** in accordance with the Officer's recommendation.

Votes – 11 in favour, 1 against

66 Planning Application 2023/0611/FUL Little Tynning Charlton Road Holcombe Shepton Mallet Somerset - Agenda Item 11

Application for the conversion of an existing garage and workshop to residential accommodation and additional hard standing area with drainage.

The Officer's Report stated that this application had been referred to the Planning Committee as the Officer's Recommendation was for refusal, whereas the Parish Council had recommended approval of the application.

The Report continued that the application site was located to the rear of the host house, Little Tynning, and was accessed via a track from Charlton Road which also served the main house. The site was outside the defined settlement limits of the Local Plan and was within a Bat Consultation Zone, a Coal Interest Area, Radon Protection Area and a Site of Special Scientific Interest Impact Risk Zone.

The Parish Council had recommended approval whereas the Land Drainage Officer had objected due to the lack of information regarding surface water and foul waste management. There had been one letter of support from local residents.

In conclusion, the Officer's report stated that the development would lie approximately 1km from the development limits of Holcombe village and therefore would represent a departure from the local plan. The tilted balance would apply, but there would only be a limited economic benefit during the construction period. The proposal was not sustainable and the economic benefits and modest contribution to the housing supply were not considered to outweigh the harms in terms of the unsustainable location of the application site. The recommendation was therefore for refusal.

The Planning Officer explained the application to the Committee with the aid of a PowerPoint presentation.

The Committee was addressed by a Councillor representing Holcombe Parish Council. He made a number of points including:

- Suggested that the location was sustainable. Nearby there is a hotel and restaurant, playing field and a limited bus service. It is no less sustainable than any other house in the village.
- It would make a modest contribution to housing numbers.
- Adult social care was extremely costly for the Council. This proposal would lessen the burden as it would enable family members to stay near elderly relatives.
- The social benefits would outweigh the harms.

Next to speak was the applicant's agent. He made the following comments:

- The application was supported by the Parish Council and there had been no local objections.
- There would be no harm to neighbouring amenities.
- Although the economic benefits may be limited there are social benefits to the proposal.
- Believes the benefits of the scheme would outweigh the harms.

In the debate which followed Members made the following points:

- Previous applications have been approved which enabled the elderly to stay near family members.
- Although the site is outside the development limits it not an undeveloped site.
- If approved, could the dwelling be conditioned to be reserved for elderly occupants only?
- There would be no harm to the visual amenity of the area.
- Concerns about additional traffic on the lane.

In response to comments made, the Planning Officer advised that the dwelling was not being built to the standards necessary to reserve it, by condition, for the use of elderly occupants. The Highways Officers had no concerns with visibility and standing advice was given. There was only 1 dwelling proposed so there would not be a high amount of extra traffic on the lane.

At the conclusion of the debate, it was proposed by Councillor Edric Hobbs and seconded by Councillor Tony Robbins to approve the application, as a departure and contrary to the Officer's Recommendation due to the benefit of the development outweighing the harms. Conditions to be delegated to Planning Officers in consultation with the Chair and Vice- Chair. On being put to the vote the proposal was carried with 10 votes in favour and 1 vote against.

RESOLVED

That planning application 2023/0611/FUL be **APPROVED** contrary to the Officer's Recommendation as a departure, as the benefits of the scheme outweighed the harms identified in the Officers Report. That delegated authority be granted to Planning Officers to impose planning conditions in consultation with the Chair and Vice-Chair.

Votes – 10 in favour, 1 against

67 Planning Application 2023/1288/FUL Footlands Ivythorn Lane Walton Street Somerset - Agenda Item 12

Application for change of use of land from agricultural to residential garden.

The Officer's Report stated that this application had been referred to the Planning Committee as it was a departure from the Local Plan and the Officer recommended approval.

The Report continued that the site was in a rural area with open agricultural land around 3 edges and a lane to the south. The proposal sought a change of use on a section of land from agricultural to residential in order to create a larger garden.

There were no objections from any consultees and no letters of concern had been received from local residents.

After assessing the application, the Officer's report stated that although the development would be outside the development limits, it would be adjacent to an existing residential property. It was not considered to have a detrimental impact on the adjoining land uses and it was therefore recommended that planning permission be granted as a departure from the local plan.

The Planning Officer explained the application to the Committee with the aid of a PowerPoint presentation.

The Committee was addressed by the applicant's agent. She explained that the owners of the property wished to dispose of the property. However, the septic tank serving the property was located outside the existing garden. The applicants would like to have the septic tank within the boundary of the garden to facilitate it to be emptied easier and make the disposal of the property a simpler process.

As there was no debate amongst Members, it was proposed by Councillor Helen Kay and seconded by Councillor Heather Shearer to approve the application in accordance with the Officer's Recommendation.

On being put to the vote it was unanimously approved.

RESOLVED

That planning application 2023/1288/FUL be **APPROVED** in accordance with the Officer's recommendation.

Votes - Unanimous in favour

68 Appeals Report - Agenda Item 13

This report was noted.

(The meeting ended at 5.10 pm)

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CHAIR

Application Number	2022/1427/FUL
Case Officer	Nikki White
Site	Land At Underhill Lane Ston Easton Wells Somerset
Date Validated	14 July 2022
Applicant/	Mr P Roberts
Organisation	Curo Enterprise Ltd, Thomas Rory St John Meadows and Rich...
Application Type	Full Application
Proposal	Demolition of Nos. 26 and 28 Orchard Vale and development of 54 new homes with open space, landscaping and all associated infrastructure.
Division	Mendip Hills Division
Parish	Ston Easton Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

What 3 Words:

The application site can be found by entering the following words into the What 3 Words website/app (<https://what3words.com/>):

noble.interrupt.director

Scheme of Delegation:

In accordance with the scheme of delegation, this application is referred to the planning committee for a decision. This is because the proposal represents a departure from the Local Plan.

Description of Site, Proposal and Constraints:

The full planning application relates to the demolition of Nos. 26 and 28 Orchard Vale and development of 54 new homes with open space, landscaping and associated infrastructure.

This is a cross boundary application. Detailed discussions have been had with officers in Bath and North East Somerset Council (BANES) through the life of this application. The main part of the proposal is within the Somerset boundary. Within BANES, Nos. 26 and 28 Orchard Vale are proposed to be demolished to make way for a new access - which is subject to planning application 22/02932/FUL which has not yet been determined.

The site is located on the western edge of Midsomer Norton, which is a well established suburban residential area, including flats to the south. Underhill Farm is sited to the east, with open countryside further east. The Orchard Community Hall is located to the south adjacent to a playing pitch and play park and a care home.

Underhill Wood is located to the north of the site which is a Local Wildlife Site (LWS) and subject to blanket Tree Protection Order (TPO) reference M1156. This application site is within the SSSI Impact Risk Zone. The land is shown as agricultural grade 3 (good to moderate) on the Natural England website.

Nos. 26 and 28 Orchard Vale (within BANES) are existing 3-bed social rent dwellings. It is proposed to re provide one of these dwellings within the BANES district, adjacent to the access (plot 1). A further dwelling is proposed to be included within the Somerset district with nomination rights to BANES (plot 8). Two further 4 bed dwellings are proposed within the Somerset boundary which are proposed to be delivered with nomination rights to BANES outside the scope of the planning legal agreement (additionality) (plots 6 and 7). These are subject to ongoing discussions with officers at BANES.

Procedural Clarifications:

Through the life application, revised plans have been received showing amendments to the design and layout, and reducing the quantum of development from 60 dwellings as originally proposed to the current 54. These changes have been subject to a full new round of consultation. Publication of this application has taken place in line with legal requirements, including advertisements in local press, site notices and letters to neighbours. The Council has met its obligations in relation to publication of the application.

The proposed development could only be developed if its access is permitted, which is subject to a separate planning application in BANES (22/02932/FUL). Following internal legal advice, it has been confirmed that if Somerset Council Planning Committee is minded to approve this application, it should include a Grampian condition requiring the access to be developed. In the event that BANES refuses the access application (and any appeal is dismissed) then the development could not proceed.

It is confirmed that a site visit has been undertaken and the site and proposal are fully understood to enable a recommendation to be made.

Allocation Status:

Further to the successful legal challenge of LLP2, the associated Order (December 2022) instructed that the allocated sites Policies MN1, MN2, MN3, NSP1 and BK1 of Local Plan

Part 2 (LP2), their supporting text and other related text, tables and diagrams should be remitted to the Council. The remitted parts of LP2 should be treated as not having been adopted as part of the local development plan, and have no weight in the planning balance. The rest of LP2 is unaffected by this order, and remains part of the adopted plan.

As such, the previous allocation for this site (MN2) is no longer in place and the site is considered unallocated. The proposal is therefore considered as open countryside and, if permitted, it would represent a departure from the development plan.

Since the removal of this allocation, revised plans have been submitted and the application subject to a new full round of consultation.

Relevant History on Application Site:

No relevant planning history

Summary of Comments:

Divisional/Ward Member(s): no comments received

Ston Easton Parish Council: (16.08.2022 and 20.06.2023)

- Some clarification points.
- Determination of the application to the planning officer.
- Contribution to Clapton Village Hall requested.
- Consideration should be given to investing into the adjacent community hall to support social objectives.
- Request consideration of connecting the village of Clapton to mains drainage via the new development. New drainage system could be left ready should mains drainage be installed in Clapton at a future date.
- Surface water management arrangements are important.
- Local designated footpaths should be signposted.
- Additional traffic.
- Outstanding matters include education contribution to be discussed with B&NES; allocation of affordable or shared ownership homes; waste and recycling collection; medical provision.
- Updated information submitted does not address points raised.

Coal Authority: No objection subject to standing advice informative.

Highway Authority: no objection subject to conditions/S106

- Access to passenger transport infrastructure
- No collision data reported for the immediate vicinity of the proposed access
- The traffic dissemination across the local network means there will be a limited impact on any one junction on the local network.
- Appropriate visibility splays can be provided for the new access road [subject to separate application in BANES].
- Parking facilities can be provided in accordance with current policy standards.
- Highways drainage - no objections in principle.
- Estates road - S38 agreement needed with the highway authority or Advanced Payment Code. The applicant should consider minor detailed design points – consider structural stability of path near pond; maintenance access to pond; culvert considered for adoption with additional maintenance costs; the diversion of the Wessex Water sewer to accommodate a road over it; provision of a further road gully.
- Travel Plan – updated travel plan is acceptable subject to minor amendments. To be included in the S106 legal agreement.

Ecology: no objection subject to conditions and legal agreement (summary of final comments following the submission of additional information)

- The development proposes open space and green corridors. Underhill Wood Local Wildlife Site designated for its broadleaved woodland is located directly adjacent to the application site along the northern boundary and the south western boundary. It has been confirmed that a proposed 10m landscape buffer along the northern boundary and western boundary will act as a buffer from the LWS as well as a proposed 5m buffer along the eastern boundary from the properties in Orchard Vale and High Meadow. A 5m buffer between the tree line and any private gardens have also been confirmed within the landscape masterplan.
- Recommended conditions Construction Environmental Management Plan (CEMP: Biodiversity); Landscape and Ecological Management Plan (LEMP); Biodiversity Monitoring Strategy; tree and hedgerow protections through construction; amphibians, reptiles and hedgehogs; badgers; lighting design for bats; tree removal to avoid bird nesting season; construction procedure for dormice; and on site biodiversity enhancements.
- Off-site 10% biodiversity net gain including a minimum habitat enhancement area of 2.07 hectares comprising the replacement habitat specified as mitigation within the submitted calculation shall be provided. Details on how this area will be managed to achieve the 10% net gain will be detailed in a submitted LEMP.

Trees and Woodland Officer: no objection subject to condition (summary of final comments following discussions and additional information)

- Have reviewed the updated information provided in the revised Arboricultural Method Statement and Tree Protection Plan and consider the information to be appropriate to demonstrate how the arboricultural features of the site / location have been taken into account documents in relation to the proposed development.
- Recommended condition: development must be in accordance with the Tree Protection Measures identified within the revised / up-dated Arboricultural Method Statement (Ref: D14 437 02 03) / Tree Protection Plan (Ref: D14 437 02 P4 Rev D) prepared by JP Associates dated September 2023

Contaminated Land: no objections subject to conditions

- Agree with the recommendations of a site investigation as set out in submitted 'Desk Study. Underhill Farm, Midsomer Norton' by Foxtree Solutions Ltd dated December 2021.
Standard conditions 1 to 4 required.
- If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

Environmental Protection: no objection subject to conditions (28.09.2023)

- Recommended conditions for electric vehicle (EV) charging and Construction Environmental Management Plan (CEMP) to include construction times
- Note potential amenity conflicts between parking and garden spaces

Housing Enabling: no objection subject to conditions/S106 (summary of final comments)

- A revised scheme layout has been submitted maintaining a policy compliant level of affordable housing
- In line with Policy DP11 a tenure split of 80:20 (Social Rented units and Shared Ownership units) has been agreed with housing enabling officers.
- Supportive of the delivery of this affordable scheme, and it is considered that the housing mix and tenure approach adheres to local demand and the latest housing needs evidence. This mix will be secured via a S106 agreement.
- The revised scheme includes 2 x replacement 3-bed (5 person) BANES affordable homes for social rent to accommodate the loss of existing homes as a result of the development, and we are supportive of the need to ensure these units are provided as part of the scheme. It is also proposed to provide 2 x additional affordable units for BANES. To be clear, any BANES affordable units must be provided in addition to the 30% requirement for the Somerset East area, for which 16 units is the requirement.

LLFA: no objection subject to conditions (summary of final comments)

- Following the submission of additional information and clarification by the applicant, the LLFA is satisfied with the information provided at this full planning application stage. The LLFA would advise for a planning condition to be set for further information being provided at detailed design stage.

Wessex Water: no objection

- Wessex Water Assets are located within the proposed site boundary: 150mm diameter public foul sewer dissecting the rear gardens of 26 – 28 Orchard Vale. Applicant will need to agree protection arrangements [outside scope of planning application].
- Foul Drainage - note applicant is proposing a pumping connection to the public foul sewer via a new manhole downstream of existing manhole. This is acceptable in principle, however, if the applicant is proposing to offer the pumping station and foul sewer network for adoption, it must be constructed to current adoptable standards. The point of connection to the public network is by formal application and agreement with Wessex Water. No surface water runoff, land drainage or ground water will be accepted into the foul sewer either directly or indirectly.
- Surface Water Drainage - The applicant has stated the intention to discharge surface water runoff from the development to the watercourse located on the eastern boundary. Wessex Water has no objection to this strategy and would defer to the LLFA to approve the proposal. No surface water runoff, land drainage or ground water will be accepted into the foul sewer either directly or indirectly.
- Water Infrastructure - Wessex Water is not the incumbent supplier in this area.

Education: no objection subject to obligations

- Following recently discussions with BANES it has been confirmed that it will have sufficient capacity within existing primary schools for this development so no need to request contributions on behalf of BANES.
- The Blue School is also forecast to have sufficient capacity, but as the school is more than the 3-mile statutory walking distance from the development a contribution for transport costs will be triggered.

Police – Crime Prevention Design: no objection

- Limited natural surveillance of parking spaces between some properties
- There are a number of examples where due to the layout vulnerable side and rear boundaries are easily accessed.

- Lighting needed in parking areas for reduction in crime and fear of crime. Bollard lighting is easily damaged and does not provide sufficient illumination at a height which makes of facial recognition easier. Concerns regarding levels of illumination in side parking areas, between properties.
- Electronic visitor door entry and access control system to the communal doors is recommended for the apartment blocks installed following Secured by Design guidance principles.
- Concerns of parking pressures associated with tandem parking.
- Fencing may be required to the rear of plots 5-12 to prevent access.

Somerset Waste Partnership: no objections

- All properties have suitable access to the highway to present their waste for collection and the roads within the development are all proposed to be adopted.
- Recommend shelves and individual wheelie bins for flats.

NHS: no objection subject to obligations

- No objection subject to obligations towards healthcare improvements – £24,140

Natural England: no objection

- The proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.

Bath and North East Somerset Council (BANES): objection

- Given the proximity and relationship of the proposed development with B&NES and specifically Midsomer Norton, it is considered important that it is considered within the context of the Bath and North East Somerset Development Plan, particularly the Somer Valley policy framework.
- The B&NES Core Strategy (adopted in July 2014) sets out the spatial elements of the Council's vision and objectives and translates them into a plan. The Core Strategy is complemented by the Placemaking Plan (adopted in July 2017) and Local Plan Partial Update (LPPU) (adopted January 2023) which allocate specific sites for development and outlines a district-wide suite of Development Management policies.
- One of the key strategic issues the B&NES Core Strategy, Placemaking Plan and LPPU is addressing is an imbalance between jobs and homes resulting from recent incremental housing development and a decline in the manufacturing sector and a high degree of out-commuting. Therefore, the Core Strategy/Placemaking Plan facilitates more employment including allocating the Somer Valley Enterprise Zone

and only facilitates some additional housing primarily reflecting already committed sites (either permitted or allocated in the previous Local Plan).

- Permitting the proposed development site would be contrary to the adopted B&NES Development Plan, worsening the imbalance between jobs and homes and resulting in unsustainable levels of out commuting for work. Furthermore, the proposed development would add cumulative impacts on key infrastructure within Westfield and Midsomer Norton, including highways and, potentially, education.
- The principle of the proposed development within Somerset is therefore not supported.
- It is noted that the site was previously allocated as part of the Mendip Local Plan Part II, as allocation MN2. However, following a successful Judicial Review of this plan, this site allocation has been removed from the plan. The development therefore amounts to development within the open countryside. Given the location of development and the fact that the site is unallocated, B&NES would raise that the development within Somerset is contrary to Mendip Local Plan Part I. In principle therefore, the development is also considered by B&NES to be contrary to Mendip (now Somerset) planning policy.
- The Somerset Case Officer must decide how to weigh this in any planning balance.

BANES Education: no objection

- Proposed development is not currently anticipated to have a negative impact on primary or secondary school provision available for B&NES resident children in the Midsomer Norton/ Westfield area.
- Cumulative impacts of development should be considered.

BANES Highways:

- It is expected that Somerset Council would lead comments in regard to the internal road layout and parking, and Travel Plan.
- [They have now removed their objection subject to mitigation being provided – as summarised in comments on 22/02932/FUL].

BANES Parks and Green Spaces: (update following additional information, comments on 22/02932/FUL)

- The total demand for greenspace equates to 3922.88 m². The proposal includes 0.7 ha of open space which includes the network of green infrastructure (GI) around the edges of the site, surface water attenuation and landscaping within the scheme. This figure will need to be recalculated as some of the open spaces will only be acceptable in terms of their visual amenity.

- Curo is willing to accept a contribution for the investment in play equipment for older children and horticultural enrichment of the Greenacres Recreation Ground. The contributions listed below are fairly and reasonably related in scale and kind. The requirement has been worked out on a proportionate basis based on standards set out in the Green Space Strategy (2015) and in scale with the total net occupancy of the development. Capital Cost of greenspace enhancement (Green Space Strategy 2015 pg. 87) - £111,945.60
- Further information needed on details and quantities of different open space typologies.
- Pleased to see a reduction in the size of the attenuation basin to increase the amount of useable open space within the scheme, the relocation of the pumping station to the north west of the site, the introduction of a 'pocket park' located centrally within the development and the introduction of informal play areas.
- Opportunities for food growing encouraged
- Suggested S106 Definition for 'Off-site Public Open Space Contribution' Definition:

"Definition: An Off-Site Green Space Contribution of £111,945.60 to be applied towards the enhancement and maintenance of greenspace in the vicinity of the development.

Covenant: The Owner shall pay to the Council the Green Space Contribution prior to occupation of the development. The contribution will be indexed from the date of decision."
- Adoption will be subject to discussion with Highways.

BANES Ecology: (summary of comments before additional information submitted, updated comments on 22/02932/FUL pending at time of writing)

- Although the application includes land across two authority boundaries, in ecological terms, separating out these areas would not be a valid approach to an ecological impact assessment. As impacts are not separated by authority area in the ecology report, these comments apply to the scheme in its entirety. If comments from ecological/biodiversity representatives of Somerset Council, B&NES Council would welcome the opportunity to discuss any matters arising.
- Queries on buffer and protections of LWS and fencing [since further discussed, updated information received, Somerset Ecology confirmed overcome, BANES Ecology comments not available for 22/02932/FUL at time of writing this report]
- Bat activity and HRA - do not consider that a Habitats Regulations Assessment will be required, although Natural England should be consulted given that the site may be linked to SAC populations.
- Bats - it is accepted that there is negligible likelihood of bat roosts being present on site, but there is a high risk of roosting bats being present in adjacent woodland and buildings. Lighting Strategy is welcome but is not detailed enough.

- Biodiversity net gain – details of off site proposals needed [since provided]; on site measures required (bird and bat boxes)

Relevant comments on application 22/02932/FUL in BANES have been reviewed.

Mendip/Somerset East Planning Policy: no comments received

Biodiversity and Landscape Officer: no comments received

Local Representations:

32 objections were received, including some people who commented on more than one occasion, as summarised below:

- Local community object to proposals.
- Insufficient public enhancement.
- Insufficient affordable housing.
- Principle of development - unsustainable development; lack of local jobs; pressure on services; insufficient local services; contrary to BANES planning strategy; would set a harmful precedent; not respecting the outcome of the JR; JR ruled there should be no development on this site; there is not a duty for B&NES to cooperate with the access.
- Undermines commitment to tackling climate change.
- Flooding – on site and surrounding area concerns; maintenance of pumping station unclear; who will pay for on site maintenance; increased flooding controls will be required in BANES; the site is a flood plain.
- Harm to protected trees and other trees.
- Highway – highway safety; highway capacity; insufficient parking; existing on street parking problems locally; no improvements for pedestrians, cyclists and mobility impaired; increased pollution; insufficient access for emergency services and gritters.
- Amenity - harm to neighbouring amenity; increased noise; noise and disturbance during construction; play park will be unsafe during construction.
- Ecology - ecological harm including protected species; newts are present in local gardens; incomplete ecological work submitted; concern there could be a biodiversity loss.
- Other sites should be considered.
- Loss of green space.
- Council tax will be paid to Mendip/Somerset yet pressure on services in BANES.
- Visual harm.
- Proposed houses would be too small.
- Light pollution.

- Pumping station – risk of blocking, noise, smell.
- Harm to the amenity and safety of the nearby children’s play area and nursing home.
- Confusion over deadline for comments.
- Website difficult to navigate.
- No consultation letter received.
- Natural England and the Woodland Trust should be consulted.
- Please visit the site and neighbouring properties.
- Harmful to health of nearby residents.
- Occupants of 26 and 28 Orchard Vale would be made homeless.
- Who will maintain the site and manage rubbish dumping?
- Updated information has not addressed previous comments.
- Permission would be illegal and would trigger legal proceedings.
- Planning permission on neighbouring site was refused previously.

Additionally, the following issues not relevant to planning were raised:

- Loss of green belt.
- Loss of property values.
- Loss of private views.

Full details of all consultation responses can be found on the Council’s website www.mendip.gov.uk

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council’s Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies – Post JR Version (December 2021)

The following policies of the Local Plan Part I are relevant to the determination of this application:

- CP1 - Mendip Spatial Strategy
- CP2 -Supporting the Provision of New Housing
- DP1 - Local Identity and Distinctiveness

- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP6 - Bat Protection
- DP7 - Design and Amenity of New Development
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP11 - Affordable Housing
- DP14 - Housing Mix and Type
- DP16 - Open Space and Green Infrastructure
- DP19 - Development Contributions
- DP23 - Managing Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (2017)
- Environment Agency Standing Advice
- Landscape Assessment of Mendip District (1997)
- Mendip District Landscape Character Assessment (2020)
- Somerset Electric Vehicle Strategy (2020)
- Mendip District Council Supplementary Planning Document Design and Amenity of New Development: Guidance for interpretation of Local Plan Policy DP7 (2022)
- Relevant policies in BANES, as referred to in the BANES consultation response to this application

Assessment of relevant issues:

Principle of the Use:

Core Policy 1 (CP1) of the Mendip District Local Plan Part 1: Strategy and Policies 2006-2029 (LPP1) directs the majority of growth identified in Policy Core Policy 2 (CP2) of LPP1 to the 5 principal settlements to enable the most sustainable pattern of growth.

The site abuts the boundary with Bath and North East Somerset Council and is therefore closely related with Midsomer Norton and Radstock. These towns are not however included in this list of the principal settlements as they fall outside the administrative area of Mendip. These towns do however offer a good range of services and facilities and are accessible from the application site by means other than the private car. Whilst the site is considered to be well located in terms of services and facilities, it is noted that BANES and

other third parties have raised objections on the grounds of the impact upon the imbalance of jobs and employment in the area which runs contrary to BANES' spatial strategy. This must be considered as part of the overall assessment.

However, although close to local settlements, the site is outside of any development boundary and therefore must be considered to be located in open countryside. Policy CP4 explains that development outside development limits is strictly controlled and only permitted where it benefits economic activity or extends the range of facilities available to local communities. Given the location of the site the proposal would therefore conflict with Policies CP1, CP2 and CP4 of LP1.

However, the Council is currently unable to demonstrate a five-year housing supply. An Inspector dealing an appeal at Marston Lane, Frome on 16.02.23 concluded that supply is in the range of 2.87 to 2.94 years. Although this is a cross boundary application, as all but one dwelling is proposed within Somerset, the tilted balance is engaged for the proposed development within Somerset. The applicant has referred to appeal decisions (APP/J1860/W/22/3309338 and APP/R1845/W/22/3309343) which are argued to reiterate that the tilted balance is engaged, although this is not in dispute.

The National Planning Policy Framework (NPPF) advises that, where the Council cannot demonstrate a five-year supply, the presumption in favour of sustainable development, as set out in paragraph 11(d) of the NPPF, applies. Paragraph 11(d) sets out that where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, planning permission should be granted unless:

- i) the application of policies in the 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 the NPPF taken as a whole.

The above is a significant material consideration that will be considered in the overall planning balance section at the end of this report.

The development results in the loss of agricultural land. Whilst there is no local policy to retain agricultural land, the NPPF explains that decisions should recognise the wider benefits from the best and most versatile agricultural land. The loss of the land is recognised but it should be noted that the land is Grade 3 which is not the best and most versatile land. This is not considered a reason to withhold planning permission.

The recent successful legal challenge of LP2 and the deletion of the site allocation has been outlined above. This does not result in the development of the site being unlawful, but means that the site must be treated as open countryside and weighed in the tilted balance. This is how the application has been assessed.

Landscape:

Policy DP4 recognises the quality of Somerset East/Mendip's landscapes and suggests that proposals should demonstrate that their siting and design are compatible with the pattern of natural and manmade features. The site is not highly visible in the local landscape and is not covered by any specific landscape designations.

The application has been supported by a Landscape and Visual Impact Assessment (LVIA), prepared by David Jarvis Associates. In relation to landscape effects, this concludes the following:

*“7.16. While it is acknowledged that the proposals would permanently change the sites character from agricultural to residential use, the proposals retain notable landscape features on Site such as specimen trees. Additional tree planting and wetland habitats would also be introduced. As a result it is considered the proposals would have a **low** beneficial effect on the local landscape condition, resulting in a **minor** benefit.*

*7.17 Woodland planting to the west and south of the Site would limit the effect on scenic quality to locations immediately adjacent the Site resulting in a **low** impact of **minor** significance.*

7.18 Due to distance and areas of woodland separating the Site from local Public Rights of Way it is considered the proposals would have no direct impact on their leisure value.

*7.19 The proposals would have no direct impact on the adjacent Greenacres play area and playing field. In the short-term, construction noise may impact the setting of the play space but it is likely the noise would not be out of context with noise generated by the current construction works at Woodside Flats. Consequently, it is considered the impact on the play area would be short term and of **negligible** significance and **neutral** in nature.*

*7.20 In the long term it is considered the impact on tranquillity would not be uncharacteristic of noises currently experienced within the site's locality and therefore of **minor** adverse significance.”*

These conclusions, which are informed by a thorough assessment of the landscape context and impacts of proposals, are agreed.

The proposals would have an urbanising effect as a result of the built form and the associated development. There would inevitably be a change in the character of the site and there would be some encroachment into the countryside, but this is not considered to be unduly harmful.

The key matters to address therefore are to ensure that the visual impacts are minimised, and any adverse effect is mitigated through an appropriate landscaping scheme. The landscape submission demonstrates that the development would be set back from the boundary trees and create a linear area of public open space with connections to the community centre and play park to the south.

Whilst there would be a landscape harm of developing a greenfield site, this needs to weigh in the overall planning balance, the local and wider landscape impacts are considered low and do not justify refusal.

Design:

Policy DP1 of the Local Plan states that development proposals should contribute positively to local identity and distinctiveness; and be formulated with an appreciation of the built and natural context of their locality. Policy DP7 states that proposals should be of a scale, mass, form, and layout appropriate to the local context. Policy DP4 recognises the quality of Mendip's landscapes and suggests that proposals should demonstrate that their siting and design are compatible with the pattern of natural and man-made features.

In addition to the NPPF, the National Design Guide was published in January 2021. The National Model Design Code was published in June 2021. Together they illustrate how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

The application has also been supported by a Design and Access Statement which confirms the overall design approach thus:

“The Vision for Land at Underhill Farm is to create a high quality, outward looking development which respects the surrounding built environment and integrates the existing green wooded edges to the site both for residents from within their homes and visitors to the scheme. This will ensure the development will become a natural extension to the existing settlement, celebrating the towns character, history, and existing landscape.”

Land should be used efficiently so that housing needs can be met while minimising the need for building on additional greenfield land. Mendip District Local Plan: Part 1 sets out broad guidelines for the net density of new housing development in paragraph 4.44 as follows;

- Sites within towns – 30-40 dwellings per hectare
- Site in rural areas – 25-30 dwellings per hectare

Higher densities will be considered in appropriate locations, where the local context allows and any impacts can be satisfactorily mitigated. The density proposed within the current application is on average 24 dwellings per hectare. This is considered acceptable in this edge of town location. There is sufficient green infrastructure including open space and an informal perimeter walk around the outer edges of the site.

The site is adjacent to a suburban area to the west of Midsomer Norton. The site and surrounding residential development are accessed off Northmead Road (B3355) and Paulton Road, and include residential roads Orchard Vale, Orchard Avenue and Pinewood Road. Residential development is typically post-war semi-detached, set back from the road in fairly generous plots. Many properties have been subject to alterations, including extensions and driveways. Along Orchard Vale, properties mainly have hipped roof structures and the local material palette includes light render walls and tiled roofs. Along Pinewood Avenue, houses are gable fronted and gable sided and materials include light render at first floor and recon stone at second floor level with Roman tiled roofs. Further north, Underhill Lane includes single storey dwellings of hipped and gable fronted design, and materials include light render, red brick, recon stone and Roman tiles. Immediately south east of the site is the Orchard Community Hall and community play park. South of the site is Greenacres Extra Care and Combe Lea Care Home, which are 2 and 3 storey buildings set in generous plots with car parking to the front; and finished in light render, recon stone and grey detailing on the walls and tiled roofs. Woodside is also to the south of the site and includes 2 and 4 storey residential properties. The 2 storey houses further south include mono and asymmetrical roofs and a mixture of light render and recon stone walling. Some properties are closer to the road and some have generous front gardens. 4 storey housing is immediately south of the application site, set into 2 blocks and is finished in a mixture of light renders.

A pathway running immediately south of the application site provides accesses to the properties and garages, with high levels of planting between the application site. There is an informal access into the application site here. The local area includes high levels of planting and greening, resulting in a well established suburban character. There are clearly parking pressures in the area, with high levels of on street parking on both sides of many of the surrounding roads.

The proposed development would be accessed from Orchard Vale, with 1 replacement house on the left of the access route, within the BANES boundary. The access consists of a slightly curved primary road, with a secondary shared surface road leading to the north which then splits east and west. Proposed dwellings are set off the road with some frontage planting. Configurations include 2 apartment blocks (each containing 6 x 1 and 2 bed dwellings); 1 row of 3 dwellings; various detached houses; and various semi-detached houses.

The applicant has confirmed that the overall design approach is an outward facing development. As such, other than one pocket, the public open space is not central to the proposal but on the outside. Dwellings are facing the public open space to reiterate this design approach, and also maximise natural surveillance opportunities. The public open space is generous in size and planting, and includes a footpath route through with play equipment and benches scattered within the site.

The proposal has been subject to design panel review as part of pre application discussions, and detailed design decisions with officers during the life of the planning application. Various changes have been agreed, including:

- A reduction in the quantum of development (from 60 as originally proposed).
- Introduction of an area of public space centrally within the development as well as on the edges.
- Reduction in the drainage pond in favour of additional public open space (which has been demonstrated to be acceptable in drainage terms as summarised below), reorientation of properties to face the public open space.
- Amendments to house types including more active side elevations.
- Revised layout of apartments to reduce the impact of parking and create a green entrance to the development.
- Relocation of the pumping station
- 1 dwelling moved away from the entrance, leaving a larger area for plot 1 and pedestrian connection to the Greenacres Road Recreation Area to the south.
- Enhanced planting on the western boundary in particular.
- Relocation of development away from the western boundary.
- Additional bends introduced in the proposed roads.
- Reconfiguration of parking.

The applicant has been proactive in discussions to try to reach an acceptable design outcome, which has now been achieved. Affording housing provision in Somerset to offset loss in BANES has been agreed with officers in both authorities. An informal increase in affordable housing provision for BANES within the Somerset site (plots 6 and 7) has also been proposed ('additionality') and it is understood the applicant is in discussions with

officers in BANES about delivery mechanisms. Regardless of the final tenure of these units, the proposal is acceptable in this regard. 30% affordable housing in Somerset (16 dwellings) has been confirmed.

Varied house types add a level of interest and variety in the proposal, and successfully reflect and enhance the design characteristics of the local area, including a mix of roof forms (gable fronted and gable sided); and material palette (render, buff bricks, recon stone and slate style tiles).

Proposed boundary treatments include 1.8m brick walls in locations most visible from the public realm; closeboard fences in rear gardens; hedging adjacent to the footway connection to the south; and black balltop railings north and east of the northern apartment block.

An element of good design is ensuring the development has good pedestrian and cycle connections with the locality including safe routes to school. The layout, alongside the highway works proposed, demonstrate that this can be achieved. Further works proposed in the local area are outlined in the highways section of this report below.

Although some parking is not most conveniently located, this must be balanced against other factors and not dominate design. Where parking to the rear of gardens and elsewhere is not immediately adjacent to front doors, paths are provided where possible. On balance, this design is acceptable.

The number of triple stacked parking bays has been significantly reduced following detailed design discussions. Although there are some on the southern part of the proposal, considering the design enhancements made elsewhere in the scheme and the context and scope of development, this is concluded to be acceptable.

Apartments include their own dedicated bin and cycle storage buildings. Houses are proposed to accommodate this within sheds in private gardens.

Permitted development rights should only be removed where it is clearly reasonable and necessary, in accordance with guidance contained within the NPPG, and then only when the rights to be removed are clearly defined. In this case, it is not considered reasonable or necessary to remove permitted development rights for design purposes – although outbuilding permitted development rights are recommended to be removed on plots 4-12 for tree protection purposes (see tree section below).

The Designing Out Crime Officer has made a number of comments on the detailed design in relation to reducing crime and fear of crime, with reference to Secured by Design guidance. Although some private parking spaces have lower levels of natural surveillance,

parking needs to be balanced against other elements of the proposal, and should not dominate the design approach. On balance, the parking layout is concluded to be acceptable. A condition is recommended to agree lighting details, which will need to be balanced between crime prevention and ecology. Recommended detailed visitor door measures should be noted and followed by the applicant, but inclusion of a condition covering such detail would not meet the national conditions tests. Although the Designing Out Crime Officer has outlined some concerns with potential parking pressures, the proposed parking is in line with the Somerset standards and there have been no objections from the Highway Authority. The proposed changes have been noted and on balance the application is considered acceptable in this regard. Finally, the Designing Out Crime Officer has recommended fencing to the rear of plots 5-12, and it has been confirmed on the proposed boundary treatments plan that this is proposed.

A materials condition is recommended to control the finish.

In conclusion on this matter, the proposal by reason of its design, detailing, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with Policies DP1 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Trees, Woodland and Landscaping:

There is a blanket TPO (ref: M1156) on woodland to the north of the site, which includes ancient trees. There is also high quality woodland to the west of the site as well as high quality and established trees on the eastern and southern boundaries of the site.

The submitted Agricultural Constraints report confirms that T7 on the eastern side of the site should be considered a veteran oak tree *“that should be regarded as an essential ecological habitat in its own right and any adjacent proposals will need to reflect its significance.”* Veteran and ancient trees are protected via paragraph 180 of the NPPF.

The application has been supported by an Arboricultural Constraints Report and an Arboricultural Method Statement (AMS) including a Tree Protection Plan (TPP), and the applicant has been involved in detailed discussions with Tree Officers from both Somerset Council and BANES Council.

The AMS outlines the trees on and near the site, as well as protection measures and methods proposed, including barriers. Veteran tree T7 is shown to be protected, therefore meeting the requirements of the NPPF.

Footpaths are proposed in the root protection areas (RPA's) of trees along the eastern boundary. These are proposed to be constructed using 'no dig' methods in order to protect the trees (Cellweb).

A maintenance corridor is proposed along the southern boundary of the site, and fencing is proposed. In order to further protect these trees/hedges, permitted development rights are proposed to be removed for plots 4-12 which would require a planning application for any outbuilding. The AMS confirms that these trees will be managed and maintained at no more than 6m tall and 4m wide. Management is in line with good practice for tree health and retention - gap filling with native species, amenity screening with neighbouring properties at Woodside and biodiversity enhancements.

It is also acknowledged that amended layouts have moved development away from trees, and reduced pressure on trees.

The Council's Tree Officer has considered the final proposals and supporting agricultural information and has raised no objections to the proposal subject to the inclusion of a condition requiring the AMS and TPP are adhered to, which is recommended accordingly. A further condition is recommended which would require implementation of the protection measures before construction.

A generous planting scheme is proposed, as set out in the Landscape Masterplan as well as detailed planting plans and planting schedule which include new trees, hedging, grassland, bulbs and beds alongside retained trees and vegetation. A Landscape Management and Maintenance Plan has been submitted with the application which includes detailed outlines of planting and maintenance methods for the soft landscaping as well as maintenance arrangements for hard landscaping, including paths, play equipment and seating. All maintenance would be overseen by a management company. A condition is recommended which would require these documents are adhered to.

In conclusion on this matter, the proposal accords with policies DP1 and DP4 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework, including para 180.

Impact on Residential Amenity:

Policy DP7 of the LP1 states that new development should protect the amenities of neighbouring occupiers and users and provide an adequate standard of amenity for the benefit of future occupiers. Policy DP8 states that development should not give rise to unacceptable adverse environmental impacts, including in relation to residential amenity.

It is acknowledged that residential development of the site would have some impact on the amenity of the occupiers of those properties closest to the application site in respect of changing their existing outlook and environment.

Distances from houses are adequate to confirm there is no significant harm to neighbour amenity. Plans show distances well above 21m can be achieved from rear windows of existing properties.

Within the proposed development itself, due to the siting, design and overall layout it is considered that the inter relationship between future occupants and their residential amenity is acceptable. Plot distances and windows are adequately designed in this regard.

A degree of disruption is to be expected from any construction project. Although there would be some inconvenience, this is short term and case law has well established that this alone is not a reason to withhold planning permission.

The application has been supported by a Noise Impact Assessment, prepared by Clarke Saunders, which summarises noise impacts thus:

“1.3 Environmental noise measurements have been undertaken at a location suitably representative of nearby noise sensitive receptors which may be affected by vehicular noise associated with the development.

1.4 These measurements have been used to assess noise levels due to vehicles accessing the development site, based on predicted vehicle trips into and out of the development.

1.5 The assessment suggests that the access road will have a negligible impact on existing noise levels at the existing adjacent residential receptors.”

Based on the context of the site and scale and scope of development proposed, the proposal is concluded to be acceptable in relation to noise impacts. The Environmental Protection team has not objected on the bases of noise impacts.

The Environmental Protection team has recommended a condition requirement a Construction and Environmental Management Plan (CEMP), including construction times. A Construction Traffic Management Plan, including construction times is recommended, which meets the conditions tests.

Permitted development rights should only be removed where it is clearly reasonable and necessary, in accordance with guidance contained within the NPPG, and then only when the rights to be removed are clearly defined. In this case, it is not considered reasonable

or necessary to remove any permitted development rights for amenity reasons – although outbuilding permitted development rights are recommended to be removed on plots 4-12 for tree protection purposes (see tree section).

In conclusion on this matter, given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, odour, traffic or other disturbance. The proposal accords with policies DP7 and DP8 of the adopted Local Plan Part 1 (2014), the FNP and Part 12 of the National Planning Policy Framework.

Impact on Ecology:

Underhill Wood is located to the north of the site which is a Local Wildlife Site (LWS), which is made up of ancient woodland habitat. The application site is also within the SSSI Impact Risk Zone. The application site itself includes semi-improved grassland, boundary trees and vegetation and ditches to the eastern and southern boundaries.

The application has been supported by a Landscape Masterplan, Landscape and Maintenance Plan, External Lighting Strategy, Ecological Impact Assessment (EcIA), Biodiversity Briefing Note; Biodiversity Net Gain Report; and External Lighting Strategy.

The EcIA included a phase 1 habitat survey, further surveys for bats and reptiles and an updated walkover survey. This considers the likely impacts of the development on ecological species and habitats nearby as well as those on the site.

In relation to bats, the EcIA confirms the site was being used foraging and commuting by a range of species (10 species recorded):

“The Site was found to be used for foraging and / or commuting by a range of bat species, including lesser horseshoe and greater horseshoe bats. Proposals for the site will retain and protect key habitat for bats at the Site boundaries, in particular by retaining undeveloped buffer zones from the woodland at the northern and western boundaries. A detailed lighting strategy will need to be prepared to ensure that any increase in artificial light does not preclude the Site from continuing to be available for foraging/commuting bats.”

The EcIA recommends a buffer between boundary vegetation, a sensitive lighting plan and installation of bat boxes (one box for every three dwellings).

Following onsite surveys, no evidence of reptiles were found, and the EcIA concludes these are likely absent. Other species are considered and assessed in the EcIA.

In relation to boundary habitats, the EcIA concludes as follows:

“The boundary habitats surrounding the Site were considered suitable for a range of notable species including foraging bats, dormice, nesting birds, and hedgehogs. All surrounding vegetation will be retained and protected with the exception of approximately 9m wide section of scrub at the south-eastern boundary which may be removed to facilitate new access onto the Site. A precautionary method for clearance of this habitat has been recommended to avoid potential impacts on dormice, nesting birds, and hedgehogs.”

The EcIA makes a number of recommendations and proposes a CEMP (Biodiverse) and LEMP are prepared. Other recommendations including vegetation clearance methods to safeguard dormice; avoiding vegetation clearance in the bird nesting season; installation of bird nesting boxes (one box per dwelling); hedgehog sensitive site clearance; and hedgehog holes in fencing to allow movement through the development.

Following discussions between the Somerset Council Ecologist and the applicant's ecologist, it has been confirmed that a 10m landscape buffer is proposed along the northern boundary and western boundary to act as a buffer from the LWS. A further 5m buffer along the eastern boundary from the properties in Orchard Vale and High Meadow is also proposed between the tree line and any private gardens (as shown on the Landscape Masterplan).

The Somerset Ecology team is satisfied with the survey work, conclusions and recommendations, and have recommended conditions including for a Construction Environmental Management Plan (CEMP: Biodiversity); Landscape and Ecological Management Plan (LEMP); Biodiversity Monitoring Strategy (to protect the LWS); tree and hedgerow protections through construction; amphibians, reptiles and hedgehogs protection measures; protection measures for badgers; lighting design for bats; tree removal to avoid bird nesting season; felled trees to be first checked for bats; construction procedure for dormice; and on site biodiversity enhancements.

The conditions for Construction Environmental Management Plan (CEMP: Biodiversity); Biodiversity Monitoring Strategy (to protect the LWS); and badgers have all been included, with minor wording edits to make them more precise etc.

Although a Lighting Strategy has been submitted, this does not appear to have informed the EcIA, and is concluded to be a good starting point but further information and commitment is required. Therefore a lighting condition is recommended. As above, this will need to consider public safety issues as well as bats.

The Landscape and Ecological Management Plan (LEMP) is recommended to be included in the legal agreement, which is now common practice for LEMPs. This is also necessary for the off site biodiversity net gain (see below). Recommended obligations to be included in the S106 include (wording may vary):

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development.

The LEMP shall detail the following:

- a) Details on how the landscape buffers along the boundaries will reduce impacts (including recreational) to Underhill Wood LWS including use of thorny species and retain scrub along the northern boundary to provide a natural barrier. The buffers along the northern and western boundary will be a minimum 10m from any development and 5m from the southern and eastern boundary (comprising 5m buffer between the tree line and the private gardens on the southern boundary).*
- b) In line with BS42020 standard, where it is intended to create semi-natural habitats, all species used in the planting proposals shall be locally native species of local provenance.*
- c) Details on how the biodiversity net gain on-site will be managed and secured for a minimum 30 years.*
- d) Details on how the biodiversity net gain off-site will be at least 2.07 hectares, and details of how it will be managed and secured for a minimum of 30 years.*
- e) Description and evaluation of features to be managed.*
- f) Ecological trends and constraints on site that might influence management.*
- g) Aims and objectives of management.*
- h) Appropriate management options for achieving aims and objectives.*
- i) Prescriptions for management actions.*
- j) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).*
- k) Details of the body or organization responsible for implementation of the plan.*
- l) On-going monitoring and remedial measures.*
- m) 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 LEMP 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 LEMP will be implemented in accordance with the approved details.

The trees and hedgerow condition recommended by the Ecology is not included as this would duplicate other conditions as summarised in the Trees and Landscaping section of this report.

The amphibian, reptile and hedgehog condition as recommended by the Somerset Ecologist does not meet the conditions test for enforceability. As precautionary measures are covered in the EcIA, instead a compliance condition is recommended to require the applicant to follow the recommendations in the EcIA.

The nesting bird condition recommended by the Ecologist is covered by other legislation, therefore an informative is included instead, reminding the developer of their statutory obligations in relation to nesting birds.

The dormice condition recommended by the Somerset Ecologist does not meet the enforcement test. As precautionary methods for checking for and protecting dormice are covered in the EcIA, this is also covered by the condition requiring compliance with the EcIA recommendations.

The onsite biodiversity enhancements condition recommended by the Somerset Ecologist go beyond the recommendations in the EcIA. It includes greater detail on the bird and bat boxes and hedgehog fencing holes, and introduces further measures including bee bricks on 20% of the dwellings and three log piles. These are considered reasonable inclusions and the condition is recommended accordingly, although wording is amended and the requirement to submit details to the Local Planning Authority has been removed.

The requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered. It is Natural England's advice that the proposal is not directly connected with or necessary for the management of the European site. It must therefore be determined whether the proposal is likely to have a significant effect on any European site, without considering any 'measures' intending to avoid or reduce harmful effects of a plan or project on a European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Given the conclusions of the Ecologist, it is considered that there is no likely significant effect on the European Site. It is also noted that the application site is outside of the Bat Consultation Zone.

Biodiversity Net Gain:

The proposal would result in a net loss of biodiversity on the application site itself. Whilst there is some requirement for net gain, as set out in the NPPF, the requirement for 10% net gain is not yet mandatory in Somerset, but there is a 10% policy requirement in BANES

(policy NE3a). Nevertheless, the applicant has committed to a 10% net gain. Due to the constraints of the site this is proposed off site, as outlined in the submitted Biodiversity Net Gain Report (BNGR) prepared by Clarkson and Woods. Land circa 95m west of the application site has been identified and proposed gains are summarised in the BNGR thus:

“3.4.1 In order for the scheme to achieve a 10% net gain in Habitat Units, it is proposed to enhance the Modified Grassland within Fields 1-3 and establish Other Neutral Grassland in at least ‘moderate’ condition. The Proposed Habitats Plan for the off-site land is provided in Annex D. This can be achieved through the cessation of intensive agricultural management and preparation of the land to create a disturbed sward with significant bare ground through (cutting/grazing and scarifying) to provide a suitable seedbed. Subsequently, an appropriate and diverse seed mix/green hay source can be sown or spread within the fields. The land can then be managed through a low-intensity hay-cutting or grazing regime, which over time will encourage the development of a species-rich and structurally diverse sward.

3.4.2 It is proposed that the details of the creation and management of Other Neutral Grassland within the off-site land will be set out within a Landscape and Ecological Management Plan (LEMP) prepared for the scheme. The LEMP must set out long-term management prescriptions, a monitoring schedule to enable progress to be measured against the target habitat type and condition, and mechanisms by which monitoring will be reported and remedial action implemented. The enhanced off-site land must be secured for a minimum of 30 years and the management and monitoring prescriptions set out with the LEMP must reflect this.

3.4.3 Prior to finalisation of any management plan, soil investigations would be essential to ensure appropriateness of seed mix/establishment techniques and promote a high likelihood of success. The seed mix would be selected to reflect the soil type, pH and nutrient levels in order to maximise the prospect of successful establishment.”

Following discussion with the applicant’s ecologist, this approach has been agreed by the Somerset Ecologist. This is proposed to be formalised in the S106 legal agreement, including the agreement of the LEMP (as set out above), setting out implementation and management measures, and retained for at least 30 years in line with guidance.

Ecology Conclusion:

Subject to the inclusion of conditions and obligations as recommended, the proposed development will not have an adverse impact on bats or other ecology. The proposal

accords with Policies DP5 and DP6 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Housing Mix:

LP1 policy DP14: Housing Type requires a suitable mix of types and sizes of dwellings. The proposed mix of this overall development (including BANES site) would be:

- 6 x 1 bed apartments
- 10 x 2 bed houses/apartments
- 26 x 3 bed houses
- 12 x 4 bed houses

The Housing Enabling team has not objected on the basis of the mix proposed.

The mix of the development is considered to be acceptable and in compliance with Policy DP14 of the Mendip District Local Plan.

Affordable Housing:

Adopted LP1 Policy DP11 sets out an expectation that 30 per cent of the dwellings should be affordable and provided on site. In this case the following affordable housing units are proposed:

Somerset:

- 3 x 3 bed houses; shared ownership; plots 2,3,4
- 6 x 1 bed apartments; social rent; plots 13,17,18,46,50,51
- 6 x 2 bed apartments; social rent; plots 14,15,16,47,48,49
- 1 x 4 bed house; social rent; plot 5
- 16 in total, which is 30%

BANES:

- 2 x 3 bed houses; social rent; plots 1 (in BANES) and 8 (in Somerset)
- 2 x 4 bed houses; plots 6 and 7 (in Somerset); offered as 'additionality' and subject to discussions with officers in BANES.

The Housing Enabling Team has confirmed that First Homes are not required in this case, instead affordable housing provision in Somerset should include 20% shared ownership and 80% social rent, as broadly proposed, which would better meet local needs.

The Housing Enabling Officer has discussed the proposals with counterparts in BANES and confirmed the proposed affordable housing provision in both Somerset and BANES are

acceptable (excluding plots 6 and 7, see below). Provision is proposed to be included as part of the legal agreement.

The delivery of plots 6 and 7 as affordable housing for BANES within Somerset outside the scope of the S106 legal agreement is known as 'additionality' which is sometimes referred to when affordable housing is delivered beyond policy requirements, and can facilitate greater delivery of affordable housing due to funding mechanisms. There is some uncertainty with the delivery of these as affordable units with nomination rights to BANES but within the Somerset area. It is understood that BANES officers are in discussions with the applicant on this matter. At this time there is no formal mechanism to secure these units are affordable so, notwithstanding these were to benefit the BANES affordable housing supply, they cannot carry any weight in the planning balance for either scheme. Regardless of the final tenure and nomination rights, the application is considered acceptable in this regard. Significant weight is added to the delivery of affordable housing in Somerset (16 units). Significant weight is added to the delivery of market dwellings in Somerset (at least 34 market dwellings).

It is understood that it is no longer best practice to 'pepper pot' affordable housing, but 'cluster' it to allow for maintenance and management efficiencies. The layout of the proposed affordable housing is suitably clustered. The design and materials make it sufficiently indistinguishable from market dwellings. The Housing Enable Team has not raised concerns in this regard.

In conclusion on this matter, the proposal accords with the requirements of DP11 and the NPPF in relation to affordable housing provision.

Assessment of Highway Issues:

The proposed access would be within BANES, and is subject to a separate planning application (22/02932/FUL). Following consultation comments, further information has been submitted including a Transport Assessment Addendum including proposed local highways improvements and results of on-street parking analysis. It is noted that following the submission of additional information, the Highway Authority at BANES has not objected to the proposal, subject to conditions and obligations.

The proposal includes a footpath through the landscaped areas of the site, to enhance pedestrian movements and public health and opportunities for public interactions. Following discussion with the applicant a footpath connection is also proposed to the south of the site allowing for safe and convenient connection to the community hall and play park. This is a noted benefit of the scheme.

Following the submission of an updated travel plan, the applicant has confirmed the travel plan measures as follows:

“A comprehensive Travel Plan has been prepared which includes (amongst other measures) provision of:

- *Travel Information packs to be distributed to 3 tenures of each dwelling for the duration of the monitoring period;*
- *Green Travel Vouchers to allow residents to purchase items related to sustainable travel, for example walking equipment or bus season tickets, available to 3 tenures of each dwelling;*
- *High Speed broadband to each dwelling to facilitate homeworking as an alternative to travel;*
- *Electric vehicle charging points for all those properties with on plot allocated spaces and 10% of unallocated parking spaces.”*

The Somerset Highway Authority has reviewed the application, including the updated travel plan, and raised no objections to the proposal on highway safety, highway capacity or parking.

The proposed estates road would be subject to a separate process for adoption by the Highway Authority. Although minor issues have been raised, it is considered likely detailed design would result in successful adoption. If not, the internal estates road would be a private road maintained by the developer, and subject to the Advanced Payment Code, which would see standards are met.

There have been no objections from statutory consultees on access by emergency services vehicles or gritters. The proposal is considered acceptable in this regard.

Mitigation / Off Site Improvements:

The applicant has agreed to pay the costs associated with a potential Traffic Regulation Order (TRO) which would see parking restrictions potentially introduced locally (within BANES). As TRO's are subject to separate legislation and implementation mechanisms, it is not possible to confirm at this stage whether the TRO will be implemented, but the applicant covering the costs to scope this is considered reasonable. This is recommended to be included as part of the S106 legal agreement, with £4,351 going to BANES to cover this work.

The applicant has also agreed to pay for local bus stop enhancements along Paulton Road. This includes a new shelter at the northbound Pine Wood Road stop and real time information (RTI) upgrades at two Orchard Avenue stops. £32,982 is proposed to be set out in the legal agreement paid to BANES.

The applicant has proposed a number of uncontrolled pedestrian crossings (Drawing 1652-003 Rev B) containing dropped kerbs and tactile paving, within a 500m radius of the site location, in order to improve connections to local the local network. This is also proposed to be included in a legal agreement with BANES.

A further contribution of £86,995.50 is proposed in BANES towards the Somer Valley Enterprise Zone Cycleway. This is a proportionate total when other developments are taken into account.

Parking:

As the application is proposing development on the edge of Midsomer Norton, it is concluded appropriate to consider the site against the Somerset parking strategy standards for the amber zone (B). This requires 1.5 spaces per 1 bed dwelling; 2 spaces per 2 bed dwelling; 2.5 spaces per 3 bed dwelling; and 3 spaces per 4 bed dwelling.

The table below sets out the policy requirements for parking for each plot, the parking proposed and the differences. This confirms that proposed parking is broadly in line with policy requirements.

Table 1: Parking

Plot	Bedrooms	Parking				
		Policy Requirement	Open	Garage	Total Proposed	Difference
1	3	2.5	2	0	2	+0.5
2	3	2.5	2	0	2	+0.5
3	3	2.5	3	0	3	-0.5
4	3	2.5	3	0	3	-0.5
5	4	3	3	0	3	0
6	4	3	3	0	3	0
7	4	3	3	0	3	0
8	3	2.5	3	0	3	-0.5
9	3	2.5	2	0	2	+0.5
10	3	2.5	3	0	3	-0.5
11	3	2.5	3	0	3	-0.5
12	3	2.5	2	0	2	+0.5
13	1	1.5	2	0	2	-0.5
14	2		2	0	2	-2
15	2	2	2	0	2	0

16	2	2	1	0	1	+1
17	1	1.5	1	0	1	+0.5
18	1	1.5	1	0	1	+0.5
19	3	2.5	3	0	3	-0.5
20	3	2.5	2	1	3	-0.5
21	3	2.5	3	0	3	-0.5
22	4	3	2	1	3	0
23	4	3	2	1	3	0
24	3	2.5	2	0	2	+0.5
25	2	2	2	0	2	0
26	2	2	2	0	2	0
27	3	2.5	3	0	3	-0.5
28	3	2.5	2	0	2	+0.5
29	2	2	2	0	2	0
30	2	2	2	0	2	0
31	3	2.5	2	1	3	-0.5
32	3	2.5	2	1	3	-0.5
33	4	3	2	1	3	0
34	4	3	2	1	3	0
35	4	3	2	1	3	0
36	3	2.5	2	1	3	-0.5
37	4	3	2	1	3	0
38	3	2.5	2	1	3	-0.5
39	3	2.5	2	1	3	-0.5
40	3	2.5	2	0	2	+0.5
41	3	2.5	2	0	2	+0.5
42	4	3	2	1	3	0
43	4	3	2	1	3	0
44	4	3	2	1	3	0
45	3	2.5	2	0	2	+0.5
46	1	1.5	2		2	-0.5
47	2	2	2		2	0
48	2	2	1		1	+1
49	2	2	1		1	+1
50	1	1.5	1		1	+0.5
51	1	1.5	1		1	+0.5
52	3	2.5	2	0	2	+0.5
53	3	2.5	2	0	2	+0.5

54	3	2.5	2	0	2	+0.5
			112	15	127	+1

The Somerset Parking Strategy also requires 0.2 visitor spaces per dwelling. For 54 dwellings this equates to 10.8 spaces. 10 visitor spaces are proposed through the development, which is broadly in line with policy requirements. These spaces are suitably located throughout the development.

Many local residents have referred to existing on street parking pressures in the area. The applicant has submitted the results of on street parking analysis and concluded there is on street parking capacity and, as the proposal meets Somerset Council’s parking standards, the proposed development is not anticipated to create further on street parking pressures locally.

Conclusion on Highways Matters:

As above, the access is subject to a separate planning application to be determined by BANES. This application is recommended for approval subject to a Grampian condition requiring the access to be delivered. In the event the access is not supported by BANES (and potentially a subsequent planning appeal), this development could not be implemented.

A suite of other highways conditions is recommended including highways estates road; delivery of access, parking and turning area provision for each dwelling; construction traffic management plan; electric vehicle charging; garages for private motor vehicles and ancillary storage only; bicycle storage provision; provision of footpaths.

Following the submission of revision to the travel plan, the highway authority has concluded this to be acceptable. Due to the scale of development proposed, a full travel plan is required, which is recommended to be included in the legal agreement.

In conclusion on this matter, the highway safety and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with Policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Public Right of Way:

There are no public rights of way within the site or immediately adjacent. Route CL19/27 is located circa 350m to the north west. Following review of the LVIA, it is concluded that impacts on leisure routes and views are acceptable in this case.

Archaeology and Conservation:

The site is not within an area of high archaeological potential, and there are no listed buildings, scheduled monuments or conservation areas nearby. The application has been supported by an Archaeological Desk Based Assessment, prepared by RPS, which confirms the site has low potential for archaeological remains. Given the previous agricultural use of the site and the lack of designation or nearby designations, this conclusion is considered reasonable.

The proposal is therefore acceptable in this regard.

Land Drainage:

The application site is in flood zone 1, which is an area deemed by the Environment Agency as having a probability of flooding of greater than 1:1000 years and meaning it is acceptable for development in principle drainage terms.

As the application site is greater than 1ha, a Flood Risk Assessment accompanies the submission to demonstrate that there will be no adverse effects from the proposal in relation to flood and drainage matters. This has been assessed by the Lead Local Flood Authority (LLFA). Wessex Water has also commented on the application.

Amendments were made through the life of the application to reduce the size of the attenuation pond on the northern part of the site in order to enhance the public open space. The applicant prepared and submitted updated drainage information accordingly, which has been subject to review and discussions with the LLFA. This includes an updated drainage strategy and a revised flood risk assessment, which confirms the following:

“The site is located outside of the 1,000-year flood plain and is therefore classed as Flood Zone 1.

Surface water runoff from the site will drain via gravity to a unnamed watercourse along the eastern boundary at the Qbar rate of 7.2l/s.

The surface water drainage network will be designed for up to and including the 1 in 100year event plus 45% allowance for climate change and an additional allowance of 10% for Urban Creep. A new detention basin will be provided with an approximate attenuation volume of approximately 740m³ depending on the ultimate total impermeable area.

The proposed foul water flows from the site will drain via gravity to a new foul pumping station via a new 150mmØ foul sewer. The point of discharge will be within the new access road and has been agreed with Wessex Water.

The proposed residential development is located entirely within Flood Zone 1. Therefore, on the basis of land use vulnerability, the development should be deemed appropriate in planning policy terms in its proposed location. The SuDS hierarchy has been followed to determine the most suitable point of connection. With infiltration not being possible, the proposed surface water network will discharge to the existing watercourse on the eastern boundary.”

The LLFA has confirmed it has no objections to the proposal, subject to the inclusion of standard conditions for detailed design of drainage. Installation and maintenance of SUDS features is recommended to be included within the legal agreement in line with good practice.

Wessex Water has also raised no objections to the proposals, and referred to necessary agreements and obligations on the developer, which sit outside planning legislation.

In conclusion on this matter, the proposed development would not have an adverse impact on flood risk or represent a danger to water quality. The proposal accords with Policies DP8 and DP23 of the adopted Local Plan Part 1 (2014) and Part 14 of the National Planning Policy Framework.

Sustainability and Renewable Energy:

Policy DP7 of the LP1 requires proposals for new development to demonstrate that they incorporate all practical measures to achieve energy efficiency through siting, layout and design and maximise opportunities for the use of sustainable construction techniques; the use of sustainable drainage systems; renewable energy generation on site; the use of water efficiency measures, recycling and conservation; and new residents to minimise, re-use and recycle waste, in addition to using locally sourced or recycled materials wherever practically possible.

The submitted Design and Access Statement confirms the proposal as follows:

“All homes will be built to high sustainability standards, and in line with the sustainability with the newly introduced 2021 Building Regulations as a minimum, with a minimum saving of 31% of CO2 emissions compared to 2013 Building Regulations. The likely energy strategy for the homes will be gas boilers with solar panels on all homes. This strategy will be continually reviewed in advance of the scheme being completed and consideration of other methods of building heating.”

An Energy and Sustainability Statement has also been submitted, which considers various options for carbon reduction and concludes as follows:

“It is currently proposed that the whole site will incorporate gas heating systems supplemented by solar PV to meet Part L 2021 standards and reduce running costs. PV system designs will be worked up once final SAP software is available, however it is provisionally assessed that all dwellings will be specified with solar PV systems of between around 0.5 – 4kWp, depending on the specific characteristics of the homes. Full PV system designs will be developed once the calculations can be completed. “

A condition is recommended to require solar panels on the roof of each dwelling, with details to be submitted and agreed with the local planning authority prior to occupation.

Electric vehicle (EV) charging is recommended via condition. Although some provision is required under building regulations, the technical specification is set out in the Somerset EV Strategy.

A further condition for water efficiency is proposed, to ensure that each dwelling is provided with rainwater harvesting measures such as water butts.

In conclusion on this matter, solar panels and high construction standards are proposed. Although gas boilers are proposed, there is currently no policy restriction on them. On balance the measures proposed are considered acceptable. A number of conditions are recommended.

Public Open Space:

Policy DP16 Open Space and Green Infrastructure of LP1 and supporting text requires that proposals for new residential development make provision for different open space typologies. Following amendments to the design, the final public open space proposals include areas to the edge of the development as well as a pocket area more centrally. These areas include footpaths through the site and connecting the neighbouring community hall and play park. Play equipment and benches are proposed to be scattered across the development. Overall, the design and layout are considered to accord with relevant design policy. There are opportunities for community interactions, overlooked and green areas of green infrastructure which allow the design approach of an outward looking development to be achieved.

DP16 requires development to make provision for formal public open space (POS) on the basis of the National Playing field Association's (NPFA) long standing standard of 2.4ha of new space per additional 1,000 people. Based on this standard and an average dwelling occupancy of 2.3 persons per dwelling, this equates to approximately 124 people living on site (2.3 persons x 54 dwellings) meaning that the required area of POS, based on the proposed population of the development, is 0.3ha (2.4ha/1000 x 124). The area of public

open space proposed is approximately 0.7ha, which is in excess of this requirement.

In order to secure the ongoing management of the public open space within the site, the S106 should also secure the inclusion of a Landscape Ecological Management Plan (LEMP).

'Fields in Trust Guidance for Outdoor Sport and Play' states that developments between 10-200 dwellings require both a LAP (Local Area for Play) and a LEAP (Locally Equipped Area for Play) as well as a contribution towards a MUGA (Multi-Use Games Area). The application does not include a LAP or LEAP.

As noted above, the site is located on the boundary with BANES and the future occupiers of the development are likely to use local green spaces within the BANES area, particularly the Greenacres Recreation Ground which abuts the south east corner of the site.

BANES Green Space Strategy 2015 has been considered by the BANES Parks and Recreation Team in its response to BANES application 22/02932/FUL. Here it is confirmed that a contribution of £111,945.60 is agreeable for enhancement and maintenance of greenspace in the local area. This may be delivered on play equipment for older children and horticultural enrichment of the Greenacres Recreation Ground site.

Given where this application is site located, and where the impact will be felt, no further contributions are required above the £111,945.60 which will be secured by BANES by S106.

In conclusion on this matter, with on site provisions and off site contributions towards greenspace improvements spaces within BANES, the development is considered acceptable in relation to open space and compliant with DP16.

Refuse Collection:

The proposed plans show the dwellings would have sufficient room to store waste containers.

The application has been considered by the highway authority in relation to access for waste trucks to access and manoeuvre within the site, and the proposal is concluded to be acceptable.

Following comments from the Somerset Waste Partnership, which recommended individual wheelie bins and shelves for the flats, a condition is recommended which would

see details of waste storage for the flats to be submitted to and agreed to the Local Planning Authority prior to their occupation.

As such, the application is concluded to be acceptable in this regard.

Contaminated Land:

The application has been supported by a desk based land contamination report which concludes there is a possibility of contamination due to historic agricultural uses on the site.

The Contaminated Land Officer has reviewed the application and agreed that due to the historic agricultural use of the site, there is some risk of contamination. The four standard contaminated land conditions are therefore recommended. Provided these conditions are included, the Contaminated Land Officer has not objected to the proposal. As such, the application is considered acceptable in this regard.

Coal:

The Coal Authority has confirmed the site is within the defined Low Risk Area. An informative is recommended reminding the applicant of reporting protocols in the event unexpected coal mining features are encountered during development.

The proposal is concluded to be acceptable in this regard.

Education:

The application has been assessed by Education Officers at Somerset Council and BANES. Although within the Somerset local authority area, it is likely that families would look to secure places within BANES, which are closer to home. It has been agreed that the early years and the primary children from this development would likely be able to be accommodated within BANES as there is capacity within the council area.

There is predicted to be insufficient capacity within BANES secondary schools (Norton Hill) to accommodate the proposed development. Children in BANES would have prioritised places above those within Somerset. The catchment school would be the Blue School in Wells which has capacity. The applicant has agreed to an obligation of £57,480 transportation for children expected to arise from the development to go to Wells Blue School for a 5-year period.

Assessment is based on the other development coming forward in the area.

Subject to the inclusion of obligations towards transport costs, the proposal is acceptable in relation to education provision.

Health Services:

NHS Somerset has confirmed that obligations are triggered for GP services as part of this proposal which total £24,140 to improve local healthcare services, potentially in Oakhill Surgery. No further obligations have been requested in BANES.

Subject to the inclusion of this obligation in the S106 legal agreement, the application is concluded to be acceptable in this regard.

BANES Targeted Training and Recruitment:

Policy in BANES requires a contribution towards Targeted Training and Recruitment. As the site is on the edge of Midsomer Norton, it is reasonable to include this contribution payable to BANES. BANES officers have confirmed this totals £3685. This will be included in the S106 legal agreement.

Planning Obligations:

In accordance with LP1 Policy DP19, the proposed development triggers obligations in Somerset in the following regards:

Somerset Planning Obligations

- Affordable housing (30%):
 - 3 x 3 bed houses; shared ownership; plots 2,3,4
 - 6 x 1 bed apartments; social rent; plots 13,17,18,46,50,51
 - 6 x 2 bed apartments; social rent; plots 14,15,16,47,48,49
 - 1 x 4 bed house; social rent; plot 5
 - 16 in total, which is 30%
- Travel plan
- Transportation for children expected to arise from the development to go to Wells Blue School for a 5-year period - £57,480
- Management company including maintenance of communal areas
- Programme of implementation and compliance
- SUDS delivery and maintenance
- Off site 10% biodiversity net gain
- Landscape and Ecological Management Plan – including management of off site biodiversity net gain
- Contributions towards local healthcare services – £24,140

The following obligations have also been agreed to be provided in BANES:

BANES Planning Obligations

- Affordable housing:
 - 2 x 3 bed houses; social rent; plot 1 (in BANES) and plot 8 (in Somerset)
 - 2 x 4 bed houses; plots 6 and 7 (in Somerset); currently offered as additionality (subject to discussions between the applicant and BANES officers)
- £4,351 for a Traffic Regulation Order
- £32,982 for bus stop enhancements including a new shelter at the northbound Pine Wood Road stop and RTI upgrades at two Orchard Avenue stops
- £80,955.75 – contribution towards the Somer Valley Enterprise Zone Cycleway
- £111,945.60 – off-site green space contribution to be applied towards the enhancement and maintenance of green space within the vicinity of the development.
- £3,685 - Targeted Training and Recruitment contribution

If the application is approved these matters can be secured via a legal agreement. The scope of the legal agreement has yet to be confirmed. It is likely it will either include both Somerset Council and BANES as signatories; or it will include a clause prohibiting commencement of development until the developer has signed a legal agreement with BANES covering these matters.

Given the LP1 policy requirements and infrastructure needs arising from the development all of the above obligations are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind to the development. They would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

Ston Easton Parish Council has requested obligations towards Clapton Village Hall. Due to the location of the site, the obligations as agreed are considered reasonable and necessary to make the development acceptable. Further contributions towards Clapton Village Hall have not been secured.

The application is concluded to be acceptable in relation to agreed planning obligations.

Cross Boundary Considerations:

An important consideration is the 'duty to co-operate'. Although relating primarily to Local Plan production, the NPPF advises that public bodies have a duty to co-operate on planning issues that cross administrative boundaries, particularly those which relate to the

strategic priorities, including the homes and jobs needed in the area and provision of community facilities.

BANES' objection to the development has been considered. This focusses, amongst other things, on Midsomer Norton's job/homes imbalance. Officers have liaised with BANES Officers and the applicant to secure measures to improve the sustainability of the site. Given its location on the edge of Midsomer Norton, it is readily accepted that any pressures on infrastructure from the development will be more significant in Midsomer Norton and surrounding area within BANES than within Somerset. For this reason, the infrastructure impacts and contributions have been agreed jointly between BANES and Somerset. These matters have been addressed within the report and it is noted that the BANES Highways Officer has removed their objection to the scheme.

Financial obligations have been agreed and will be secured through a S106 between BANES and the applicant, as outlined above.

Other Matters:

The following is offered in response to neighbour and parish council comments not covered elsewhere in this report:

- Ston Easton Parish Council has requested a review and of the drainage in the village of Clapton and strategic drainage approach as part of this application. This is beyond the scope of this application, or the obligations of the applicant.
- Some neighbours have requested comments from Natural England and the Woodland Trust. Comments from Natural England have been received (no objection) and are summarised in this report. Whilst comments from the Woodland Trust have not been received as part of this application, it is noted that the Woodland Trust has commented to BANES associated with application 22/02932/FUL. Whilst this outlines an objection, the Council's Tree and Woodland Officer has reviewed the application in detail, met with the applicant and, following the submission of additional information, raises no objection. The application is concluded to be acceptable in relation to trees and woodland, as outlined above.
- This recommendation has taken into account relevant planning decisions. Each application is considered on its merits.
- If approved, the legal agreement would include a management company, who would manage the site including communal areas.
- Any fly tipping would be subject to the same controls as any other site.
- It is understood that 26 and 28 Orchard Vale are owned by Curo (the applicant), who would manage rehoming the occupants.
- It is noted that the site is not within the green belt.

- Loss of private views and property values cannot be considered in the planning balance.

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

The proposal, including traffic associated with construction and occupation, is not considered harmful to the health of nearby occupants to warrant refusal of the application.

Environmental Impact Assessment:

This development is not considered to require an Environmental Assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Conclusion:

Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.

It is accepted that the Council cannot demonstrate a 5 year land supply and the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies (the 'tilted balance'). This advises that permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted.

The application proposals would deliver simultaneously, economic, social and environmental benefits. Whilst limited in time, the development would generate economic benefits through the construction period. Economic benefits would also be associated with

the future spending of occupants of the development in local shops and services and council tax receipts.

The provision of 52 homes (or 50 homes if plots 6 and 7 are transferred to BANES as affordable units), including 16 affordable units in Somerset, is given significant weight in the planning balance, particularly in the context of the significant lack of 5 year land supply in the district. Public open space and ecological enhancement measures above Somerset Council's policy requirements are also provided which will offer potential biodiversity enhancements.

The proposals have been developed to achieve a sustainable extension to Midsomer Norton. It is noted however that some harm will be caused to the imbalance of jobs and homes in the area, but this would in part mitigated be by the local infrastructure improvements. Whilst there would be a landscape impact, particularly before the mitigation is fully established, this harm is not significant given the surrounding built form in the context of the site. The development would result in the loss of agricultural land, but this is not the highest quality or most versatile land.

Overall, the adverse impacts identified are not considered to significantly and demonstrably outweigh the benefits. In accordance with para 11 d of the Framework, the application is therefore recommended for APPROVAL, subject to a number of conditions and planning obligations secured by legal agreement(s).

Recommendation

Approval

Conditions

1. Standard Time Limit (Compliance)

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2. Plans List (Compliance)

This decision relates to the following drawings:

PL-01 REV B - Site Location Plan - 13.07.2022

PL-01.2 - Site Location Plan Mendip - 13.07.2022

PL-01.1 - Site Location Plan BANES- 13.07.2022
 0768-C-P-0370 D - Vehicular tracking - 12.10.23
 A125/12033/1A REV C and A125/12033/1B REV C - Topographical Survey - 13.07.22
 0768-C-P-0381 B - DRAINAGE CONSTRUCTION DETAILS SHEET 1 - 07.06.23
 0768-C-P-0382 A - DRAINAGE CONSTRUCTION DETAILS SHEET 2 - 07.06.23
 0768-C-P-0390 B - FOUL MANHOLE SCHEDULE - 07.06.23
 0768-C-P-0391 B - STORM MANHOLE SCHEDULE - 07.06.23
 0768-P-D-0360 B - ROAD & DRAINAGE LONGITUDINAL SECTIONS SHEET 1 -
 07.06.23
 0768-P-D-0361 B - ROAD & DRAINAGE LONGITUDINAL SECTIONS SHEET 1 -
 07.06.23
 0768-C-P-0300 D; 0768-C-P-0301 D; 0768-C-P-0302 D - DRAINAGE STRATEGY
 SHEETS 1-3 - 12.10.23
 0768-C-P-0305 D - DRAINAGE AREAS PLAN- 12.10.23
 0768-C-P-0330 D; 0768-C-P-0331 D; 0768-C-P-0332 D - ENGINEERING LEVELS
 SHEETS 1-3 - 12.10.23
 0768-C-P-0340 D - HIGHWAY ADOPTION PLAN - 12.10.23
 0768-C-P-0350 D - HIGHWAY MATERIALS LAYOUT - 12.10.23
 PL-03 REV M - Planning Layout - 13.07.23
 PL-04.REV B - Materials Layout - 07.06.23
 DR-5000 - LANDSCAPE MASTERPLAN - 11.10.2023
 DR-5001-P6, DR-5101-P6, DR-5102-P6, DR-5103-P6 - SOFTWARES PROPOSALS 1-
 4- 11.10.2023
 DR-5104-P6 - HARD SURFACE, FURNITURE & PLAY PROPOSALS - 11.10.2023
 PL-04.1 REV B - Boundary Treatments - 11.10.23
 PL-06 C - Storey Heights Layout - 11.10.23
 PL-07B - Refuse Strategy Plan - 13.07.23
 SE-01A - Site Sections - 11.10.23
 SS-01A - Street Scenes - 11.10.23
 OVCURO003 - EXISTING FLOOR PLANS AND ELEVATIONS - 13.07.2022
 OVCURO002 - EXISTING FLOOR PLANS - 13.07.2022
 OVCURO001- EXISTING ELEVATIONS- 13.07.2022
 HT-GAR-01 - Garage Types - 07.06.23
 HT-BIN&CYC-01 - BIN & CYCLE STORE - 07.06.23
 HT-THO-01 - Thomas Housetype - plots 25, 26, 29, 30 - 17.10.23
 HT-WTBG-01 - Westonbirt Gable Fronted Housetype - plots 9, 10, 11, 19, 21 -
 17.10.23
 HT-WTBG-02 - Westonbirt Eaves Fronted Housetype - plots 40, 53 - 17.10.23
 HT-AVE-01 - Avebury 1 Housetype - plots 24, 45, 52 - 17.10.23
 HT-AVE-02 - Avebury 2 Housetype - plot 27 - 17.10.23
 HT-AVE-CT01 - Avebury Corner Turner 1 Housetype - plot 12 - 17.10.23
 HT-AVE-CT02 - Avebury Corner Turner 2 Housetype - plot 28 - 17.10.23

HT-AVE-CT03 - Avebury Corner Turner 3 Housetype - plots 41, 54 - 17.10.23
HT-PEN-01 - Pensford Housetype - plots 20, 31, 32, 36, 38, 39 - 17.10.23
HT-ASHF-01 - Ashton Front Housetype - plots 22, 42 - 17.10.23
HT-ASHS-01 - Ashton Side Housetype - plots 23, 33, 35, 43 - 17.10.23
HT-CLIF-01 - Clifton Housetype - plots 34, 37, 44 - 17.10.23
HT-BECK-01A - Beckford Housetype - plots 3, 4 - 17.10.23
HT-BECK-02 - Beckford Special Housetype - plot 2 - 17.10.23
HT-PUL-01 - Pultney Housetype - plot 5 - 17.10.23
HT-APT-01A - Apartment 1 Housetype Elevations - plots 13-18 - 17.10.23
HT-APT-02A - Apartment 1 Housetype Floorplans - plots 13-18 - 17.10.23
HT-APT-03A - Apartment 2 Housetype Elevations - plots 46-51 - 17.10.23
HT-APT-04A - Apartment 2 Housetype Floorplans - plots 46-51 - 17.10.23
HT-KEN-01 - Kensington 1 Housetype - plot 1 - 17.10.23 (within BANES)
HT-KEN-02 - Kensington 2 Housetype - plot 8 - 17.10.23 (within Somerset, nomination rights to BANES)
HT-COT-01A - Cotswold Housetype - plots 6, 7 - 17.10.23

Reason: To define the terms and extent of the permission.

3. **Access (Grampian)**

No development shall take place until it has been demonstrated and agreed in writing with the local planning authority at Somerset Council that planning permission has been granted for the site access within the Bath and North East Somerset administrative area.

Reason: To ensure that suitable access is provided in the interests of highway safety in accordance with Policies DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Materials - Submission of Schedule and Samples (Bespoke Trigger)**

No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP3 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Erection of Means of Enclosure (Compliance)**

No dwelling shall be occupied until its associated screen walls/fences or other means of enclosure have been erected in accordance with the approved plans and thereafter retained.

Reason: In the interests of privacy and/or visual amenity in accordance with Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Estate Roads (Bespoke Trigger)**

The proposed estate roads, footways, footpaths, cycleways, 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, street furniture and tactile paving shall be constructed, laid out and maintained in accordance with details to be approved by the Local Planning Authority in writing before the construction of any aspect of the new section of the highway begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials, method of construction and proposals for future maintenance shall be submitted to the Local Planning Authority for written approval.

Reason: To ensure that suitable access is provided in the interests of highway safety in accordance with Policies DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. **Access, Parking and Turning Areas (Pre-occupation)**

No individual dwelling shall be occupied until it is served by a properly bound and compacted footpath, carriageway and turning space(s) where applicable to at least base course level between the dwelling and the highway. The vehicular access, parking and turning areas shall thereafter be kept clear of obstruction and shall not be used other than for the access and parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that the development is served by an adequate means of access in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. **Construction Traffic Management Plan (Pre-Commencement)**

No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- a) Construction vehicular routes to and from site.
- b) Expected number of construction vehicles per day.
- c) The parking of vehicles of site operatives and visitors.
- d) Locations for loading/unloading and storage of plant, waste and construction materials.
- e) Storage of plant and materials used in constructing the development.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust and dirt during construction.
- h) Delivery and construction working hours.
- i) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice.
- j) A scheme to encourage the use of public transport amongst contractors.
- k) 24 hour emergency contact number.
- l) Measures to protect vulnerable road users (cyclists and pedestrians).
- m) Any necessary temporary traffic management measures.
- n) Arrangements for turning vehicles.
- o) Arrangements to receive abnormal loads or unusually large vehicles.
- p) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
- q) confirmation no noise generating construction activities shall not occur outside of the following hours:
 - Mon to Fri 08:00-18:00
 - Sat 08:00-13:00
 - All other times, including Sundays, Bank and Public Holidays there shall be no noise generating activities.
 - All other times, including Sundays, Bank and Public Holidays there shall be no noise generating activities.

The development shall thereafter be constructed in accordance with the approved Construction Traffic Management Plan.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policy DP7, DP8 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

9. **Electric Vehicle Charging (Pre Occupation)**

No dwelling shall be occupied until it is served by at least 1no. active electric vehicle charging point in line with the requirements set out in Somerset Council Electric Vehicle Charging Strategy 2020. Each active charging point must be at least 7kW, an untethered connection i.e., only a socket without a built-in cable, and capable of Mode 3 charging. Charging provision shall be retained permanently thereafter.

Reason: To encourage use of electric vehicles and reduce carbon dioxide emissions in accordance with the Somerset County Council Electric Vehicle Charging Strategy (2020), Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (2014) and the Mendip District Council Supplementary Planning Document Design and Amenity of New Development: Guidance for interpretation of Local Plan Policy DP7 (adopted March 2022).

10. **Garage Use (Compliance)**

The garages hereby approved shall be retained for the garaging of private motor vehicles associated with the dwelling and ancillary domestic storage and for no other purpose.

Reason: To ensure adequate off-street parking provision is retained in accordance with policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006- 2029 (Adopted 2014).

11. **Bicycle Storage (Pre-Occupation)**

No occupation of any individual dwelling shall commence until secure and accessible bicycle storage in accordance with the Somerset Council standards has been provided. The bicycle storage shall be retained permanently thereafter.

Reason: To ensure that sufficient bicycle storage is provided to serve the approved development in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

12. **Footpaths (Pre Occupation)**

Flat footpaths shall be implemented as shown on Layout Plan PL-03N received 11.10.23 prior to occupation of any part of the development or in accordance with a programme agreed in writing with the local planning authority.

Reason: To ensure that suitable access is provided in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

13. **Surface Water Drainage (Pre-Commencement)**

No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of phasing, implementation and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details.

Reason: In the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding in accordance with Policy DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the surface water drainage strategy.

14. **Drainage - Foul (Pre-Commencement)**

No development shall commence until a detailed scheme for the disposal of foul drainage from the development has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment. This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy.

15. **Contaminated Land 1 - SITE CHARACTERISATION INVESTIGATION (Pre-Commencement)**

No development shall commence unless an investigation and risk assessment of the nature and extent of contamination on site and its findings have been submitted to and approved in writing by the Local Planning Authority. This assessment shall be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall consider all previous uses and shall be conducted in accordance with the Environment Agency's 'Land Contamination Risk Management (LCRM)'. The assessment and written submission shall include:

- (i) a survey of the nature, extent and significance of any contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal and justification for the preferred option(s).

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to

workers, neighbours and other offsite receptors and in accordance with the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore these details need to be agreed by submission of an assessment report before work commences in addition to any assessment provided with the planning application (undertaken in accordance with the relevant national guidance). This condition does not restrict commencement of enabling works provided that these may be demonstrated to be entirely for the purposes of ground investigations deemed necessary to inform the risk assessment.

16. **Contaminated Land 2 - SUBMISSION OF REMEDIATION SCHEME (Pre-Commencement)**

No development shall commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, controlled waters, ecological systems, buildings and other property and sites of historical interest, has been submitted to and approved in writing by the Local Planning Authority unless the findings of the approved investigation and risk assessment concludes that a remediation scheme is not required. The scheme shall include:

- (i) all works to be undertaken;
- (ii) proposed remediation objectives and remediation criteria;
- (iii) timetable of works and site management procedures and where the site is to be developed in phases, a phasing plan identifying any specific protection measures;
- (iv) where required, a monitoring and maintenance programme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.
- (v) where required, additional contingency measures designed to safeguard future users and receptors

The remediation scheme shall be designed to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out prior to the commencement of development (other than those works required to carry out remediation) or in accordance with the approved timetable of works.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to human health, controlled waters and other offsite receptors and in accordance with the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover or affect pathways

for harmful contamination. Therefore these details need to be agreed before work commences.

17. **Contaminated Land 3 - VERIFICATION REPORTING (Pre-Occupation)**

No occupation shall commence, or where the site is subject to an already approved phasing plan, there shall be no occupation of any part of each phase, until a verification report has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. The verification report shall confirm that the approved remediation has been completed and demonstrate the effectiveness of the remediation carried out.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance the National Planning Policy Framework.

18. **Contaminated Land 4 - REPORTING OF UNEXPECTED CONTAMINATION OR CONSTRAINTS (Bespoke Trigger)**

In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority and further development works shall cease unless alternative arrangements have been first agreed in writing with the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a revised remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The revised scheme shall thereafter be implemented as approved. The requirements of this condition shall also apply if other circumstances arise during the development, which require a reconsideration of the approved remediation scheme.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to human health, controlled waters and other offsite receptors and in accordance with the National Planning Policy Framework.

19. **Solar Panels (Pre-occupation)**

Prior to first occupation of any individual dwelling, solar panels shall be installed on the respective dwelling in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.

Reason: To maximise opportunities for renewable energy generation on site in accordance with Development Policy 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

20. **Provision and Storage of Recycling and Waste Containers (Pre-occupation)**

No occupation of plots 13-18 and 46-51 shall commence until the storage of recycling and waste containers has been made within the site in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, residential amenity and highway safety having regards to Development Policies 3, 7 and 9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

21. **Water Efficiency - Rainwater Harvesting (Pre-Occupation)**

No individual outbuilding shall be occupied until it is served by rainwater harvesting including guttering and water butts. The development shall thereafter be maintained as such in perpetuity.

Reason: In the interests of water efficiency in accordance with policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014)

22. **Hard and Soft Landscaping (Compliance)**

All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme (phasing) agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure the provision of an appropriate landscape setting for the development and the character and appearance of the area, and that the proposal does not impact on highway safety or flood risk in accordance with Development Policies 1, 3, 4, 7, 9, 10, and 23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

23. **Arboriculture - Compliance with Arb Method Statement (Compliance)**

The development hereby approved shall be carried out in full accordance with the approved Arboricultural Method Statement and Tree Protection Plan.

Reason: To ensure that trees which contribute to the character and appearance of

the area, and are to be retained, are not adversely affected by the development proposals in accordance with Development Policy 1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

24. Tree Protection Plan - Implementation (Compliance)

No development activity shall commence until the protective measures as stated in the approved Tree Protection Plan are implemented. The Local Planning Authority is to be advised two weeks prior to development commencing of the fact that the tree protection measures as required are in place with photographic evidence.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with policies DP1 and DP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

25. Removal of Permitted Development Rights - No outbuildings (Compliance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages, outbuildings or other free standing buildings or hardstanding shall be erected within the curtilage of the dwelling(s) hereby approved on plots 4-12, other than those granted by this permission, unless a further planning permission has been granted by the Local Planning Authority.

Reason: The introduction of further curtilage buildings or hardstanding requires detailed consideration by the Local Planning Authority to safeguard the nearby trees and planting.

26. Construction Environmental Management Plan (CEMP: Biodiversity) (Pre Commencement)

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall provide details of how adjacent designated sites (including any hydrologically connected sites) as well as retained and enhanced habitats and protected species will be protected from the development during construction. The CEMP will therefore include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including nesting birds habitat clearance measures, any badger buffer zones, reptile/amphibian sensitive habitat clearance, hedgehog sensitive habitat clearance, dormice sensitive habitat clearance and safeguarding measures for bats.

- d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.
 - i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.
- The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In the interests of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006 and in accordance with policy DP5 of the Mendip Local Plan. This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard protected species.

27. **Biodiversity Monitoring Strategy (Pre-Commencement)**

No development shall take place, including demolition, ground works and vegetation clearance, until a Biodiversity Monitoring Strategy has been submitted to and approved in writing by the local planning authority. The purpose of the strategy shall be to ensure Underhill Wood Local Wildlife Site is protected long term, and that recreational impacts as well as lighting impacts are continually minimised and mitigated for. The content of the Biodiversity Monitoring Strategy shall include the following:

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Identification of adequate baseline conditions prior to the start of development.
- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods for data gathering and analysis.
- e) Location of monitoring.
- f) Timing and duration of monitoring.
- g) Responsible persons and lines of communication.
- h) Review, and where appropriate, publication of results and outcomes.

The Biodiversity Monitoring Strategy shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The Biodiversity Monitoring Strategy will be implemented in accordance with the

approved details.

Reason: To prevent ecological harm in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard protected species.

28. **Compliance with Ecological Recommendations (Compliance)**

The development hereby approved (including demolition, ground works, and vegetation clearance throughout the construction period) shall be carried out in strict accordance with the recommendations set out in the approved Ecological Impact Assessment.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with Policy DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006- 2029 (Adopted 2014).

29. **Badger Survey (Pre-commencement)**

Prior to vegetative clearance or groundworks commencing, a survey for badger setts shall be carried out by an experienced ecologist. The results of this survey shall be reported to the Local Planning Authority and relevant subsequent actions or mitigation agreed in writing prior to the commencement of vegetative clearance or groundworks. Where a Natural England licence is required a copy will be submitted to the Local Planning Authority prior to works affecting the badger resting place commencing.

Reason: A pre-commencement condition to safeguard badgers from the outset of the development, to comply with the Protection of Badgers Act 1992 and in accordance with Development Policy 5 of the Mendip Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014).

30. **External Lighting (Bespoke Trigger)**

No new external lighting shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, number, luminance, angle of illumination and type of each luminaire or light source and a lux diagram showing the light spill from the scheme. The lighting shall thereafter be installed, operated, and maintained in accordance with the approved details.

Reason: To avoid harm to bats and wildlife and to balance public safety, in accordance with Development Policies 5 and 6 of the Mendip District Local Plan

31. **Tree Checks for Bats (Compliance)**

Any trees to be removed which have been identified as having potential for roosting bats will be inspected by a suitably qualified ecologist immediately prior to being felled. If it is further considered that a roost is not present (i.e. absence of a bat or bat field signs), then the tree may be immediately soft felled. If a bat roost is confirmed, then felling will need to be delayed and an EPS licence sought from Natural England.

Reason: To avoid harm to bats and wildlife and to balance public safety, in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

32. **On Site Biodiversity Enhancement (Pre-Occupation)**

No occupation shall commence until the following have been installed (in line with the recommendations of the Ecological Impact Assessment in relation to locations and models as relevant) within the application site:

- a) 18 x bat boxes to be integrated into the design of dwellings.
- b) 1 x bird box to be integrated into the design of every dwelling.
- c) A cluster of five Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level on the north facing elevation of 10% of dwellings.
- d) A bee brick built into the wall about 1 metre above ground level on the south or southeast elevation of 20% of dwellings.
- e) Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs.
- f) 3 x log piles as a resting places for reptiles, hedgehog and/ or amphibians to be constructed within the boundaries of the site.

The enhancements shall be retained thereafter in perpetuity.

Reason: To provide biodiversity net gain in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014) and Government policy for the enhancement of biodiversity within development as set out in the National Planning Policy Framework.

Informatives

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.

2. **Condition Categories**

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

3. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.

4. In order to discharge conditions relating to the approval of external walling and roofing materials, please ensure that materials are left on site for approval and NOT brought to the Council Offices. When applying for the approval of materials, you must state precisely where on site any samples have been made available for viewing.
5. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
6. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.
7. No removal of buildings, structures, trees or shrubs shall take place between 1st March and 31st August unless an experienced ecologist has checked the Site for breeding/nesting birds. If there is evidence of breeding birds the work must be delayed until the chicks have fledged or suitable working distances observed so as not to disturb the birds.
8. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
9. Development Low Risk Area - Standing Advice

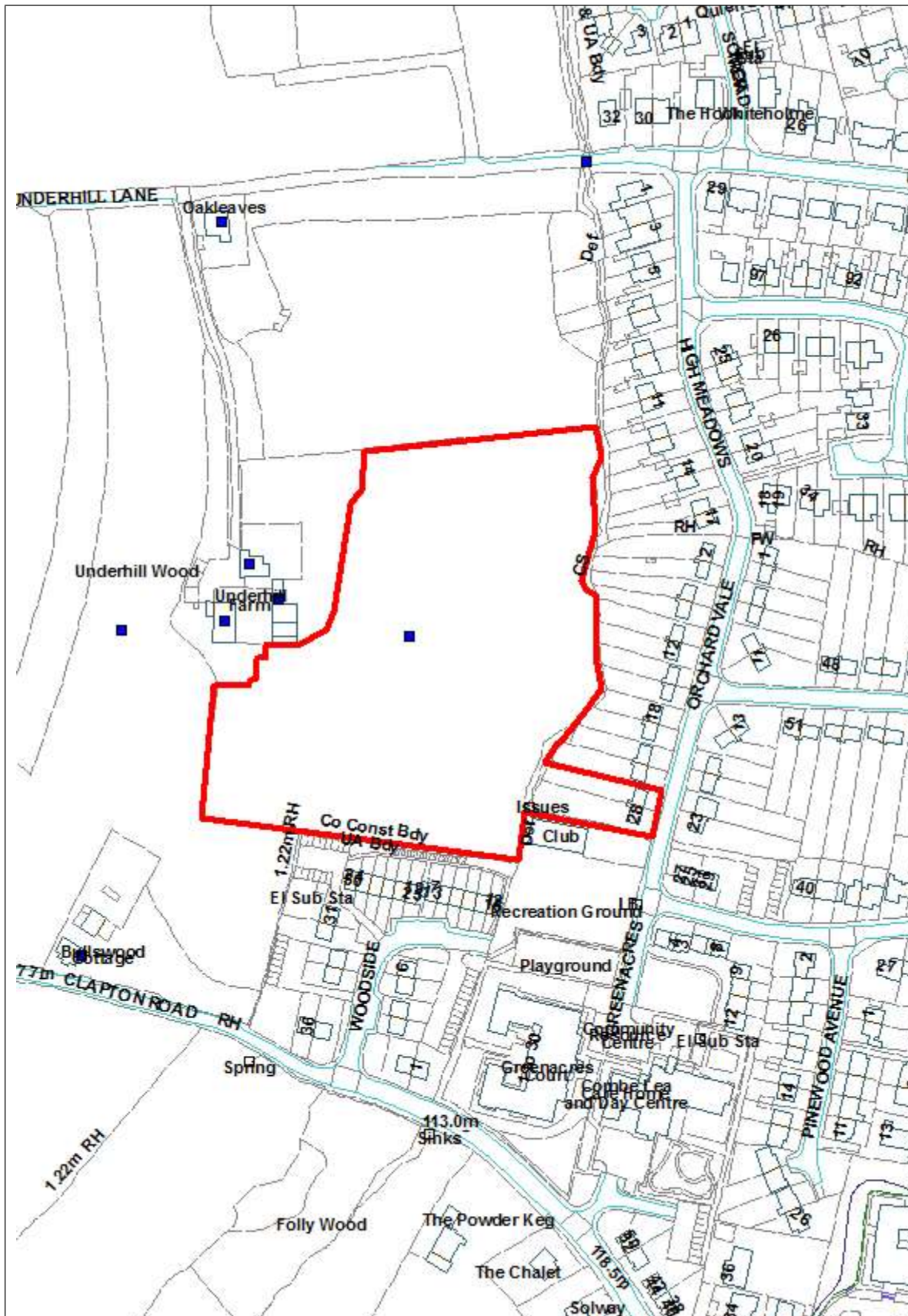
The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

10. **Legal Protection Afforded to Badgers**

The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations, or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during the implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest opportunity.

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Planning Board Report 7th November 2023
 Land At Underhill Lane
 Ston Easton
 Wells
 Somerset

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Application Number	2023/1735/HSE
Case Officer	Lorna Elstob
Site	6 Northcote Crescent Frome Somerset BA11 2HR
Date Validated	11 September 2023
Applicant/ Organisation	Mr & Mrs Collier
Application Type	Householder Application
Proposal	Single storey side and rear extension
Division	Frome North Division
Parish	Frome Town Council
Recommendation	Approval
Divisional Cllrs.	Cllr Adam Boyden Cllr Dawn Denton

9. **What3Words** - ///trash.twig.influencing

Scheme of Delegation

The applicant is an employee who has direct involvement with the planning process in the course of their duties. The decision is therefore not within the scope of the powers delegated by the Scheme of Delegation and must be taken by the Planning Committee.

Description of Site, Proposal and Constraints

6 Northcote Crescent is a detached property located within the development limits of Frome. The application seeks planning permission for the erection of a single storey rear and side extension.

Consultation/Representation:

Frome Town Council - No objection

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the

development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies (December 2021) (Post JR)
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)
- Frome Neighbourhood Plan (2016)
- Rode Neighbourhood Plan (2017)

- Design and Amenity of New Development, Policy DP7 SPD (March 2022)

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 – Mendip Spatial Strategy
- DP1 - Local Identity and Distinctiveness
- DP3 - Heritage Conservation
- DP4 - Impact on Landscape
- DP7 - Design and Amenity
- DP9 and DP10 - Highway Safety

For sites in Frome or Rode the following policies of the respective Neighbourhood Plans are relevant to the determination of this application:

Frome Neighbourhood Plan:

- Policy 9

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Frome Design Statement (SPD 2015)

Assessment of relevant issues:

Character and Appearance

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal is therefore considered to accord with the policies referred to above.

Residential Amenity

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal is therefore considered to accord with the policies referred to above.

Highways

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal is therefore considered to accord with the policies referred to above.

Environmental Impact Assessment

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Recommendation

Approval

Conditions

1. **Standard Time Limit (Compliance)**

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

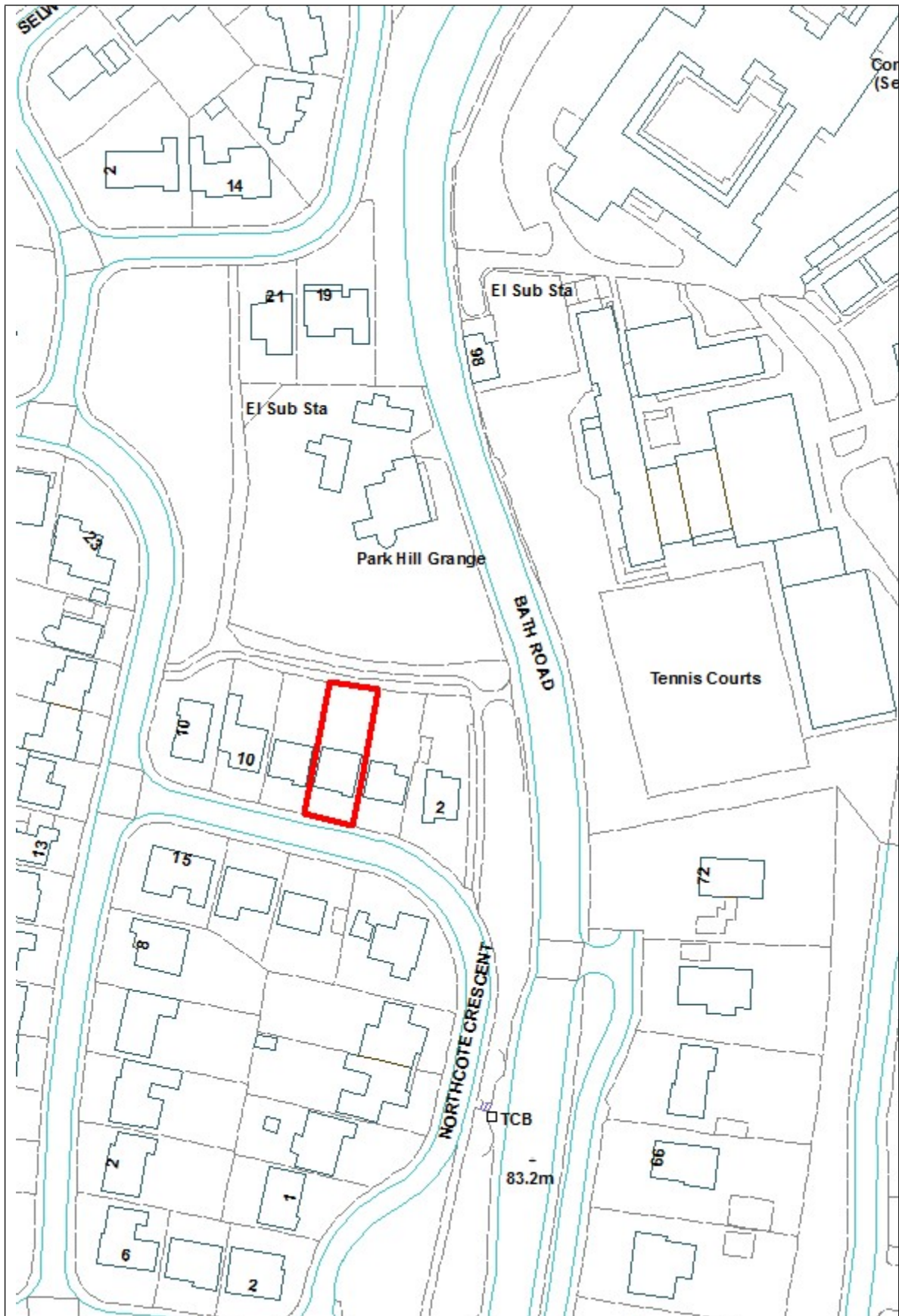
2. **Plans List (Compliance)**

This decision relates to the following drawings: 2399/01, 2399/02/ 2399/03C and 2399/04C.

Reason: To define the terms and extent of the permission.

Informatives

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
2. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>



Planning Board Report 7th November 2023
6 Northcote Crescent
From
Somerset
BA11 2HR

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Application Number	2023/0663/FUL
Case Officer	Carlton Langford
Site	Vereker House Pitcot Lane Stratton On The Fosse Shepton Mallet Somerset
Date Validated	16 June 2023
Applicant/	J O'Nians
Organisation	Lightcraft Developments Ltd
Application Type	Full Application
Proposal	Extension Of Residential Curtilage To Barn 1 To Include Change Of Use Of Land From Agricultural To Residential & Reorganisation Of Curtilage To Barn 2 In Order To Facilitate Amended Vehicular Access To Highway.
Division	Mendip Hills Division
Parish	Stratton On The Fosse Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

6. Referral Process

Referred to the Planning Committee (East) due to the application being a departure from the Local Plan and the officer recommending approval.

Description of Site, Proposal and Constraints:

The application site comprises paddock land with stable buildings located to the south of Vereker House. The site is situated within the open countryside within an area of high archaeological potential, a bat consultation zone and partly within a high-risk coal consultation zone (historic mining works).

This application seeks the extension of residential curtilage To Barn 1 to include change of use of land from agricultural (paddock) to residential & reorganisation of curtilage to barn 2 in order to facilitate amended vehicular access to the highway.

Relevant History:

Numerous applications approved at Vereker House to include extensions and alterations to the main house and the conversion of garaging and stables to holiday accommodation and then a single dwellinghouse.

2019/2248/FUL - Conversion of redundant stables and hay store to single dwelling – Approved June 2020.

More recently, the conversion of a redundant rural building to a two-bedroom dwelling, along with associated change of use of land to form a garden and creation of a new access. (2021/1754/FUL)

Summary of Ward Councillor comments, Town/Parish Council comments, representations and consultee comments:

Ward Member: No response.

Parish Council: No response.

Highways Development Officer: Standing advice.

Archaeology: No objections.

Coal Authority: No objections (Development outside the Higher Risk Zone) apply Standard Informative.

Local Representations: None received.

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies (December 2021)
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 – Mendip Spatial Strategy
- CP4 – Sustainable rural communities.

- DP1 – Local Identity and distinctiveness
- DP4 – Mendip Landscapes
- DP5 - Ecology
- DP6 – Bats
- DP7 – Design and Amenity
- DP9 – Transport
- DP10 – Parking

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

This application relates only to the proposed additional change of use of land with the buildings on site already having been given planning permission for conversion to dwellings under separate permissions which will not be superseded by this application.

Having regard for the assessment below, the proposal is considered to be sustainable development and therefore acceptable in principle. However, as the proposal is not linked to any development which might be considered as an exception under development plan policies CP1 or CP4 of the Local Plan, the proposal represents a departure from development plan policy.

However, having regard for paragraph 11 of the National Planning Policy Framework (NPPF), decisions should apply a presumption in favour of sustainable development and based on the assessment below, there are no significant or demonstrable harms which would outweigh the benefits of the development.

Principle of the Use:

The application site is situated within the open countryside where development is strictly controlled. However, in accordance with Policies CP1 and CP4 of the Local Plan, development may exceptionally be permitted in line with the provisions as set out in Core Policy 4 (sustainable rural communities) of the Local Plan especially where they involve the conversion of existing buildings under policy DP22 of the Local Plan.

In this regard, the application relates to 2 number previous planning permissions which were acceptable under policy DP22 and therefore, subject to the proposal before us, in that these approved schemes will continue to meet all the 6 key criteria for and acceptable conversion as set out within the policy (DP22) and where the scheme will lead to an enhancement to the immediate setting (assessed below), the proposal is generally acceptable in principle albeit a departure from development plan policy as explained above.

Design of the Development and Impact on the Street Scene and Surrounding Area:

Under planning permission ref: 2021/1754/FUL for the conversion of barn 2 a new access was created together with change of use of paddock land to accommodate a drive and create garden space and off-street parking provision which was considered sufficient to ensure the character of the immediate setting was not adversely impacted upon.

This current application seeks to slightly extend further into the paddock in order to create a modest garden area for barn conversion 1 which currently has no garden which isn't taken up by parking provision.

The proposal also seeks to relocate the access for barn 2 adjacent to the existing paddock access further to the east.

The proposal is not considered unreasonable, and neither will it have an adverse impact on the immediate setting over or above those extensions to curtilage already allowed subject to ensuring appropriate landscaping which will maintain the open rural character of the existing paddock which can be controlled through condition, and to ensure permitted development rights are removed for curtilage buildings.

The scheme will continue to accord with Policies DP1, DP7 and DP22 of the LP.

Impact on Residential Amenity:

The further extension to curtilage raises no additional adverse amenity concerns for any nearby neighbours or other land users. The relocation of the access and realignment of the drive as from initially approved will continue to ensure much of the paddock is retained. The scheme accords with Policies DP7 and DP22 of the LP.

Impact on Ecology:

Under permission ref: 2021/1754/FUL a number of conditions to ensure wildlife protection and enhancement were imposed and will still need to be complied with. This small addition to domestic curtilage will not require and additional enhancements over or above

those already being sought but an additional wildlife protection condition will be necessary.

Subject to the imposition of a wildlife protection conditions to include lighting design for bats, the proposal will not adversely impact on wildlife or wildlife habitats and will continue to accord with Policies DP5, DP6 and DP22 of the LP.

Assessment of Highway Issues:

The relocation of the access will again be onto a light trafficked access lane off Pitcot Lane which is acceptable in terms of visibility in this instance. Traffic generation from the scheme will be comparable to its existing use as paddock and stables and sufficient off-street parking together with on-site turning is proposed.

Overall, the proposal will avoid causing traffic or environmental problems within the wider transport network nor generate any requirements for transport improvements which would harm the character of the area in accordance with policies DP9, DP10 and DP22 of the LP.

Refuse Collection:

Sufficient space on site for roadside storage and collection.

Environmental Impact Assessment

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Conclusion & Planning Balance:

The proposal is not considered unreasonable, not having an adverse impact on the immediate setting over or above those extensions to curtilage allowed previously, and the proposal will continue to avoid causing traffic or environmental problems within the wider

transport network or generate any requirements for transport improvements which would harm the character of the area and is recommended for approval.

In terms of the proposed change of use on part of an existing agricultural field, whilst it is acknowledged that the development will be outside development limits and can not be supported by the relevant policies that for the strategic policy framework (ie policies CP and CP4), it is proposed and will function as part of the residential curtilage of two dwellings which have previously been approved and built out with development plan policy support.

On this basis the application scheme is considered on balance to represent a sustainable form of development, and it is therefore recommended that planning permission be granted as a departure from the development plan.

Recommendation

Approval

Conditions

1. Standard Time Limit (Compliance)

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2. Plans List (Compliance)

This decision relates to the following drawing:
456/P-002-D

Reason: To define the terms and extent of the permission.

3. Access, Parking and Turning Areas (Bespoke Trigger)

Prior to the first use of the access hereby approved, the access, parking and turning areas shall have been constructed in accordance with details shown on the approved plans. The vehicular access, parking and turning shall thereafter be kept clear of obstruction and shall not be used other than for the access and parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that suitable access, parking and turning areas are provided and thereafter retained in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Hard and Soft Landscaping (Pre-occupation)**

Prior to the first use of the access hereby approved, a hard and soft landscape scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- (a) size, species and positions for new trees and plants,
- (b) boundary treatments,
- (c) surfacing materials (including roadways, drives, patios and paths) and
- (d) any retained planting.
- (e) a detailed programme of implementation

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policy DP1, DP3, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Wildlife Protection (Pre-commencement)**

No site clearance or removal of vegetation to include grass cutting shall take place on site, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests, Great Crested Newts and Reptiles, immediately before works commence and provides written confirmation that no birds, Great Crested Newts or reptiles will be harmed and/or that there are appropriate measures in place to protect their interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist. In no circumstances should netting be used to exclude nesting birds.

Reason: In the interests of the protection of wildlife and in accordance with policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **External Lighting (Bespoke Trigger)**

No external lighting shall be erected or provided on the site until a "lighting design for bats" has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design.

No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. **Removal of Permitted Development Rights - No outbuildings (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages or other free standing buildings shall be erected within the curtilage land hereby approved, other than those granted by this permission, unless a further planning permission has been granted by the Local Planning Authority.

Reason: The introduction of further curtilage buildings requires detailed consideration by the Local Planning Authority to safeguard the appearance of the development and the amenities of the surrounding rural landscape and residents in accordance with Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.

2. **Condition Categories**

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

3. The applicant is advised of the need to consult the Highways Department, Somerset Council (Tel:- 0300 123 2224) prior to commencing works adjacent to the public highway.
4. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.

5. Before commencing any works to trees, please note that, under the provisions of the Wildlife & Countryside Act of 1981, between the 1st MARCH to 31st AUGUST, no works should be undertaken to trees which would result in disturbance or loss of habitat of nesting birds. Contravention of the Act is a criminal offence. It should also be noted that bats and their habitats are protected by law and if bats are found to be present in the trees works should immediately cease until specialist advice has been obtained from Natural England.

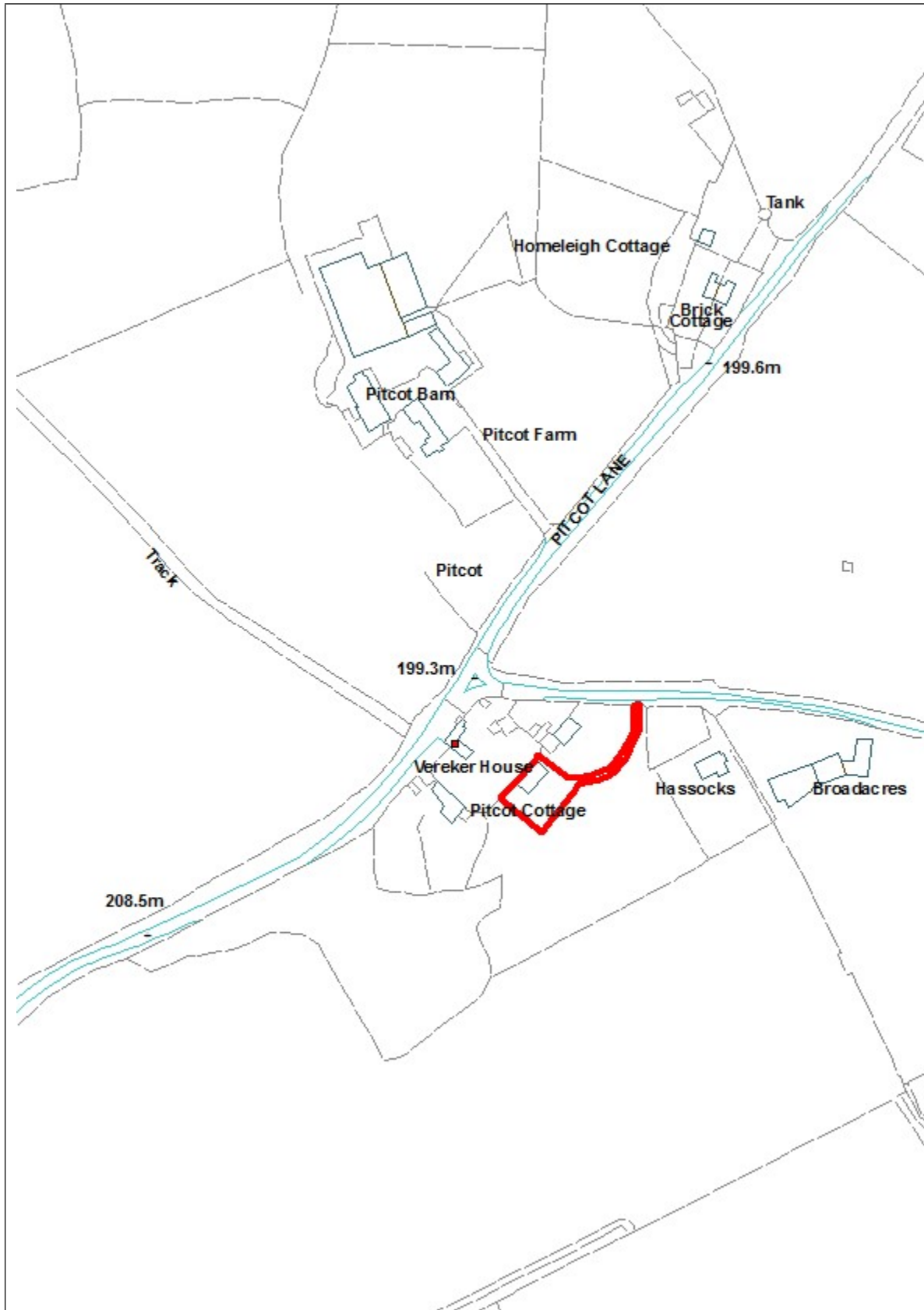
6. Development Low Risk Area - Standing Advice

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

7. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.

8. Notwithstanding any details submitted, details pursuant to condition 4 landscaping, shall ensure that the open character of the paddock is maintained, ensuring limited planting and boundary treatments which respect the agricultural character of the area.



Planning Board Report 7th November 2023
Vereker House
Pitcot Lane
Stratton On The Fosse
Shepton Mallet
Somerset
BA3 4SX

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Application Number	2022/1647/FUL
Case Officer	Kelly Pritchard
Site	Blackberry Farm House Martin Street Baltonsborough Glastonbury Somerset
Date Validated	16 August 2022
Applicant/ Organisation	S Webb
Application Type	Full Application
Proposal	The erection of one detached dwelling.
Division	Mendip South Division
Parish	Baltonsborough Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

11. **What Three Words: charm.sleepers.animate**

Scheme of Delegation:

In accordance with the scheme of delegation, this application is referred to the planning committee for a decision. This is because the proposal represents a departure from the Local Plan.

Description of Site, Proposal and Constraints:

This application relates to land to the northeast of Blackberry Farm House, Martin Street, Baltonsborough. The farmhouse is at right angles to the road with its main garden area to the east. To the northeast there are some existing semi derelict outbuildings. It is two storeys and is finished in coursed blue lias and has a double Roman tie roof, brick ridge stacks.

To the west and east of the farm house is vehicular access and parking for the existing dwelling. Further south east is an existing vehicular access which was approved via application 2018/1063/FUL to serve the adjacent field.

Although the farmhouse and its curtilage are bounded by fields on the northeast and southeast side, to the west is housing which steps back from the road deeper in their plots than the farmhouse. Further to the southeast there is also housing so the site is considered well related to the existing built development in the vicinity.

This site is located just outside the settlement limits as defined by Mendip District Local Plan Part I: Strategy and Policies (December 2014) (MDLP). Blackberry Farm House is located within the settlement limits, but the land which is the subject of this application is just the other side of the boundary of the limits, to the northeast of the main house.

It is within the Somerset Levels and Moors Ramsar Risk Area, an area of high archaeological potential and the farm house is a grade II listed building.

The application seeks full permission or the erection of a detached dwelling, whilst utilising the existing vehicular access which was approved under planning reference 2018/1063/FUL to serve the field.

Relevant History:

- 118308/000 - Internal alterations, replacement windows and doors, replacement of existing concrete block work walling with natural stone. Approval. 16.03.06
- 2018/0173/FUL - Formation of an agricultural access. Withdrawn. 21.03.2018
- 2018/1063/FUL - Formation of an agricultural access. Approved. 28.06.2018

The applicant had pre-application advise for a dwelling before submitting this current scheme, reference 2021/1127/L4PA.

Summary of Divisional Councillor comments, Town/Parish Council comments, representations and consultee comments:

Ward Member: Damon Hooton acting as ward member for Baltonsborough said,

- Whilst I note the comments of Parish Council's refusal recommendation the issue of Development Limit can be considered in light of a lack of 5 year housing land supply and suitable notification of the departure, also drainage issues can be dealt with by condition which I suggest should be a pre-commencement condition, should these be agreed by Officer then I have no further objections.

The comments of Councillor Hooton were received when he was acting as the Ward Member for Baltonsborough prior to the existence of Somerset Council.

Baltonsborough Parish Council: Objection.

- The council unanimously agreed to recommend refusal based on the material considerations of 1. It is outside the development limit of the village and 2. Concerns about drainage and flood issues.

Land Drainage: No objection subject to a condition that the development be carried out in accordance with the Surface Water Drainage Strategy.

- The proposals will increase the impermeable areas of the site and therefore the volume of surface water runoff. Surface water will be managed via a sustainable drainage system. This consists of an attenuation basin with an outfall restricted to a discharge rate of 0.5l/s (greenfield Qbar). This will discharge, via a filter drain, to the existing culverted ditch which ultimately discharges into the Mill Stream and the River Brue. The attenuation basin has capacity for the 1 in 100 plus 45% climate change event.
- The surface water flood risk to the site comprises a surface water flow route flowing approximately north to south through the site. To mitigate against the risk of surface water flooding to the site surface water entering the site from overland flows will be intercepted by a filter drain along the boundary of the site, discharging directly into the existing culvert. Additionally finished floor levels of the property will be raised 250mm above surrounding ground levels.
- Foul Drainage will be connected to a package treatment plant discharging to a zero discharge willow bed with overflow pipe to the main sewer system. This should be reviewed by the ecologist and Wessex Water.

Since receiving the revised NNAMS the drainage engineer comments;

Comment dated 13.01.23 above are still applicable. Surface water drainage as shown in the Drainage Strategy document is included on the revised Foul Drainage Plan 354134-1103-1.3.

Historic Environment: No objection.

- As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.

Ecology: No objection.

The application site is located within the hydrological catchment of the Somerset Levels and Moors Ramsar, in the River Brue sub-catchment. The proposed development will result in an increase in phosphate loading within the hydrological catchment of the Ramsar, potentially leading to degradation or changes to water quality. If left unmitigated, this would result in a Likely Significant Effect upon the aquatic invertebrate assemblage of the Ramsar.

To mitigate for the increase in phosphate loading as a result of the proposed development, onsite mitigation is proposed. To the south of the proposed dwelling, the existing garden space shall be converted to a zero-discharge willow bed, consisting of 126 short rotation coppice energy crop willow trees over approximately 0.018 hectares (180.6m²).

The applicant will install a British Standard compliant Package Treatment Plant with a high phosphorus efficiency, Pumping Chamber, and a zero-discharge willow bed system to serve the proposed dwelling resulting in no discharge to the downstream sewer network. The applicant shall achieve Nutrient Neutrality through the proposals.

Provided the above mitigation measures are secured by S106 agreement or conditions as appropriate, it is therefore considered unlikely that the proposed development would result in a significant effect upon the integrity of the aquatic invertebrate assemblage of the Somerset Levels and Moors Ramsar alone.

Other ecological matters can be controlled by planning conditions.

Natural England: Agree with the findings of the appropriate assessment, and the measures proposed to mitigate for all identified adverse impacts.

Conservation Officer: No objection.

- No substantive harm to the significance of the listed building or its setting, subject to securing further details through conditions.

Highways: Standing advice.

Local Representations:

One letter of concern has been received raising the following planning issues:

- Northeast elevation shows two windows in the roof of the upstairs bedroom which would look directly into my living room. If these windows are removed from the plans I will no longer object.

NOTE: Following receipt of this objection the plans were amended deleting the referenced rooflights.

Full details of all consultation responses can be found on the Council's website

www.mendip.gov.uk

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies (December 2021) (post JR version)
- Somerset Waste Core Strategy
- Somerset Mineral Plan (2015)

The following policies of the Local Plan Part I are relevant to the determination of this application:

- CP1 (Mendip Spatial Strategy)
- CP2 (Supporting the Provision of New Housing)
- CP4 (Sustaining Rural Communities)

- DP1 (Local Identity and Distinctiveness)
- DP3 (Heritage Conservation)
- DP4 (Mendip's Landscapes)
- DP5 (Biodiversity and Ecological Networks)
- DP6 (Bat Protection)
- DP7 (Design and Amenity of New Development)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)
- DP23 (Managing Flood Risk)

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

Core Policy 1 (CP1) of the adopted “Mendip District Local Plan - Part 1” says that to enable the most sustainable pattern of growth for Mendip District the majority of development will be directed to towards the five principal settlements (Frome, Shepton Mallet, Wells, Glastonbury and Street). This application site is however outside of the Development Limits where CP1 states that any proposed development will be strictly controlled and will only be permitted where it benefits economic activity or extends the range of facilities available to the local communities.

Core Policy 2 (CP2) of the Local Plan states that the delivery of new housing will be secured from three sources (a) Infill, conversions and redevelopments within Development Limits defined on the Proposals Map, (b) Strategic Sites identified on the Key Diagrams for each town associated with Core Policies 6-10 and (c) other allocations of land for housing and, where appropriate, mixed use development, outside of Development Limits through the Site Allocations process. The creation of a dwelling as indicated would not accord with the requirements of CP2 and the strategy for the delivery of housing.

CP4 says that rural settlements and the wider rural area will be sustained by making planned provision for housing within the Primary and Secondary Villages in line with CP1 and CP2 and making allowance for occupational dwellings in rural locations where there is a proven and essential functional need, to support agricultural, forestry and other rural-based enterprises.

The Local Planning Authority (LPA) cannot currently demonstrate a five-year housing land supply in accordance with the requirements of the NPPF. As a result, the policies within the

Local Plan, which seek to prevent new housing outside the development limits of settlements

(CP1, CP2 and CP4) currently have reduced weight in the planning balance. Therefore, whilst regard should be given to the policies in the Local Plan, the ‘presumption in favour of sustainable development’ as set out in paragraph 11(d) of the NPPF applies. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted.

In this regard paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a

significant effect on a habitats site unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Although the application site is situated within the open countryside outside the settlement limits, it is only just outside. Baltonsborough is a primary village which offers key community facilities, employment opportunities and public transport links. There are residential dwellings close and well related to the application site, as such a dwelling would not be considered isolated.

The conclusion section of this report sets out the balance of issues and the recommendation for this application, but in summary it is considered that the development proposed is sustainable.

Design of the Development and Impact on the Street Scene and Surrounding Area and on the Setting of a Listed Building:

The application site sits as part of the garden of Blackberry Farmhouse which is a listed building. This part of the report assesses the impact of the application scheme on the significance of the setting of Blackberry Farmhouse.

The applicant sought pre-application advice, the Conservation officer's comments are summarised;

The principle of a new dwelling on the proposed site could be acceptable if:

- *The new building did not project further eastwards beyond the line of the existing farmhouse.*
- *The new build was set sufficiently far back (northwards) on the site to allow some sense of separation.*
- *The existing small outbuilding was retained as a detached structure.*
- *The scale of the new dwelling was subservient to the farmhouse.*
- *The design was carefully considered.*

The proposed approach of building what is effectively a new barn conversion would be the preferred option. The success of this proposal will rest on the quality of design, appropriate

materials and skilled workmanship. It shouldn't be trying to appear as if it has always been here, nor as a striking newbuild. A balance should be found which results in a traditionally designed building which sits quietly to the rear of the site behind the listed farmhouse.

The proposal is to construct a single 1.5 storey L-shaped dwelling to the north of the farmhouse. It would be visually subservient to the farmhouse but resembling local vernacular farm buildings. The stone building shown on the 1st Edition Ordnance Survey

map are to be retained and used as storage, which means their new function may help to ensure their retention.

The main views of the dwelling will be from the east but given the access and hedgerow these views will be limited. It is therefore considered that the impact of this proposed structure on the significance of the designated heritage asset is limited.

Permitted development rights should only be removed where it is clearly reasonable and necessary, in accordance with guidance contained within the NPPG, and then only when the rights to be removed are clearly defined. Given that the site has the potential to impact on the setting of the adjacent listed building it is considered necessary to restrict further alterations.

Less than significant harm

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering development within the setting of a listed building, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Here it is considered that the proposals are consistent with the aims and requirements of the primary legislation and planning Policy and guidance. The proposals would preserve the setting of the listed building, thereby resulting in no substantive harm to the significance of the designated heritage asset. The proposal accords with Policy DP3 of the adopted Local Plan Part 1 (2014) and part 16 of the National Planning Policy Framework.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with Policies DP1, DP3 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Impact on Archaeology:

The site lies within an area of high archaeological potential.

The submitted desktop archaeology statement says that the direct impacts on any buried archaeology, should anything be present, are considered major adverse. It goes on to say that it is likely that the development of this part of the site would result in low risk to archaeological remains. There is a higher risk to other areas of the property such as the parking area to the west, which is unaffected by the development proposed. The SCC Archaeologist was consulted and did not consider the development would endanger any archaeological remains. Therefore, it is considered the proposal accords with Policy DP3 of

the adopted Local Plan Part 1 (2014), and Part 16 of the National Planning Policy Framework.

Impact on Residential Amenity:

Following receipt of the objection from the occupiers of Farthings which is to the northeast, the plans were amended deleting the offending rooflights. However, a rooflight serving the first floor bathroom is still proposed in the northeast elevation. This was not specifically mentioned in the objection, but in any event, it is not considered to result in harmful amenity issues for the occupiers of the Farthings.

There are no roof windows proposed in the rear elevation and in any event it would back onto the parking area and outbuildings belonging to the adjoining residents. The timber door in the south west elevation first floor is being shown as fixed shut on the plans.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, odour, traffic or other disturbance. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Impact on Ecology:

The application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses, which adversely changes environmental conditions for these species. Any new housing, including single dwellings, will result in an increase in phosphates contained within drainage discharges. As the designated site is in 'unfavourable' condition any increase, including from single dwellings is seen as significant, either alone or in combination with other developments.

The impact of the development on a Ramsar site, by way of the potential to increase phosphate levels, is a material consideration. Therefore, the drainage details, with particular regard to phosphate generation and mitigation, are required to inform the Habitat Regulations Assessment for the current application, in order for the LPA to discharge their legislative duties in this respect.

A HRA and an appropriate assessment has been undertaken and providing the mitigation measures are secured by S106 agreement or conditions as appropriate, it is considered unlikely that the proposed development would result in a significant effect upon the integrity of the aquatic invertebrate assemblage of the Somerset Levels and Moors Ramsar alone.

Other ecological matters can be controlled by planning conditions.

The proposed development will not have an adverse impact on bats or other ecology. The proposal accords with Policies DP5, DP6 and DP8 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Assessment of Highway Issues:

There are no proposed changes to the access for the site. The existing vehicular access which was approved under planning reference 2018/1063/FUL will be utilised. The access has reasonable visibility in both directions.

The proposed access for the site is therefore considered to be in accordance with DP9.

The proposal includes the provision of 3 parking spaces and turning within the site.

The proposed parking for the site is therefore considered to be in accordance with DP10.

Electric car charging points and cycle storage are shown on the submitted plans.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with Policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Land Drainage:

Surface water will be managed via a sustainable drainage system. This will discharge, via a filter drain, to the existing culverted ditch which ultimately discharges into the Mill Stream and the River Brue.

The surface water flood risk to the site comprises a surface water flow route flowing approximately north to south through the site. To mitigate against the risk of surface water flooding to the site surface water entering the site from overland flows will be intercepted by a filter drain along the boundary of the site, discharging directly into the existing culvert. Additionally finished floor levels of the property will be raised 250mm above surrounding ground levels.

The drainage engineer is satisfied that this arrangement is acceptable and suggests a condition to the effect that the development be carried out in accordance with the submitted drainage strategy.

It is considered that to make this clear, a further condition should be imposed which states notwithstanding the details submitted the finished floor level shall be set 250mm above the existing ground level on site in accordance with the drainage strategy.

Foul Drainage will be connected to a package treatment plant discharging to a zero discharge willow bed with overflow pipe to the main sewer system.

The proposed development will not have an adverse impact on flood risk or represent a danger to water quality. The proposal accords with Policies DP8 and DP23 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Refuse Collection:

The submitted drawing show adequate storage space for refuse and recycling.

Environmental Impact Assessment:

This development is not considered to require an Environmental Assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Conclusion:

It is acknowledged that the development will be beyond the settlement limits and therefore would represent a departure from local plan policies regarding its spatial strategy for new residential development as set out at policy CP1 and CP2. However, the application is relatively close to the services and facilities within Baltonsborough which is close to the site and therefore it cannot be described as isolated or an unsustainable location.

Given that the Council does not have a five year housing land supply the tilted balance of Paragraph 11 (d) of the NPPF applies. The additional of a dwelling will make a modest contribution to housing in the district, which is of some weight. There will also be limited

economic benefits through the construction period, and new occupants may use local services and facilities contributing to their long term viability. This again has limited economic and social benefits. Furthermore, it has been demonstrated that the application site is accessible to some local services and facilities, and therefore future occupants would not be wholly reliant on the private car.

Following the assessment of the application as set out above, any impacts arising from the application scheme are not considered significant and would not demonstrably outweigh the benefits delivered. On balance, it is recommended that planning permission be granted as a departure from the Development Plan with conditions and subject to a legal agreement to secure a maintenance plan for the PTP and a Landscape Ecological Management Plan for the willow bed.

Recommendation

Approval

Conditions

1. Standard Time Limit (Compliance)

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permission.

2. Plans List (Compliance)

This decision relates to the following drawings: Location Plan, drawing PL01 and Drainage Strategy and Water Quality Assessment Issue 1.1 (Reference 354134-SWDS) dated 28.05.22 received 16.08.22, drawings PL-02A and PL-03A received 09.09.22, PL-04B and PL-05B received 23.12.22, Operation, Monitoring and Maintenance Report Issue 1.1 (reference 354134-OMMP) dated 03.05.23 and received 03.05.23, Nutrient Neutrality Assessment and Mitigation Strategy Issue 1.3 (Reference 354134-NNAMS) dated 07.03.23 and received 05.05.23.

Reason: To define the terms and extent of the permission.

3. Materials - Submission of Schedule and Samples (Bespoke Trigger)

No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall

thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area and setting of the listed building in accordance with Development Policies 1, 3 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Sample Panel - Walling (Bespoke Trigger)**

No construction of the external walls of the development shall commence until a sample panel of all external walling materials to be used has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area and the setting of the listed building in accordance with Development Policies 1, 3 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Joinery Details - Submission of Details (Bespoke Trigger)**

No piece of external joinery, including the rooflight, shall be installed or undertaken unless full details of that piece have been first submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross-sections, profiles, reveal, surrounds, materials, finish and colour. The make and model of rooflight will suffice. The works shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area and the setting of the listed building in accordance with Development Policies 1, 3 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Ducts, Pipes, Rainwater Goods - Submission of Details (Bespoke Trigger)**

No ducts, pipes, rainwater goods, vents or other external attachments shall be fitted or installed unless in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. All such attachments shall thereafter be retained in that form.

Reason: In the interests of the appearance of the development and the surrounding area and the setting of the listed building in accordance with Development Policies 1, 3 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. **Parking (Pre-occupation)**

No occupation of the development shall commence until the parking and turning space shown on drawing PL-04B have been provided on-site and should be retained permanently thereafter.

Reason: To ensure that adequate and safe parking and turning is provided in the interests of amenity and highway safety in accordance with Development Policies 9 and 10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. **Electric Vehicle Charging (Pre Occupation)**

The dwelling shall not be occupied until it is served by at least 1no. active electric vehicle charging point in line with the requirements set out in Somerset Council Electric Vehicle Charging Strategy 2020. Each active charging point must be at least 7kW, an untethered connection i.e., only a socket without a built-in cable, and capable of Mode 3 charging. Charging provision shall be retained permanently thereafter.

Reason: To encourage use of electric vehicles and reduce carbon dioxide emissions in accordance with the Somerset County Council Electric Vehicle Charging Strategy (2020), Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (2014) and the Mendip District Council Supplementary Planning Document Design and Amenity of New Development: Guidance for interpretation of Local Plan Policy DP7 (adopted March 2022).

9. **Removal of Permitted Development Rights - No extensions or alterations (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwelling or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions or alterations require detailed consideration by the Local Planning Authority to safeguard the character and appearance of the dwelling and the setting of the listed building and in the interests of neighbour amenity in accordance with Development Policy 1, 4, 3, and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

10. **Removal of Permitted Development Rights - No outbuildings (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages or other free standing buildings shall be erected within the curtilage of the dwelling hereby approved, other than those granted by this permission, unless a further planning permission has been granted by the Local Planning Authority.

Reason: The introduction of further curtilage buildings requires detailed consideration by the Local Planning Authority to safeguard the appearance of the development, the setting of the listed building and the amenities of the surrounding area and residents in accordance with Development Policies 1, 3, 4 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

11. **Surface Water Drainage Strategy (Compliance)**

The development shall only be carried out in accordance with the approved Surface Water Drainage Strategy (Drainage Strategy and Water Quality Assessment Issue 1.1 (Reference 354134-SWDS) dated 28.05.22 received 16.08.22).

Reason: In the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding in accordance with Development Policies 7, 8 and 23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

12. **Flooding - Levels (Pre-Occupation)**

The dwelling hereby approved shall not be occupied unless the slab levels of the property are 250mm above existing ground level.

Reason: To limit the risk from flooding and minimise the risk to its occupants in accordance with Development Policy 23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and section 14 of the National Planning Policy Framework.

13. **Drainage - Foul (Compliance)**

The approved development shall only be carried out in accordance with the approved documents: Nutrient Neutrality Assessment and Mitigation Strategy Issue 1.3 (Reference 354134-NNAMS) dated 07.03.23 and received 05.05.23.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment with specific regard to the Somerset Levels and Moors Ramsar Site and associated potential impact on ecology in accordance with Development Policies 5, 8 and 23 of the Mendip District Local Plan Part 1: Strategy

14. **External Lighting (Bespoke Trigger)**

Where external lighting is to be installed, prior to construction above damp-proof course level, a lighting design for bats, following Guidance Not 08/23 - bats and artificial lighting at night (ILP and BCT 2023), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed. Lux levels should be below 0.5 Lux on key and supporting features or habitats. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the integrity of a European site, the Favourable Conservation Status of populations of European Protected Species, and in accordance with Mendip District Council Local Plan Part 1 Policies DP5 and DP6 of the Mendip District Council Local Plan Part 2 and Chapter 15 of the National Planning Policy Framework 2021.

15. **Nesting Bird Protection (Bespoke Trigger)**

No removal of trees, hedges, or shrubs shall take place between 1st March and 30th September inclusive, unless a Survey to assess the nesting bird activity on the site during this period and a Scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority. No tree, hedge or shrub shall be removed between 1st March and 30th September inclusive other than in accordance with the approved bird nesting protection scheme.

Reason: To protect nesting birds and prevent ecological harm in accordance with Development Policy 5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

16. **Tree Hedge Protection - Implementation (Compliance)**

All retained hedgerows and trees shall be protected from mechanical damage, pollution incidents and compaction of roots in accordance with BS5837:2012 during site clearance works, groundworks and construction and to ensure materials are not stored at the base of trees, hedgerows and other sensitive habitats. The measures shall be maintained throughout the construction period.

Reason: To ensure that the trees and hedgerows are protected from potentially damaging activities in the interests of European and UK protected species and

biodiversity generally and in accordance with Development Policy 1 and 5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

17. **Reptile Mitigation (Compliance)**

Vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10½C or above) before clearing to minimise the risk of harming/killing any reptiles that may be present and to encourage their movement onto adjoining land. Written notification of the date of the operations will be submitted to the Local Planning Authority prior to the works being undertaken. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible.

Reason: To prevent ecological harm and in the interests of UK protected and priority species and in accordance with Development Policy 5 of the Mendip District Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014).

18. **Biodiversity Enhancement (Net Gain) (Pre-occupation)**

No occupation shall commence until the following have been installed within the application site:

- a) A Habitat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows of the west or south facing elevation;
- b) Two Vivara Pro Woodstone Nest Boxes (1x 32mm hole version and 1x open front design)) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees and maintained thereafter.
- c) A hedgehog house will be placed where it will not be disturbed (ie against a wall, bank or fence) and under or near plant cover. Face the entrance away from north or north-east direction; and
- d) An insect hotel (National Trust Apex insect House or similar), to be installed appropriately and positioned at the correct orientation e.g., within one of the hedgerows.

The bat box and bird box shall be retained thereafter in perpetuity.

Reason: To provide biodiversity net gain in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014) and Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National Planning Policy

Framework.

Informatives

1. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.

2. **Condition Categories**

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

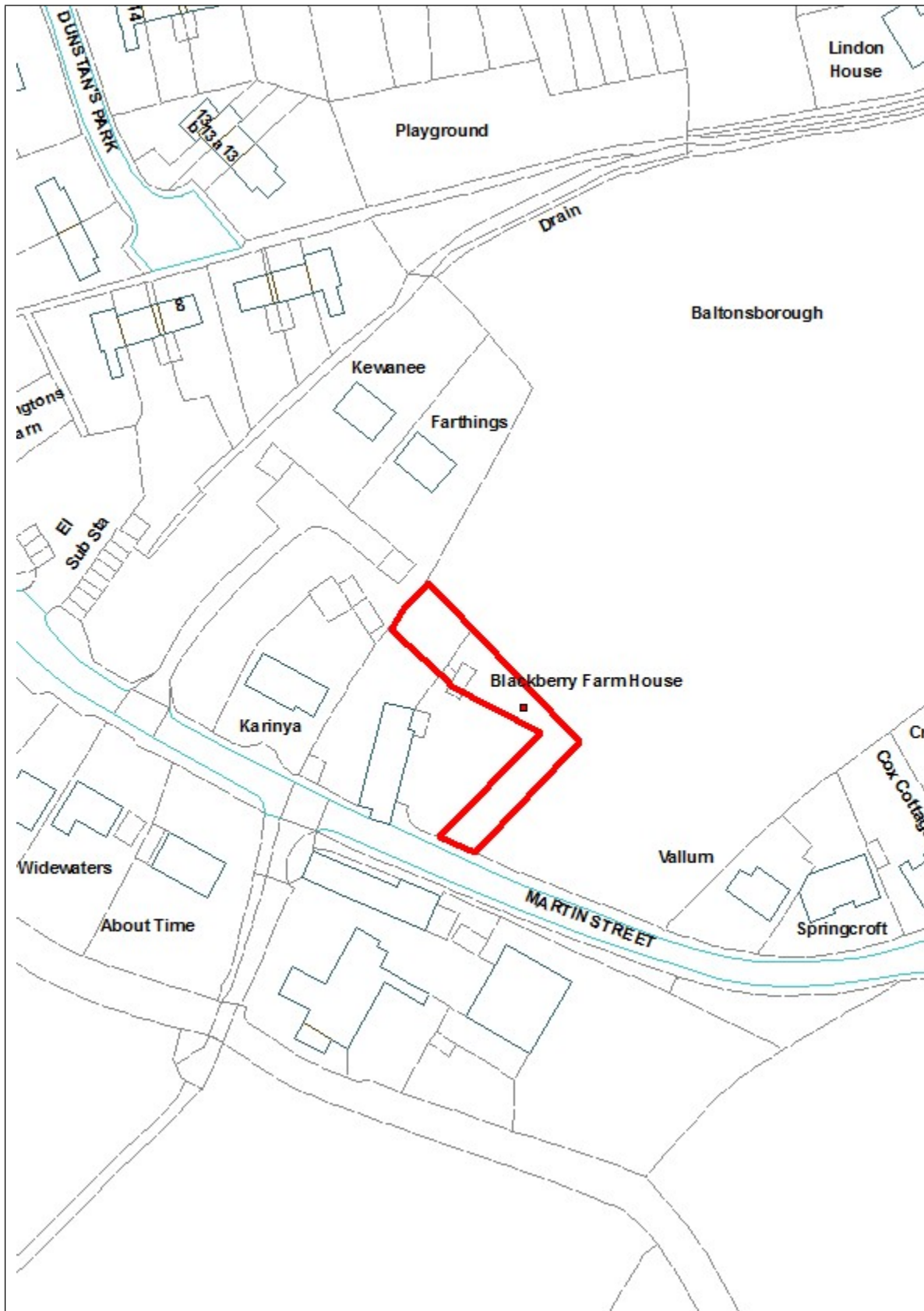
Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. In order to discharge conditions relating to the approval of external walling and roofing materials, please ensure that materials are left on site for approval and NOT brought to the Council Offices. When applying for the approval of materials, you must state precisely where on site any samples have been made available for viewing.
5. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
6. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
7. The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations, or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during the implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest opportunity.

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Planning Board Report 7th November 2023
Blackberry Farm House
Martin Street
Baltonsborough
Glastonbury
Somerset

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Application Number	2023/1106/FUL
Case Officer	Jennifer Alvis
Site	Penning Barn Down Lane West Pennard Glastonbury Somerset
Date Validated	16 June 2023
Applicant/	Mr Phil Creed
Organisation	
Application Type	Full Application
Proposal	Replacement of an existing barn with a single storey dwelling and detached annexe
Division	Mendip South Division
Parish	West Pennard Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

6. **What.3.Words:** twee.contain.began

Scheme of Delegation:

In accordance with the scheme of delegation, this application is referred to the planning committee for a decision. This is because the proposal represents a departure from the Local Plan.

Description of Site, Proposal and Constraints:

This site is land south of Down Lane, West Pennard.

Down Lane is a single width carriageway, there is a barn to the south side of the lane which is traditional in character, stone built with a clay tiled roof. It is open fronted on the south side, with fields to the east, west and south. There is a public right of way to the east of the building.

The site is located outside the settlement limits of Mendip District Local Plan Part I: Strategy and Policies (December 2014) (MDLP) and within the Somerset Levels and Moors Ramsar catchment area.

This application seeks full permission for the replacement of the existing barn with a 4no. bed dwelling and associated detached garage with annexe. The site currently

benefits from consent for the conversion of the barn to a dwelling under Prior Approval Class Q (ref: 2022/1905/PAA) and full planning permission (ref: 2022/0917/FUL) for the conversion of the barn with an extension, both of which remain extant.

Relevant History:

2019/0152/FUL – Conversion and extension of existing barn to one dwelling.
Approval. 15.03.19

2022/1905/PAA - Prior Approval for a proposed change of use of agricultural building to a dwellinghouse (Class C3) and for associated operational development.
Prior approval given. 04.11.22

2022/0917/FUL - Change of use from an existing agricultural barn to a residential dwelling. - Approved - Nov 2022

Summary of Ward Councillor comments, Town/Parish Council comments, representations and consultee comments:

Ward Member: No comments received.

West Pennard Parish Council: Approval

Highways: Standing Advice

Contaminated Land: No objection.

- Due to the nature of farms, it would be advised to keep a watching brief for potential hotspots of contamination.

SCC Rights of Way: Comment.

- There is a public right of way (PROW) recorded on the Definitive Map that abuts the site (public footpath WS 14/50) at the present time. Any proposed works must not encroach onto the width of the PROW.

SCC Ecology: No response received. Please see ecology assessment as part of this report.

Local Representations: No letters of local representation have been received

Full details of all consultation responses can be found on the Council's website www.mendip.gov.uk

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies (December 2021)
- Somerset Waste Core Strategy (2013)

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 (Mendip Spatial Strategy)
- CP2 (Housing)
- CP4 (Sustaining Rural Communities)
- DP1 (Local Identity and Distinctiveness)
- DP4 (Mendip's Landscapes)
- DP5 (Biodiversity and Ecological Networks)
- DP6 (Bat Protection)
- DP7 (Design and Amenity)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)
- DP23 (Managing Flood Risk)

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- The Countywide Parking Strategy (2013)

- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

Policies CP1 and CP2 of MDLP seek to direct new residential development towards the Principal settlements and within defined Development Limits, which is consistent with the aims of creating sustainable development and protecting the countryside as described in the NPPF. Policy CP4, amongst other things, seeks to strictly control residential development in the open countryside save for specific exceptions (Development Policies 12, 13, and 22), which do not apply in this case as the proposal seeks to demolish the existing barn rather than convert it. Policy CP1 directs that new housing should be located in sustainable locations in the 5 market towns and villages near to services and facilities.

The Local Planning Authority (LPA) cannot currently demonstrate a five-year housing land supply in accordance with the requirements of the NPPF. As a result, the policies within the Local Plan, which seek to prevent new housing outside the development limits of settlements (CP1, CP2 and CP4) currently have limited weight. Therefore, whilst regard should be given to the policies in the Local Plan, the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted.

The planning history is a material consideration and in 2022, reference 2022/0917/FUL, planning permission was granted for the change of use of the barn, with an extension, to a residential dwelling. That permission remains extant and as such could still be implemented. Prior approval has also recently been granted, reference 2022/1905/PAA, for the change of use of the barn to a dwellinghouse and

for associated operational development. It is accepted that the proposal for prior approval of permitted development need not be subject to an Habitat Regulations Assessment (HRA) and therefore no mitigation with regard to any possible increased phosphate loading can be required. This is discussed further in the ecology section below.

Although the site is outside the settlement limits where development is strictly controlled there is planning history on the site in the form of the two 2022 permissions mentioned above, for the conversion of the barn to a residential dwelling. As these permissions remain extant, they are a material consideration when determining the current application for the demolition of the barn and replacement with one 4no. bed dwelling.

The proposed annexe will consist of an office and wc with a car port to the north. Given the scale and facilities proposed within the annexe it's not considered capable of independent occupation and would remain ancillary to the host house. A condition to ensure the annexe remains ancillary to the main house is proposed, should the application be approved.

The principle of the residential use on this site has been established and is considered acceptable in line with the provision of policy DP22 of MDLP under 2022/0917/FUL. Further consideration of the design of the proposal, and its impact on the character and appearance of the area, highway safety, ecology, neighbour amenity etc. will be discussed below.

Design of the Development and Impact on the Street Scene and Surrounding Area:

Although the current proposal is to demolish the existing barn and construct a new build on the site, as opposed to the conversion of the barn as per the previous consent, the new build will be of a similar height, scale and massing as the conversion. The footprint will increase slightly through the enlargement of the southern section of the building but this would not be considered excessive or go beyond what would be considered acceptable should this extension have been proposed at a later stage. The site is large enough to accommodate the increase in footprint and the addition of an annexe without appearing as over-development or cramped.

The proposal remains single storey in height and will be partially screened from the rural lane by the existing high hedge rows. A public footpath also runs down the eastern edge of the site and to the rear of the proposed carport and annexe. The

proposed timber cladding of the car port/annexe would complement the rural character of the area and act as a screen for the rest of the site when viewed from this public vantage point. Although the gradient of the land falls away to the south, the low level design of the dwelling along with the use of local stone and oak timber on the south elevation, which reflects that of the current barn, results in a proposal which will sit comfortably within the landscape without appearing as an incongruous feature.

As matter of planning balance it is considered that the demolition of the redundant building and replacement with a new dwelling sympathetic to the location and size of the site, with associated works, would respect the rural character the area and would lead to an enhancement of the immediate setting in accordance with DP1, DP4 and DP7 of the Local Plan Part 1

Impact on Residential Amenity:

The barn is single storey with no immediate neighbours as such the development proposed would not result in harm to amenity. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Impact on Ecology:

The application site is mapped by Natural England as falling within the water catchment flowing into the Somerset Levels and Moors Ramsar site, designated for its rare aquatic invertebrates, which is currently in an unfavourable condition. As such the proposal may have the potential to contribute to additional phosphate loading in the Ramsar site. Planning applications for such proposals are normally subject to an HRA under the Habitat Regulations. However, applications for prior approval of permitted development under the provisions of the General Permitted Development Order 2015 (as amended) are treated differently. Natural England have pointed out that ODPM circular (06/05 & 01/2005) advises that permitted development affecting the Ramsar is not required to be subject to HRA through the prior approval process, because the Habitats Regulations relating to permitted development (Regs 75-77, formerly Reg 60) are stated to not apply to Ramsar Sites, as a matter of policy.

The Council has sought advice on this matter and agrees with Natural England's position.

On this basis and taking into account the approval to convert the existing barn on the site into a residential dwelling (LPA case ref: 2022/1905/PAA) it is considered that the applicant has a legitimate implementable scheme to deliver a dwelling on the site, It is therefore considered that a Habitats Regulations Assessment in this instance is not required.

The proposed annexe is not considered capable of independent occupation given the scale and facilities proposed. As such it would be associated with the main house and not result in additional phosphate production.

Conditions are recommended to safeguard other ecological habitat across the site and to achieve biodiversity net gain as shown on drawing 1698/071 B.

The proposed development will not have an adverse impact on bats or other ecology. The proposal accords with Policies DP5, DP6 and DP8 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Assessment of Highway Issues:

There is an existing field gated entrance to the site which will be utilised to serve the proposed dwelling and has previously been considered acceptable as assessed under 2022/0917/FUL. There is ample space within the site for the parking and turning of vehicles.

Given the topography of the lane and the likely traffic speeds it is considered that the means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Drainage:

While a drainage engineer did not comment on this application, it's considered reasonable to reimpose the drainage conditions as recommended on the previous consent on the site under ref; 2022/0917/FUL

The proposed development will not have an adverse impact on flood risk or represent a danger to water quality. The proposal accords with Policies DP8 and DP23 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Environmental Impact Assessment

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Conclusion and Planning Balance:

The overall thrust of Government Policy as set out in the updated NPPF is to encourage the delivery of sustainable development and requires Local Authorities to boost significantly the supply of housing. As the Council cannot demonstrate a 5 year housing land supply, this application is considered in the tilted balance as set out in para 11d of the NPPF is engaged, confirming that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.

In this case no material harm has been identified regards the application proposal - refer to assessment above. The fact that the site already benefits from permission for a barn conversion is recognised and taken into account in arriving at this conclusion, and should be given significant weight.

In summary, given that the site already benefits from a fall back position in the barn conversion, the new proposal will not result in any additional harm above that already permitted in terms of sustainability, and no material harm has been identified. The application is therefore recommended for approval as a departure from the Development Plan.

Recommendation

Approval

Conditions

1. Standard Time Limit (Compliance)

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2. Plans List (Compliance)

This decision relates to the following drawings: 1698/001, 1698/002, 1698/010, 1698/020, 1698/021, 1698/032A, 1698/060A, 1698/061, 1698/062A, 1698/070A, 1698/071B

Reason: To define the terms and extent of the permission.

3. Materials (Compliance)

The development hereby approved shall be carried out using external facing and roofing materials as specified on the Schedule of Materials ref; 1698_Penning Barn.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. Access, Parking and Turning Areas (Pre-occupation)

No occupation shall commence until the access, parking and turning areas have been constructed in accordance with details shown on the approved plans. The vehicular access, parking and turning shall thereafter be kept clear of obstruction and shall not be used other than for the access and parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that suitable access, parking and turning areas are provided and thereafter retained in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Surface Water Drainage System (Pre-occupation)**

Prior to occupation of the development a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of phasing, implementation and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details.

Reason: In the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding in accordance with Policies DP8 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Drainage - Foul (Pre-occupation)**

Prior to occupation of the development a detailed scheme for the disposal of foul drainage from the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and completed prior to the occupation of the dwelling.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment in accordance with Development Policies 8 and 23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. **Nesting Bird Protection (Bespoke Trigger)**

No development or demolition of the existing roof structures, including rooflights, soffits, fascias, bargeboards, and guttering, shall take place between 1st March and 31st September unless a survey to assess the nesting bird activity on the site during this period and a Scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority. No development to the roof, including rooflights, soffits, fascias, bargeboards, and guttering, shall take place between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.

Reason: To protect nesting birds and prevent ecological harm in accordance with Development Policy 5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. **External Lighting (Bespoke Trigger)**

Prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018) shall be submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the agreed details and maintained as such thereafter. No other external lighting shall be installed.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and protecting the character and appearance of the countryside in accordance with Development Policies 1, 4, 5, 6, 7 and 8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

9. **Biodiversity Enhancement (Net Gain) (Pre-occupation)**

No occupation shall commence until the following have been installed within the application site:

- a. erection of an Eco Barn Owl nest box (or similar design) within a suitable tree or building at least 3 metres above ground,
- b. a Beaumaris Woodstone maxi bat box or similar to be mounted under the apex of the west elevation of the proposed dwelling (as shown on drawing ref; 1698/071B)
- c. three artificial nest cups for nesting swallows within the car port (as shown on drawing ref; 1698/032A)
- d. other biodiversity net gain features as shown on drawing ref 1698/071B and 1698/032A

Evidence, to include photos, of the implementation of these features shall be submitted to the Local Planning Authority for written approval. The bat box and nesting provisions shall be retained thereafter in perpetuity.

Reason: To provide biodiversity net gain in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014) and Government policy for the enhancement of biodiversity within development as set out in the National Planning Policy Framework.

10. **Removal of Permitted Development Rights - No extensions or alterations (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting

that Order with or without modification) no extension, external alteration or enlargement of the dwelling or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: In the interests of the appearance of the development and the surrounding area and in accordance with Development Policies 1, 4, 7 and 22 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. Condition Categories

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request

(or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
5. Due to the nature of farms, a watching brief should be kept for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any groundworks.
If any unforeseen contamination is found during excavations Environmental Health must be notified immediately. This may include obvious visual or olfactory residues, asbestos including asbestos containing materials such as roofing, buried drums, drains, interceptors, additional fuel storage tanks or any other unexpected hazards that may be discovered during site works.
6. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.

7. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the unlikely event that bats are encountered during implementation of this permission it is recommended that works stop, and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.

8. The developers are reminded of the legal protection afforded to badgers and their resting places under the Protection of Badgers Act 1992 (as amended). It is advised that during construction, excavations or large pipes (>200mm diameter) must be covered at night. Any open excavations will need a means of escape, for example a plank or sloped end, to allow any animals to escape. In the event that badgers, or signs of badgers are unexpectedly encountered during implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.



Planning Board Report 7th November 2023
Penning Barn
Down Lane
West Pennard
Glastonbury
Somerset

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Application Number	2023/0490/FUL
Case Officer	Jennifer Alvis
Site	Land At 374566 143893 Main Frome Road To Foghamshire Lane Trudoxhill Frome Somerset
Date Validated	15 May 2023
Applicant/ Organisation	Mr Nicholas Clinch
Application Type	Full Application
Proposal	Demolish outbuilding and erection of 1no 3 bed dwellinghouse. (Re-submission of 2022/2254/FUL).
Division	Mendip Central And East Division
Parish	Trudoxhill Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

8. **What 3 Words:**

Access to Site - syndicate.autumn.safest

Location of Dwelling - testers.dished.costumed

Referral to Ward Member/Chair and Vice Chair/Planning Board

This application is referred to Planning Board due to the application proposing a new property outside development limits which is a departure from the Local Plan.

Description of Site, Proposal and Constraints:

This application relates to land to the west of Main Frome Road to Foghamshire Lane, Trudoxhill. The application site is located in the open countryside, outside the development limits of any settlement but within the curtilage of a property known as Gaerleat and is currently occupied by an indoor swimming pool. The site also falls within an Air Limit Civilian Zone, Band C of the Bat Consultation Zone for Mells Valley Special Area of Conservation, and a SSSI Impact Risk Zone

This application seeks full planning permission for the demolition of the existing swimming pool building and the erection of a single storey dwelling. The access will utilise the existing access track to Gaerleat

Relevant History:

2022/2254/FUL - Demolish outbuilding and erection of 1no 3 bed dwellinghouse. -
Withdrawn

071285/009 - Demolition of existing outbuilding and erection of indoor pool - Approved -
Oct 2000

Summary of Ward Councillor comments, Town/Parish Council comments, representations and consultee comments:

Ward Member: No response

Town/Parish Council: Decision to be left to the planning officer

Highways Development Officer: Standing Advice

Environmental Protection: No objection subject to a condition which restricts construction hours

Local Representations: One letter of local representation have been received objecting to the proposal and raising the following concerns:

- Drawings are inconsistent
- Loss of privacy
- Noise impact
- Lighting impact on amenity and ecology
- Encroachment into the countryside
- Drainage issues

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies (December 2021)
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 – Mendip Spatial Strategy
- CP2 – Housing
- CP4 - Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP4 - Mendip’s Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP6 – Bat Protection
- DP7 - Design and Amenity
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP23 - Managing Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

The settlement of Trudoxhill is not included within the spatial strategy as set out in the adopted local plan where there would be policy support for new residential development, and therefore the site is classified as open countryside location. Policies CP1 and CP2 seek to direct new residential development towards the principal settlements and within defined Development Limits, which is consistent with the aims of creating sustainable development and protecting the countryside as described in the NPPF. Policy CP4, amongst other things, seeks to strictly control residential development in the open countryside save for specific exceptions (Development Policies 12, 13, and 22), which do not apply in this case.

The council cannot currently demonstrate a five-year housing land supply in accordance with the requirements of the NPPF. As a result, the policies within the Local Plan, which seek to

prevent new housing outside the development limits of settlements (CP1, CP2 and CP4) currently have limited weight. Therefore, whilst regard should be given to the policies in the Local Plan, the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted.

Under the circumstances, it is necessary to consider the details of the site's accessibility and proximity to services in order to determine whether it would be sufficiently sustainable in terms of its location. Trudoxhill has a pub/restaurant along with a village hall and church which are within walking distance of the site. Given the short walking distance to some services and that the proposal is of a very modest scale adjacent to a named settlement; it is considered, on balance, that there are enough alternatives to travel by car to suggest that the location is sufficiently sustainable in this case.

Design of the Development and Impact on the Street Scene and Surrounding Area:

The proposal seeks to demolish the indoor swimming pool, infill the pool and build the proposed dwelling on the same site. The proposed dwelling is single storey and largely retains the footprint of the existing pool building in terms of scale with a minor addition to the west elevation. There is sufficient space within the site to accommodate a small scale dwelling without the development resulting in a cramped appearance or over development.

The site is tucked away behind existing properties and as such will largely be screened from the nearest public highway to the east.

It is considered that the proposed dwelling could be accommodated within the application site without causing unacceptable harm to the street scene or surrounding area, subject to details of the design being agreed on a reserved matters application. The proposal accords with Policies DP1 and DP7 of the Local Plan.

Impact on Residential Amenity:

An original scheme on the site proposed a two storey dwelling, this has now been reduced to single storey following comments from the neighbours to the east in regards the potential impact on privacy, light and overbearing. The proposed single storey dwelling, while higher than the original pool building, is still modest in scale and would not be considered to impact on the amenity of neighbouring occupiers given the high boundary hedge between the sites. Any fenestrations are either at ground floor level, and therefore screened by the hedge, or the roof lights will be at such an angle, and serving non-habitable rooms (en-suite and hallway), that it's not considered they would result in overlooking. It's considered reasonable

to impose conditions which remove permitted development rights for extensions in order to protect the ongoing relationship between the two properties.

The plans show sufficient amenity space for both Gaerleat and the proposed dwelling without compromising on scale or resulting in a cramped appearance.

Concerns were also raised regarding noise impacts however any noise from construction would be temporary and as such we can't take this into consideration when making a determination however an hours of construction condition will be applied to mitigate this in the short term. It's not considered that the noise created by the additional vehicle movements associated with the new dwelling would be significant enough to warrant a reason for refusal.

Subject to the use of the aforementioned conditions, and given the proposal's siting, scale, and design, it would not be considered to result in unacceptable harm to the amenities of neighbours. As such, the proposal accords with Policy DP7 of the Local Plan.

Assessment of Highway Issues:

The application would introduce a parking area to the front (north east) of the proposed dwelling for three vehicles with sufficient space for turning which accords with Somerset Parking Standards. Sufficient parking and turning space is also retained for the existing dwelling.

It is considered that permission should ensure the spaces are provided prior to any occupation of the dwelling and this is proposed to be secured through condition.

The access is existing and already serves Gaerleat with good visibility onto the highway.

The means of access and parking arrangements are acceptable and would adequately maintain highway safety standards. The proposal accords with Policy DP9 and DP10 of the Local Plan.

Impact on Ecology:

The site and its surroundings fall within the Bat Consultation Zone (Band C) for the Mells Valley SAC. The proposal would introduce a single dwelling-house to the area, though given the predominately built environment surrounding the site, and that the site comprises domestic curtilage, it is considered unlikely that the application would impact this designation.

An informative is considered sufficient to cover any potential bat roosting features and

nesting birds within the application site, and draw the applicant's attention to their legal obligations in relation to protected species. Accordingly, the proposal is considered to adequately safeguard ecology, in accordance with Policy DP5 and DP6 of the Local Plan .

Sustainability

Given the location of the proposal, which is only considered to be marginally sustainable, further environmental benefits should be sought, including the use of renewable energy sources and the installation of an electric vehicle charging point which can be secured through condition.

Refuse Collection:

There is ample space on site for an area to be allocated which is accessible from the highway for collection.

Environmental Impact Assessment

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Planning Balance and Conclusion:

It is acknowledged that the development will be beyond the settlement limits and therefore would represent a departure from local plan policies regarding its spatial strategy for new residential development as set out at policy CP1 and CP2. However the application site is considered to be in walking distance of some key services and is not considered isolated.

Given that the Council does not have a five year housing land supply the tilted balance of Paragraph 11 (d) of the NPPF applies. The additional of a dwelling will make a modest contribution to housing in the district, which is of some weight.

Following the assessment of the application as set out above, any impacts arising from the application scheme are not considered significant and would not demonstrably outweigh the benefits delivered. On balance, it is recommended that planning permission be granted as a departure from the Development Plan with conditions.

Recommendation

Approval

Conditions

1. Standard Time Limit (Compliance)

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2. Plans List (Compliance)

This decision relates to the following drawings: HRDCSN/003, HRDCSN/004, HRDCSN/005, HRDSN-REV/001, HRDSN-REV/002

Reason: To define the terms and extent of the permission.

3. Parking Area (Pre-occupation)

The dwelling hereby approved shall not be occupied until the parking spaces shown on drawing HRDCSN/004 have been laid out in accordance with the approved plans and made available for the parking of vehicles. The parking spaces shall thereafter be retained for the parking of vehicles associated with the dwelling and for no other purpose.

Reason: To ensure that sufficient parking is provided to serve the approved development in the interests of highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Removal of Permitted Development Rights - No extensions or alterations (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the amenity of the neighbouring occupiers in accordance with Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Hours of Construction (Compliance)**

Noise emissions from the site during the development, i.e. the demolition, clearance and redevelopment of the site, shall not occur outside of the following hours:

Mon - Fri 08.00 - 18.00

Sat 08.00 - 13.00

All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. **Condition Categories**

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

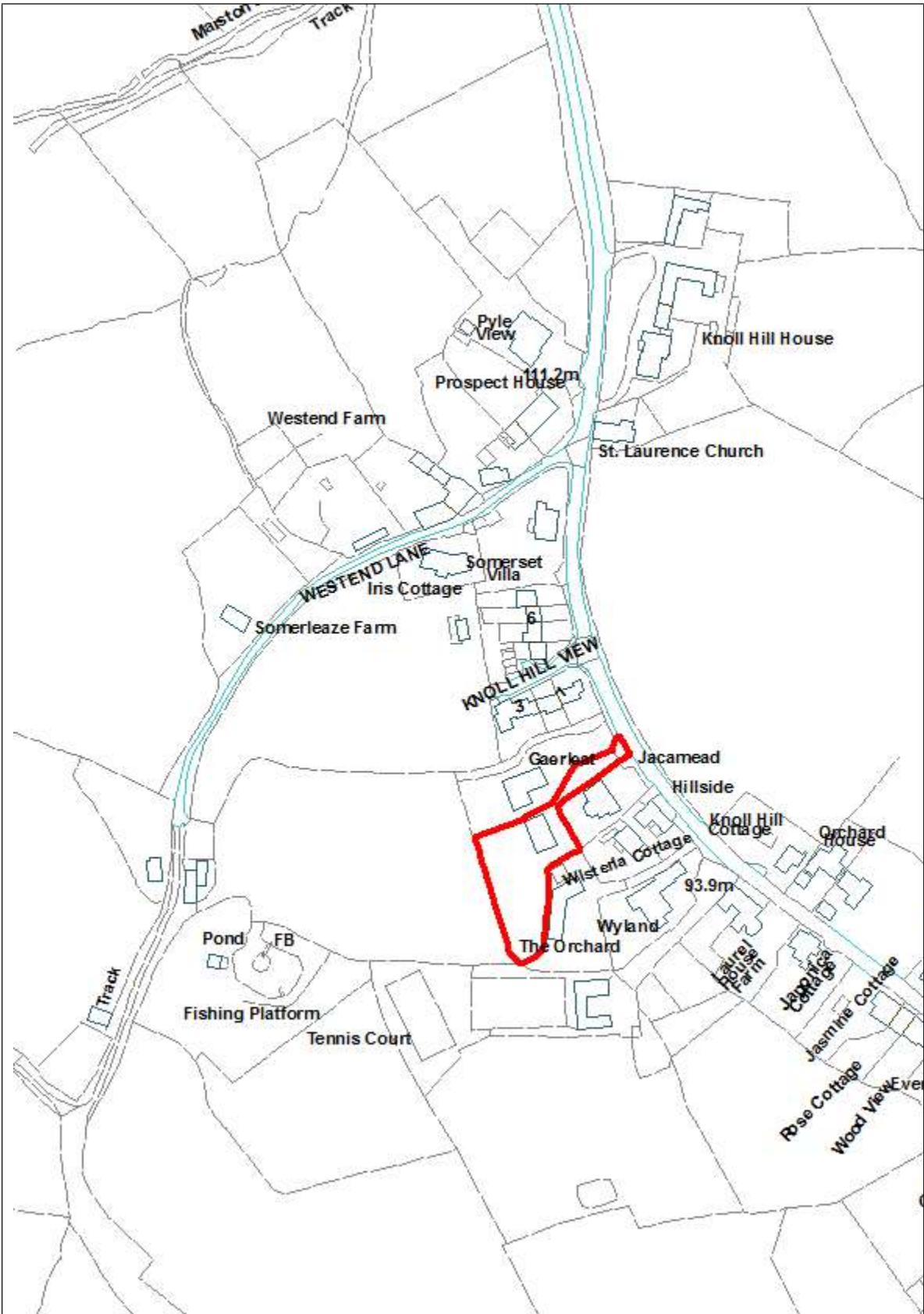
Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>

5. Before commencing any works to trees or existing structures, please note that, under the provisions of the Wildlife & Countryside Act of 1981, between the 1st March to 31st August, no works should be undertaken to trees or structures which would result in disturbance or loss of habitat of nesting birds. Contravention of the Act is a criminal offence. It should also be noted that bats and their habitats are protected by law and if bats are found to be present in the trees or structures works should immediately cease until specialist advice has been obtained from Natural England.



Planning Board Report 7th November 2023
 Land At 374566 143893
 Main Frome Road To Foghamshire Lane
 Trudoxhill
 Frome
 Somerset

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Application Number	2023/0897/FUL
Case Officer	Jennifer Alvis
Site	Laurel House Farm Main Frome Road To Foghamshire Lane Trudoxhill Frome Somerset
Date Validated	15 June 2023
Applicant/ Organisation	Helen Marjoram
Application Type	Full Application
Proposal	Erection of annexe/outbuilding with ancillary use to the main house and associated change of use of a parcel of land from agricultural to residential for the siting of the annexe.
Division	Mendip Central And East Division
Parish	Trudoxhill Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

9.

What3Words - overused.flagged.hips

Scheme of Delegation:

In accordance with the scheme of delegation, this application is referred to the planning committee for a decision. This is because the proposal represents a departure from the Local Plan.

Description of Site, Proposal and Constraints:

The application site relates to a property known as Laurel House Farm, Trudoxhill. The host property is an existing detached dwellinghouse set within the named settlement of Trudoxhill with open agricultural land to the east, and neighbouring properties to the north and south. The access to the site is from Main Frome Road to Foghamshire Lane to the east. Trudoxhill does not have development limits and as such, in planning terms, the site lies in the open countryside but it is not an isolated location. Laurel House Farm is also a Grade II Listed Building.

The proposal seeks a change of use on a section of land, approx 45sqm, to the west of the main property from agricultural to residential in order to site a single storey ancillary structure to house a garage, workshop, home office and w/c.

Relevant History:

2021/1344/LBC - Erection of annexe with ancillary use to the main house. Replacement gates to the road. - Withdrawn July 2022

2021/1343/HSE - Erection of annexe with ancillary use to the main house. Replacement gates to the road. - Withdrawn July 2022

2022/1588/L4PA - Erection of outbuilding/garage/ancillary use with pastureland to residential garden use

2023/0272/HSE - Erection of annexe / outbuilding with ancillary use to the main house. - Withdrawn May 2023

2023/0273/LBC - Erection of annexe / outbuilding with ancillary use to the main house. - Withdrawn May 2023

2022/1581/LBC - Replacement of existing access gates. - Approved - June 2023

2022/1580/HSE - Replacement of existing access gates. - Approved - June 2023

Summary of Ward Councillor comments, Town/Parish Council comments, representations and consultee comments:

Ward Member: No response

Parish Council: Recommend refusal for the following reasons

- Site is too close to neighbouring properties
- Proposed building is too large and out of character
- Impact on the setting of the listed building
- Impact on neighbouring residential amenity through its large scale
- Proposal is on agricultural land which could set a precedent and is contrary to development plans for the village

Environmental Protection: No comments to make

Archaeology: No objection

Conservation Officer: Comments as per pre-app 2022/1588/L4PA

The principle of a single-storey outbuilding is acceptable within the site provided it is of an appropriate design, scale and position, ensuring subservience to the listed building.

Following discussions on site, it is my recommendation that the building be positioned further back into the site, keeping towards the northern edge where the current tarmac driveway is but not as far back as was originally proposed (under withdrawn applications 2021/1344/LBC and 2021/1343/HSE). This is due to concern that a building in the south-west corner of the site, as was initially proposed, would be in too elevated/prominent a position due to the steep incline of the land.

It is also recommended that revisions be made to the design of the garage doors. A set of side-hung timber doors in a more traditional style would be more sympathetic in the context than a standard modern/metal design. In terms of materials, I recommend reverting to the corrugated metal roof covering. I also recommend positioning the proposed solar panels further towards the south-west end of the building. Rooflights should also be kept to a minimum and where possible limited to the north-west roof slope.

I suggest that further context is provided in the drawings submitted with any forthcoming application in order for us to fully assess the impact of the development (e.g. a section through the site showing relative heights). This is due to the topography of the site and its proximity to adjacent buildings. The impact of the outbuilding could also be softened through the introduction of some further planting, and it would be necessary to see any associated landscaping proposals.

We will need to see samples of any facing materials for the development as well as full specification of any solar panels and rooflights and joinery details for windows and doors. If these are not submitted during the course of the application, we could secure this via condition.

Local Representations: Four letters of objection have been received raising the following concerns

- Proximity of the annexe to the neighbouring property
- The difference in ground levels are not accurately shown
- Overbearing impact
- Contrary to policy as it's on agricultural land
- Light and noise pollution
- Change of use of this land would set a precedent
- Surface water run off issues
- Overdevelopment

Full details of all consultation responses can be found on the Council's website www.mendip.gov.uk

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Somerset Waste Core Strategy

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 – Mendip Spatial Strategy
- CP2 - Supporting the Provision of New Housing
- CP4 - Sustaining Rural Communities
- DP1 – Local Identity and Distinctiveness
- DP3 - Heritage Conservation
- DP7 – Design and Amenity of New Development
- DP9 – Transport Impact of New Developments
- DP10 – Parking Standards
- DP23 - Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- House Extension Design Guide

Assessment of relevant issues:

Principle of the Use:

The application relates to a small parcel of land that is directly adjacent to the existing residential curtilage of the host property and, although the site is outside development limits, the parcel of land in question is closely associated with the main house. While the site is outside developments, the proposal is for the extension of the existing residential curtilage to facilitate the siting of an ancillary building in association with the existing dwelling and not for an independent use. As such the development would not be

considered to result in an increase in vehicle movements or other impact that would make this an unsustainable development.

Given the siting and size of the plot it is not considered that the change of use to residential curtilage will affect the agricultural use of the remaining field area.

Concerns were raised by the parish council and local residents regarding this change of use setting a precedent for future changes of use of agricultural land within the village, however each case must be considered independently and on its own merits. In addition, the parcel of land in question only measures 45sqm and is a tarmacked former agricultural track which is no longer in use and blocked at one end, and as such would not be considered prime agricultural land.

Therefore, although the proposal for the change of use would not have policy support and therefore be considered a departure from the Local Plan, it would be considered acceptable in terms of potential harm and the manner in which the new use will function in association with the existing dwelling.

The proposed ancillary structure is to operate as a garage and workshop with a home office and w/c, all of which are uses considered incidental to the enjoyment of the dwellinghouse and would therefore be considered acceptable in this location.

Design of the Development and Impact on the Street Scene and Surrounding Area:

The section of agricultural land proposed for a change of use to residential is currently tarmacked and was formally a access track to the agricultural buildings to the rear. This access has now been blocked to the south west and is no longer in use. Given that the area of land is already laid to hardstanding, it's not considered prime agricultural land and it's use for the siting of an ancillary structure would not impact on the character of the area.

The parish council raised concerns over the scale of the proposal and its impact on the character of the area. The structure will be set back from the highway and, while still visible from this public vantage point, it will be largely innocuous given the distance and the screening from the existing property and access gates. The site consists of a fairly large garden with a section of agricultural land to the rear which is sufficient to site a building of this scale without it appearing cramped or overdeveloped.

Given the above, it's considered that the proposal won't result in a significant detrimental impact on the character of the area and therefore complies with DP1, DP4 and DP7 of the Mendip Local Plan Part 1.

Impact on the Setting of the Listed Building

While the Conservation Team were not directly consulted on the current application, comments were provided by a conservation officer at pre-app stage and it's those comments that have been used to form the conclusion below.

There is a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 195 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 194-204 sets out the framework for decision making in planning applications relating to heritage assets and this application takes account of the relevant considerations in these paragraphs.

As the structure itself isn't connected to the listed building, or any associated listed structures within it's curtilage, Listed Building Consent isn't required and it's only the impact on the setting of the listed building that needs to be considered.

As per the conservation officers comments at pre-app stage, it was recommended that the annexe be sited on the existing tarmac track to the northern edge but not as far back as previously proposed under 2021/1344/LBC and 2021/1343/HSE due to the slope of the land. A meeting held on site at pre-app stage established that the currently proposed positioning was favourable in terms of lessening the impact on the setting of the listed building.

The proposed height, scale and massing of the annexe means it will remain subservient to the main house and the proposed materials of corrugated roofing, timber clad walls and timber side hung garage doors were also recommend by the conversion officer at pre-app stage. While it was recommended that roof lights be positioned on the north facing side of the roof, which isn't the case on the current application, this was only a recommendation and wasn't believed to be harmful to the setting if this couldn't be achieved. Siting the roof

lights on the south elevation means they're facing towards the host garden and agricultural land and as such would mitigate against overlooking to the neighbouring property which could have been an issue were they sited on the north roof elevation as suggested. As such, it's considered that the positioning of the roof lights on the south elevation have adequate justification and do not result in harm to the setting of the listed building.

Additional planting was also suggested by the conservation officer to help screen the structure from the listed building however there is already a line of established trees and shrubs between the proposed location of the annexe and the listed building. In addition, a condition can be added to request further details on landscaping and secure additional/replacement planting.

Conditions can also be imposed to secure further details of the timber joinery for the windows and doors and rainwater goods.

In conclusion, and having regard to the above, no material harm to the designated heritage asset has been identified and therefore, having due regard to Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990 and DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014) consent should be approved.

Impact on Residential Amenity:

Several letters of objection have been received from neighbouring occupiers regarding the potential impact of the development on the neighbouring amenity of Wyland to the north. Given the single storey nature of the annexe and that the sloped ground levels will be excavated to allow a level access from the front, it's not considered that the height of the structure would result in harm through overbearing or loss of light. In addition, the neighbouring property is side on to the annexe with no windows on the south elevation which would be impacted by this structure. The two ground floor windows which are to face the boundary serve a w/c and the workshop and as such can be obscured glazed however given that they're at ground floor level, they would look directly at the boundary wall and not result in any overlooking so it's not considered reasonable to condition that these are obscure glazed.

The existing boundary between the properties consists of a large stone wall and high planting which will further screen the structure when viewed from the property to the north.

The use as a garage and home office with personal workshop would not be considered to result in noise levels above those expected within a residential area. The existing parking

area for Laurel House Farm already lies adjacent to the neighbouring boundary and domestic workshops are common features in residential areas/

Therefore, it's considered the siting of the proposed development would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Highway Safety:

No alterations to the existing parking and access arrangements are proposed, and the provision of a garage would provide additional secure parking for the occupiers. As such, the proposal maintains highway safety in accordance with policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Drainage:

Concerns were raised by local residents regarding the impact of surface water run off resulting from the proposal given the slope of the land. The area proposed for the siting of the annexe is already tarmacked and while the building will be slightly wider than the existing tarmacked track, it's proposed that this hardstanding is removed and any water run off from the roof of the annexe will be managed through adequate soakaways in line with building regulations. As such, there is likely to be an improvement over the existing situation where there is currently no water surface management of the run off from the tarmacked track.

Environmental Impact Assessment:

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act:

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability,

gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Planning Balance & Conclusion:

In terms of the proposed change of use on part of an existing agricultural field, whilst it is acknowledged that the development will be outside development limits, it will abut an existing residential property (and will be restricted in terms of its future use). From an assessment point of view, given the scope of the proposals and the extent to which the proposed use of the land is to be controlled, the proposed use is not considered to have a detrimental impact on the adjoining land uses.

The proposed annexe is shown as being for a garage, home office and workshop all of which are considered uses ancillary to the main house and would not be capable of independent occupation or use. A condition to ensure that the structure remains ancillary will be applied should the application be approved.

Subject to conditions in regards landscaping, joinery details and sample panels, it's considered that the proposal would not have a harmful impact on the setting of the listed building.

On this basis the application scheme is considered on balance to represent a sustainable form of development, and it is therefore recommended that planning permission be granted as a departure from the development plan.

Recommendation

Approval

Conditions

1. **Standard Time Limit (Compliance)**

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2. **Plans List (Compliance)**

This decision relates to the following drawings: PP 001 B, PP 005 H, PP 005 I, PP 005 J, PP 005 K, PP 1001 C and PP 1002

Reason: To define the terms and extent of the permission.

3. **Materials - Submission of Schedule and Samples (Bespoke Trigger)**

No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP3 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Joinery Details - Submission of Details (Bespoke Trigger)**

No piece of external joinery shall be installed or undertaken unless full details of that piece have been first submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross-sections, profiles, reveal, surrounds, materials, finish and colour. The works shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP3 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Ancillary Use - Residential (Compliance)**

The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Laurel House Farm and shall not be occupied as an independent dwelling unit.

Reason: The accommodation hereby approved is not capable of independent occupation without adverse impact on the amenities of existing or future residential occupiers contrary to Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. **Condition Categories**

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

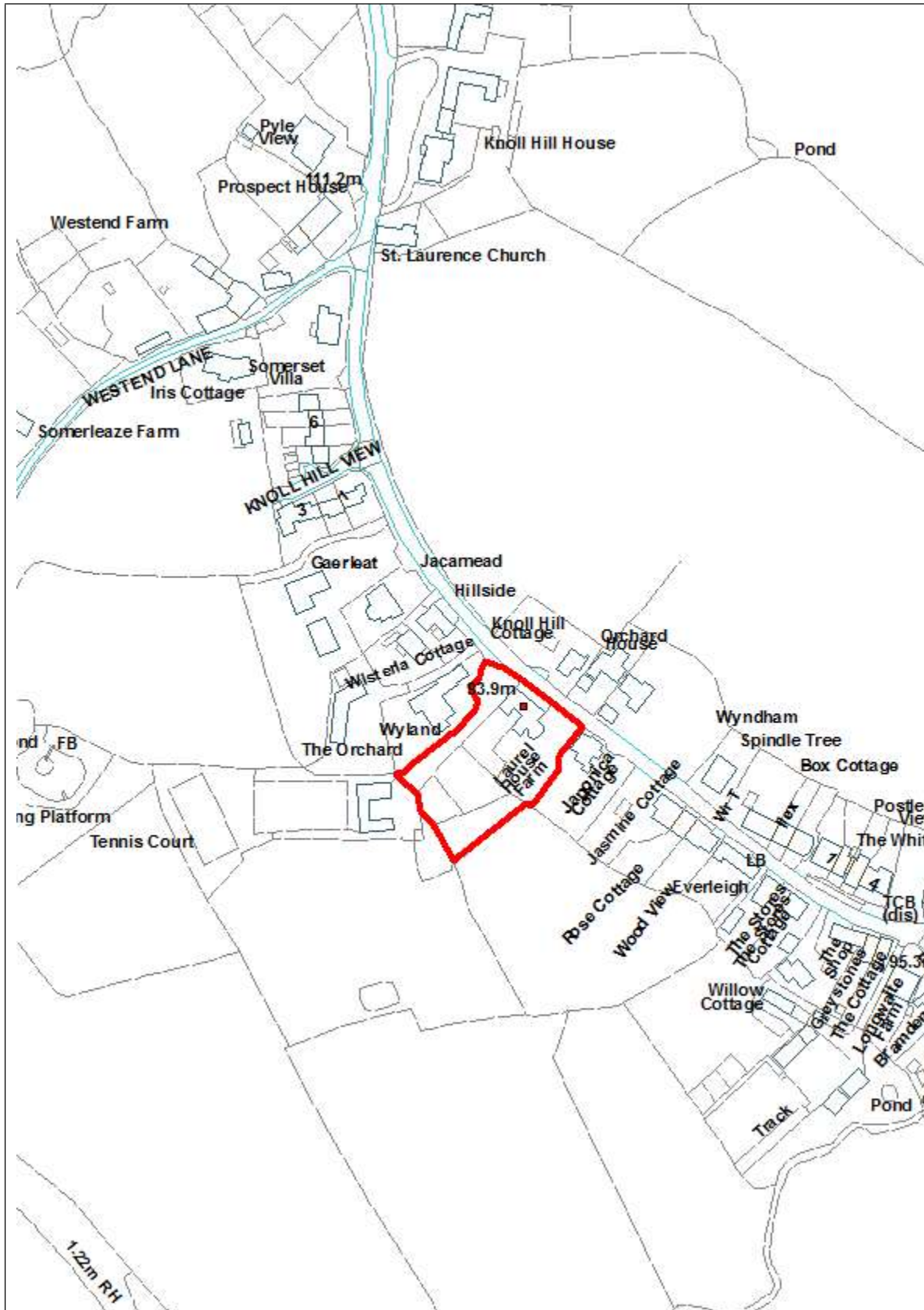
Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.

3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
5. The Planning Authority is required to erect a Site Notice on or near the site to advertise development proposals which are submitted. Could you please ensure that any remaining Notice(s) in respect of this decision are immediately removed from the site and suitably disposed of. Your co operation in this matter is greatly appreciated.



Planning Board Report 7th November 2023
 Laurel House Farm
 Main Frome Road To Foghamshire Lane
 Trudoxhill
 Frome
 Somerset
 BA11 5DP

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Application Number	2023/0574/FUL
Case Officer	Jennifer Alvis
Site	Land North Of 30 Wells Road Wookey Hole Wells Somerset
Date Validated	3 April 2023
Applicant/ Organisation	Mr S Sage
Application Type	Full Application
Proposal	Erection of dwelling and attached car port and formation of vehicular car access
Division	Mendip West Division
Parish	St Cuthbert Out Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

What.Three.Words: lotteries.beaten.supporter

Scheme of Delegation:

In accordance with the scheme of delegation, this application is referred to the planning committee for a decision. This is because the proposal represents a departure from the Local Plan.

Description of Site, Proposal and Constraints:

This application relates to a plot of land north of 30 Wells Road at the end of a row of properties in a semi-rural location. Wells Road is made up of a variety of housing styles which include detached, semi-detached, bungalows and two story properties. There is an existing vehicular access to the site situated at an angle adjoining the boundary of number 30. The site previously housed a mobile home but this has since been removed and an area of hardstanding has been created. From the edge of the hard standing the site slopes downward considerably in a westerly direction.

The site is located outside of the development limits, as defined by the Mendip District Local Plan Part 1 (December 2014), and is within a Bat Consultation Zone and the Somerset Levels and Moors Ramsar Risk Area.

The application seeks permission for the erection of a two storey dwelling and attached car port. The dwelling is proposed to be faced in of a mix of render and vertical timber cladding with a standing seam zinc coated steel roof.

Relevant History:

112683/000 - Demolition of single storey side extension and erection of two storey side extension - Approval - May 1997

110516/000 - Outline application for four detached dwellings - Refusal - Oct 1998

2011/2491 - Erection of extension on west elevation with decked area, alterations to roof of house to provide a new higher eaves level with windows at first floor level - Approval - Nov 2011

2018/0198/CLE - Application for an existing lawful development certificate for the permanent siting of a mobile home - Development is not lawful - July 2018 (Enforcement case - mobile home removed from the site)

2020/0775/FUL - Erection of single storey dwelling with wheelchair access - Refused - March 2021

Summary of Ward Councillor comments, Town/Parish Council comments, representations and consultee comments:

Ward Member: No comments received

Parish Council: Recommend approval

Highways Development Officer: Standing advice applies

Ecology: No objection subject to conditions controlling the purchase of Phosphates Credits and occupation date of the dwelling.

Natural England:

- Phosphates - The information provided is sufficient to demonstrate that the proposed development can achieve nutrient neutrality. We therefore have no objection to the proposed development in relation to potential impacts on the Somerset Levels and Moors Ramsar Site, subject to the mitigation identified being secured through appropriate planning controls.

- North Somerset and Mendip Bats SAC - The application site is in close proximity to a lesser horseshoe bat maternity roost, one of the species which the North Somerset and Mendip Bats SAC is designated for. Due to the sensitive location of the site, your authority may wish to control the installation of external lighting on site to avoid light spill onto surrounding habitats suitable for lesser horseshoe bats.

Environmental Protection: No objection subject to a condition restricting construction hours.

Contaminated Land Officer: No comments

Land Drainage: Objection. Additional information regarding surface water run off is required

Local Representations: One letter of objection has been received raising the following summarised issues:

- Highway safety issues - Increase in traffic. Traffic survey doesn't reflect peak periods which fall within holidays due to the tourist attraction
- Outside of development limits with no adequate justification given for why it should be allowed
- Ribbon Development - The site is not flanked by existing residential development but is at the end of a row of houses
- Does not satisfy the requirement of the self build policy
- Design not in keeping and does not reflect previous applications on the site
- Encroaches into the 'green gap'
- The proposed phosphate mitigation site is miles away. How can this mitigate against phosphates on this site?

One letter of support has also been received.

Full details of all consultation responses can be found on the Council's website www.mendip.gov.uk

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)

- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 – Mendip Spatial Strategy
- CP2 - Supporting the Provision of New Housing
- CP4 - Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP7 - Design and Amenity of New Development
- DP8 - Environmental Protection
- DP9 - Transport Impacts of New Development
- DP10 - Parking Standards

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

The policies within the Local Plan which seek to prevent new housing outside the development limits (CP1, CP2 and CP4) are out of date and have limited weight, as a result the Local Planning Authority (LPA) cannot currently demonstrate a 5 year housing land supply in accordance with the requirements of the NPPF. Therefore whilst regard is had to the specified policies in the Local Plan, the policies in the NPPF are engaged and have substantial weight.

Paragraph 11, requires planning permission to be granted in accordance with the presumption in favour of sustainable development. However, permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework policies taken as a whole or where its specific policies indicate that development should be restricted.

A similar scheme on the site for a dwellinghouse was submitted under 2020/0775/FUL and was refused at planning board for one reason, lack of information on phosphate mitigation. The current scheme has a revised design from the previous application, which was only single storey, and as such design is still a material consideration, but the principle of residential development on this site has been accepted.

The applicant has entered into a Credit Scheme to offset any harm arising through and increase in phosphates which overcomes the previous reason for refusal. This is discussed further below.

Design of the Development and Impact on the Street Scene and Surrounding Area:

Policy DP1 of the Mendip District Local Plan 2006-2029 requires all development proposals to contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district. Furthermore, Policy DP7 states the Local Planning Authority will support high quality design which results in useable, durable, adaptable, sustainable and attractive places.

While impact on the character of the area wasn't cited as a reason for refusal on the previous application, the design of the dwelling has changed and as such fresh consideration must be given to the new proposal. Wells Road, is made up of a mix of housing styles including two and single storey dwellings, both attached and detached, faced with a variety of materials. As such, given the lack of strong street scene, a contemporary detached dwelling in this location would not be considered harmful to the character of the area. Therefore the proposal complies with DP1, DP4 and DP7 of the Local Plan Part 1.

Impact on Residential Amenity:

DP7 of the Mendip District Local Plan seeks to ensure developments protect the amenity of users of neighbouring buildings and land, providing a satisfactory environment for current and future occupiers. There is a collection of residential properties surrounding the site with one property bordering the site to the south.

The only south facing window at first floor level will be for a spare bedroom and looks out directly towards the side wall of the neighbouring property so won't result in overlooking. No first floor windows are proposed on the southern section of the rear elevation (the section closest to the neighbouring property) and the rear terrace area will be screened on either side by the proposed bedrooms, which reduces any capacity for overlooking,

especially to the private amenity space immediately to the rear of the existing dwelling to the south. In addition, it's not unusual for rear gardens to be partially overlooked by neighbouring properties.

Given the siting of the dwelling to the side of the existing, it's not considered that the proposal will cause an impact through overbearing or loss of light.

It is considered that the proposal by reason of its design, siting, scale and massing complies to Policy DP1 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Assessment of Highway Issues:

The proposed access utilises the existing entrance layout adjacent to the neighbouring property, 30 Wells Road. The current access would give adequate visibility to the north and south.

The application shows provisions for 3 parking spaces on the property with a adequate turning area which allows vehicles to enter and exit the site in forward gear.

Therefore, it is considered that the means of access and parking arrangements are be acceptable. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Ecology:

The applicant has confirmed that if planning permission is granted to build the dwelling as applied for that the foul waters associated with the development would be managed by connecting to the main sewer which would be discharged into the natural environment via the nearest waste water treatment plant. As confirmed in the consultation response provided by the County ecologist, the application site falls within the catchment area of the Somerset Levels and Moors Ramsar Site.

Somerset Levels and Moors Ramsar is designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses which adversely changes environmental conditions for these species. In regard to the potential impacts of the development on the Somerset Levels and Moors Ramsar, it is considered that the applicant would need to demonstrate that the proposed development is phosphate neutral and mitigation provided for this development to be acceptable. The mitigation proposed

by the applicant has been achieved through the purchasing of credits from Yew Tree Farm. The cessation of specific activities, namely the piggery, at Yew Tree Farm means that credits from the scheme can be used to mitigate increased phosphorus resulting from new residential development within the same sub-catchment of the Ramsar Site.

Sufficient information has been submitted, in the form of a shadow habitats regulation assessment and evidence of the secured credits, to conclude that the proposed mitigation would be acceptable and there would be no significant increase in phosphate levels within the Brue catchment area of the Somerset Levels and Moors Ramsar Site resulting from this development. As such a Likely Significant Effect alone and in combination under The Conservation of Habitats and Species Regulations 2017 (and as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) can be ruled out. This mitigation will need to be secured through conditions.

An Ecological Assessment submitted with the application found that the development would result in 'No likely significant affect' in terms of ecological harm however the site lies close to a bat maternity roost and as such external lighting should be controlled through condition.

Given the above, and subject to the relevant conditions to secure the mitigation and biodiversity net gain, the development therefore complies with Policies DP5 and DP6 of the adopted Local Plan Part 1: Strategy and Policies 2006-2029 (Adopted 2014), and Part 15 of the National Planning Policy Framework.

Refuse Collection:

There is sufficient space on the site for the storage of both domestic waste and recycling. The property is located on an existing domestic refuse collection route.

Environmental Impact Assessment

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability,

gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Conclusion and Planning Balance:

To conclude, given the history on the site which includes a refusal for a single storey dwelling on phosphates grounds alone, the principle of residential development has been considered acceptable. While the new scheme does propose a revised design, it's not considered that the increase in height on the current proposed dwelling to two storeys, nor the amended materials, would adversely impact on neighbouring amenity or the character of the area. The applicant has purchased Phosphates Credits to offset any harm resulting from the creation of the new dwelling within the Somerset Ramsar and Moors Risk Area.

Given the above, while the site does lie outside development limits, the principle of development was previously considered acceptable and the applicant has now overcome the previous reason for refusal.

Recommendation

Approval

Conditions

1. **Standard Time Limit (Compliance)**

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

2. **Plans List (Compliance)**

This decision relates to the following drawings: PL4651/1, PL4651/2, PL4651/3, PL4651/4, PL4651/5, PL4651/6, PL4651/7, PL4651/8, PL4651/9

Reason: To define the terms and extent of the permission.

3. **Parking Area (Pre-occupation)**

The dwelling hereby approved shall not be occupied until the parking space and turning area shown on drawing PL4651/3 have been laid out in accordance with the

approved plans and made available for the parking of vehicles. The parking space shall thereafter be retained for the parking of vehicles associated with the dwelling and for no other purpose.

Reason: To ensure that sufficient parking is provided to serve the approved development in the interests of highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Hours of Construction (Compliance)**

Noise emissions from the site during the development, i.e. the demolition, clearance and redevelopment of the site, shall not occur outside of the following hours:

Mon - Fri 08.00 - 18.00

Sat 08.00 - 13.00

All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

Reason: To safeguard the amenities of adjoining occupiers having regards to Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Removal of Permitted Development Rights - No extensions or alterations (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the appearance of the development and the amenities of the surrounding area and residents in accordance with Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Phosphate Credit Allocation (Pre-Occupation)**

No occupation of the dwelling hereby approved shall take place prior to the AMP7 upgrades to the Wells Waste Water Treatment Works AND evidence demonstrating that a sufficient number of credits has been purchased by the applicant to mitigate the nutrient budget totalling to 0.10kr/year under post AMP7 treatment levels. This evidence should consist of an Allocation Certificate, a written certificate issued by the phosphate credit provider confirming the allocation of the full phosphate credit requirement.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with policy DP5 & DP6 of the Mendip Local Plan and Chapter 15 of the National Planning Policy Framework 2023.

7. **External Lighting (Bespoke Trigger)**

No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, number, luminance, angle of illumination and type of each luminaire or light source and a lux diagram showing the light spill from the scheme. The lighting shall thereafter be installed, operated and maintained in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. **Wildlife Protection and Enhancement (Pre-occupation)**

No occupation of the dwelling hereby approved shall take place until the mitigation and enhancement as submitted within the Ecological Appraisal of Land at Wells Road, Wookey carried out by Crossman Associates and dated 1st December 2022, has been adhered to and photographic evidence has been provided to the Local Planning Authority for approval. These details include:

- a. Two woodstone or woodcrete sparrow terraces are installed on the north and south facing gables
 - b. New hedgerow planting consisting of a mix of native species of local provenance
- All items will be installed as shown on Figure 1 of Appendix 1 - Site Figures, and Section 4. Recommendations of the Ecological Appraisal

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. **Condition Categories**

Your attention is drawn to the condition/s in the above permission. The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

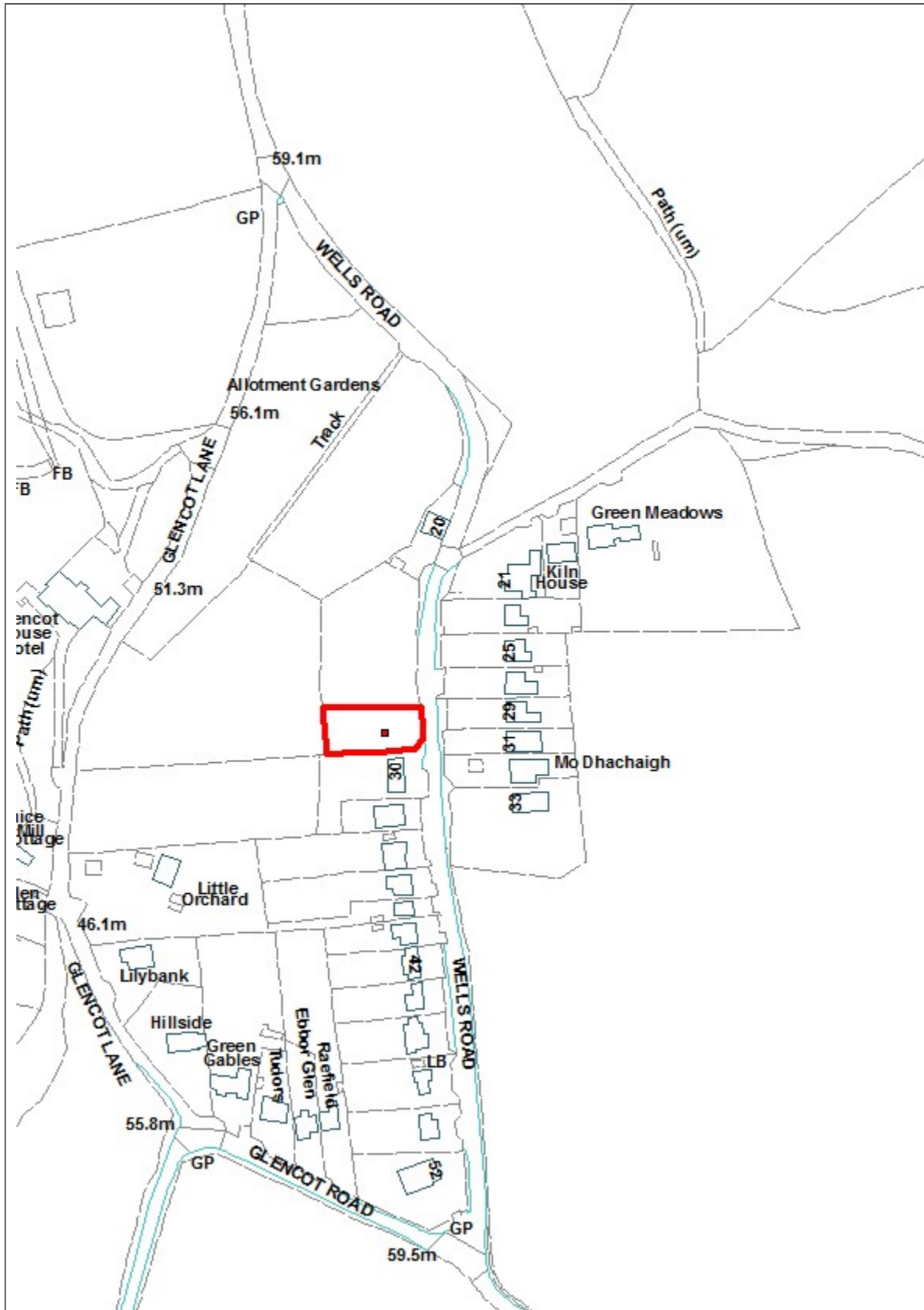
Please note all conditions should be read fully as these headings are intended as a guide only.

Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.

3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
5. No removal of buildings, structures, trees or shrubs shall take place between 1st March and 31st August unless an experienced ecologist has checked the Site for breeding/nesting birds. If there is evidence of breeding birds the work must be delayed until the chicks have fledged or suitable working distances observed so as not to disturb the birds.



Planning Board Report 7th November 2023
 Land North Of 30
 Wells Road
 Wookey Hole
 Wells
 Somerset

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Planning East – Appeal Decisions

Please see below list of appeal decisions made by the Planning Inspectorate between 19th September 2023 and 25th October 2023.

Full details of all appeals, can be found on the Council's website <https://publicaccess.mendip.gov.uk/online-applications/>

Application Reference	2021/1395/OTS
Site Address	Land adj to Whitemill, Marston Lane, Frome
Applicant/Organisation	Frome LVA LLP
Application Type	Outline Application
Proposal	Outline planning application for 5no. self-build dwellings and associated works with details of access and all other matters reserved.
Decision	Refusal (Planning Board)
Appeal Decision	Appeal Allowed & Costs Partially Allowed
Appeal Decision Date	09.10.2023



Appeal Decision

Site visit made on 18 July 2023

by **Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 October 2023

Appeal Ref: APP/Q3305/W/22/3313309

Land adjacent to Whitemill, Marston Lane, Frome

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Frome LVA LLP against the decision of Mendip District Council.
 - The application Ref 2021/1395/OTS, dated 10 June 2021, was refused by notice dated 1 August 2022.
 - The development proposed is an outline planning application for 5no. self-build dwellings and associated works with details of access and all other matters reserved.
-

Decision

1. The appeal is allowed and planning permission is granted for an outline planning application for 5no. self-build dwellings and associated works with details of access and all other matters reserved at Land adjacent to Whitemill, Marston Lane, Frome in accordance with the terms of the application, Ref 2021/1395/OTS, dated 10 June 2021, subject to the conditions set out in the attached Schedule.

Applications for costs

2. An application for costs was made by Frome LVA LLP against Mendip District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Reason for refusal four states that it is the effect of the proposal on the dwelling of 61 Critchell Road that the Council have concern over. However, it has since been clarified that this should refer to the property of Whitemill. I have determined the appeal on the basis of this correction.

Main Issues

4. The main issues are:
 - Whether the proposed development accords with the spatial strategy of the development plan,
 - Whether safe and convenient access to the site can be achieved,
 - The effect of the proposal on the character and appearance of the area, and
 - The effect of the proposal on the living conditions of the occupiers of Whitemill, with particular regard to any overbearing effect.

<https://www.gov.uk/planning-inspectorate>

Reasons

Spatial Strategy

5. Core Policy 1 of the Mendip District Local Plan (adopted December 2014) (the Local Plan) sets out the strategy for the location of new development within the district. Amongst other things, this policy states that development in the countryside will be strictly controlled, and only exceptionally permitted in line with the provisions of Core Policy 4.
6. The Council's reason for refusal refers to Core Policy 2 of the Local Plan. This policy specifically relates to supporting new housing, setting out the number of dwellings that are expected to be delivered and where; referring to locations within the settlement boundaries, as well as strategic sites, together with sites outside of settlement boundaries identified through a site allocations process.
7. The site is located outside of the settlement boundary, does not accord with the provisions set out in Core Policy 4 and has not been identified as a site suitable for development through any site allocation process. Thus, the proposed development conflicts with Core Policies 1, 2 and 4 of the Local Plan.

Access

8. The matter of access is for detailed consideration at this stage and the submitted details show a new vehicular access positioned centrally along the frontage of the site, joining Marston Lane. Details have also been submitted showing the provision of visibility splays on either side of this new access, measuring 2.4m x 35.7m to the south and 2.4m x 36.4m to the north.
9. While the stretch of road onto which the access would be positioned is subject to a 30 mile per hour (mph) speed limit, the submitted speed survey highlights that speeds are generally below this, with the 85-percentile speed at 26.5mph. This is likely due to a narrowing of the carriageway at this location, with vehicles slowing when they approach. Nonetheless, the road is wide enough for two cars to pass.
10. The Council asserts local knowledge as the basis for concern over the site access. However, there is no substantive, objective evidence to show that traffic speeds are above that identified in the speed survey. At the time of my visit, I was also aware of traffic slowing due to the narrowing of the road. In my view, in the absence of corroborative evidence to the contrary, I find that the proposed scheme would provide sufficient visibility of oncoming vehicles so that there would be no risk to highway safety.
11. As mentioned, there is a narrowing of the road at this location. However, I observed that two cars were able to pass. In the event of larger vehicles using this section, there is sufficient forward visibility along the highway to ensure that drivers of vehicles would be able to see oncoming large vehicles. I am content that such situations will likely exist currently and there is nothing before me to convince me that the road is unsafe, or that the increase in the traffic associated with the addition of five properties, at a location with a substantial number of existing accesses joining the highway, would result in it becoming so.
12. Some concern has been raised by interested parties in respect of the ability to achieve the necessary visibility splays without the need to include land not

within the control of the appellant. However, the submitted drawings indicate that the required visibility splays can be achieved over land within the appellant's control and the public highway. Therefore, this matter does not weigh against the scheme.

13. I am also conscious that the technical consultee and highway authority, Somerset County Council, raises no objection to the development, further reinforcing my view that the proposed access arrangements are safe.
14. Thus, a safe and convenient access to the site can be achieved and accordingly the scheme accords with policy DP9 of the Local Plan, as far as it seeks to ensure that development makes safe and satisfactory provision for access. The scheme would also not conflict with the highway safety aims of the National Planning Policy Framework (the Framework).

Character and appearance

15. The appeal is located to the western fringe of Frome and occupies a position along a ridge which, as the Council highlights, defines the boundary between the town and the surrounding countryside. To the west of the site ground levels fall away and as a result the ridgeline is visible from vantage points in the surrounding area. Policy D3 of the Frome Neighbourhood Plan identifies the site as within Skyline Area Site B, where it is required that new buildings demonstrate that there will be no unacceptably detrimental impact on the skyline of the area.
16. The appeal scheme would result in dwellings positioned near to Marston Lane, where there is already built development present. The appeal site does not extend to the western edge of the ridgeline, which is most visible from the surrounding area. As a result, the scheme would be viewed within the context of the existing development, and it is with this built form that it would share a close association.
17. I observed that from vantage points further to the west, from along Frome Road, there are views towards the appeal site. However, along the ridge, built development is already visible. The appeal site lies between groups of dwellings and would nestle between these in these longer distance views. Moreover, it would not extend downslope, which would limit its overall visual effect. Therefore, the scheme would not harmfully degrade the transition between the town and the countryside but would sit comfortably within the existing built form of the settlement.
18. There is also concern in respect of the effect of the creation of the new access along Marston Lane, in particular the loss of what is alleged to be a natural hedgerow. At my site visit, I observed that the boundary treatment along the highway comprises a stone wall which was significantly overgrown by brambles. This was not a defining feature of the character or appearance of the surrounding area. Indeed, there was a variety of other boundary features present, and numerous vehicular accesses joining the road. As such, I do not agree that the loss of the roadside wall and brambles would have any harmful effect, particularly as details of the treatment of the boundary along the highway can be secured at reserved matter stage.

19. My attention has been drawn to an appeal decision¹ for residential development along Marston Lane, where it was found that the scheme considered within that decision would be harmful to the character and appearance of the area. However, that scheme was for up to 150 dwellings and thus would have covered a considerably larger area and extend considerably further into the countryside. Also, that scheme would have brought built form over the ridgeline and down an attractive and prominent slope. This is patently not the case with the appeal scheme. As a result, it is not a comparable scheme to that which is before me. I can therefore draw no useful comparison from that decision.
20. Accordingly, I find that the proposal would have an acceptable effect on the character and appearance of the area, and would not conflict with policies DP1, DP4 and DP7 of the Local Plan. Together, and amongst other things, these policies seek to ensure that development contributes positively to local distinctiveness, does not degrade the quality of the local landscape and is of a scale, form, and layout appropriate to the local context. There would also be no conflict with the design aims of the Framework.

Living conditions

21. Whitemill is a dwelling located to the northwest of the appeal site and the Council highlights that it lies at a lower ground level, but do not refer to any specific measurement. The appellant states there is around a 1.5 metres difference. Even accepting the difference in levels, there is in my view sufficient separation between the appeal site and the existing property to ensure, subject to appropriate details at reserved matters stage, that there will be no overbearing effect on the occupiers of this property. This is particularly so given the open nature of the land surrounding the property.
22. I therefore find that the proposal would not have any unacceptable effect on the living conditions of the occupiers of Whitemill, having regard to any overbearing effect. Thus, there would be no conflict with policy DP7 of the Local Plan, insofar as it seeks to ensure development protects the amenity of users of neighbouring buildings. There would also be no conflict with the living condition protection aims of the Framework.

Planning Balance

23. It is common ground between the main parties that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. While the differing figures are provided by the Council and the appellant, given that both figures are below the required five-year supply, it is not necessary for me to explore this further. The lack of a five-year supply of deliverable housing sites results in the presumption in favour of sustainable development, as envisaged by paragraph 11 of the Framework, being engaged.
24. I have identified that the scheme would conflict with the locational strategy of the development plan. This relates only to the location of the site outside of the settlement boundary. It is however located directly adjacent to it. While there would be no harm to highway safety, the character or appearance of the area, or to the living conditions of neighbouring occupiers, this lack of harm is a neutral matter in the planning balance. Nonetheless, with these factors in

¹ APP/Q3305/W/22/3306827

mind, I accord only limited weight to the harm that would result from the development through the conflict with the locational strategy.

25. To be balanced against this limited harm are the benefits that would accrue from the development. These include the provision of five new self-build dwellings, where there is good access to services without the need to rely on the private car. There would also be economic benefits through the construction of the development and support for local business through an increase in the population of the area.
26. Overall, I consider that the package of benefits that would result from the development should be given significant weight in the planning balance, particularly as the appeal scheme would deliver new housing, including self-build units. As I have identified above, I accord limited weight to the harms that would result. Accordingly, in my judgement the negative factors resulting from the proposals, namely the conflict with locational policy, do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Thus, the planning balance indicates that a decision should be taken other than in accordance with the development plan.

Other Matters

Nature sites

27. The appeal site lies within the Mells Valley Special Area of Conservation (SAC) and the Mendip Woodlands SAC. Given the location of the site within these designations and that I find the scheme is acceptable in relation to the other main issues, such that I would be minded to allow the appeal on those matters, I must undertake an Appropriate Assessment (AA), to consider what impacts, if any, the development would have on these designated areas. I have undertaken this assessment on a proportional basis, drawing on the information provided by the Council and adopting a precautionary approach.
28. The Mells Valley SAC is designated for populations of Greater Horseshoe bats, semi-natural dry grasslands, and scrubland facies, as well as caves. The bat population is sustained by foraging habitat, as well as hedgerows used for commuting and foraging. The proposed development has the potential to impact this species through the loss or degradation of foraging habitat, the severance of flight lines and disturbance from new artificial light.
29. The Council identifies that in respect of the semi-natural dry grasslands and scrubland facies and caves of the Mells Valley SAC, as well as the Mendip Woodlands SAC, there would be no pathway of potential impact and thus no likely significant effect. I agree with this finding. However, the development would result in a likely significant effect on the bat population of the Mells Valley SAC. Consequently, this effect needs to be mitigated, in order to overcome the harm and make the development acceptable in planning terms. This aligns with the Council's own AA.
30. Natural England has been consulted on the AA undertaken by the Council, the findings of which I have agreed with. On the basis of this, NE has no objection to the proposals provided that appropriate mitigation is secured, in the form of a detailed ecological scheme to be submitted at reserved matters stage, a Construction Environmental Management Plan (CEMP) and details of lighting

within the site. Thus, subject to securing the mitigation, the scheme would not have an adverse effect on the nature conservation interests of nearby designated nature conservation sites. The ecological scheme can be secured by way of planning obligation, as discussed below, and the CEMP and lighting details by way of planning condition.

31. Subject to this mitigation being secured, the scheme would accord with policies DP5 and DP6 of the Local Plan, insofar as they seek to ensure that development must ensure the protection of important species and protect bat populations.

Planning obligation

32. The appellant has submitted a signed and completed Unilateral Undertaking (the UU) under Section 106 of The Town and Country Planning Act 1990. This undertaking seeks to secure that all of the dwellings constructed as part of the development will be Self-Build dwellings, as defined in the Self-Build and Custom Housebuilding Act 2015.
33. In addition to this, the UU also secures the provision of Biodiversity Net Gain, a Landscape Ecological Management Plan, Surface Water and Foul Water Drainage Strategies, as well as to establish a Management Company to ensure that the above are managed in the future.
34. The Council has been given the opportunity to comment on the submitted UU and without prejudice to its case that permission should not be granted, further to the stated reasons for refusal, it accepts the contents of the UU in the majority, with a number of amendments suggested to Schedule Four – Management Company. The Council considers that additions to this part of the UU should be incorporated which, in particular require that the appellant provide financial details in relation to the funding arrangements of the management company prior to occupation, and suggested insertions are provided in this respect.
35. In respect of the obligations pertaining to self-build housing, drainage, and ecological matters, I am satisfied that the obligations as contained within Schedules One to Three (inclusive) accord with the planning obligation tests as laid out in paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations.
36. Schedule Four seeks the establishment of a Management Company, which is to be responsible for the ongoing management of the above features. However, I am conscious that the future maintenance and management of these matters is specifically secured in the respective schedules of the UU. Given the scale of the development, at only five dwellings, in my view it is not necessary for a further mechanism of control to be imposed through a management company. To do so would be an obligation that is not fairly and reasonably related in scale and kind to the development. Thus, this part of the UU fails to meet the statutory and policy tests I refer to above, and the appellant should not be held to this specific obligation. The others remain relevant and necessary.

Additional matters raised

37. Comment has been made of the lack of infrastructure and services within the settlement, including health and education facilities, and that there is no capacity to cater for the proposed development. No substantive evidence has

been submitted to demonstrate that there would be any unacceptable effect in respect of these matters.

38. Interested parties also make reference to the possibility of brownfield sites being available elsewhere, as well as that there are other development taking place within the settlement which will deliver new housing, that permitting the scheme would set a precedent, that there would be potential for further development nearby and the presence of a covenant on adjoining land. These matters are noted but are not sufficient to dissuade me from my findings above.
39. Concern is raised that dwellings could be positioned within the root protection area of trees. However, the matter of layout is not for determination at this stage and as such this has little bearing on my decision.
40. Mention is also made that the site was considered and rejected for inclusion within the Local Plan, at the time it was examined by an Inspector. However, that consideration was made in 2000, a considerable time ago. Moreover, there is nothing that convinces me that a detailed scheme was considered and thus the findings of the Inspector at that time do not lead me to conclude that the appeal scheme that is before me is unacceptable.
41. In terms of biodiversity, the development would result in the loss of part of a field as well as some of the existing boundary features. However, there is no substantive evidence that the scheme, subject to mitigation as set out above, would result in any unacceptable effect in this regard.
42. Mention is made of possible overshadowing of neighbouring properties, however given the separation distances involved, together with the location of existing properties in relation to the appeal site, I find that there would be no significant or unacceptable shadowing of nearby dwellings.

Conditions

43. When considering the suggested conditions, I have borne in mind the tests laid out in paragraph 56 of the Framework.
44. I have imposed the standard conditions for an outline planning permission, albeit I have allowed additional time in recognition of the scheme being self-build. In the interests of certainty, I have also imposed a plans condition, albeit that I have removed some stated extraneous plans that were suggested.
45. A condition has been suggested to inform the submission of future reserved matters. This includes the stipulation of car parking provision. However, control in this respect would be possible through the reserved matter of layout. I do however consider it necessary to require details of energy efficiency in the interests of environmental sustainability. Additionally, to ensure a satisfactory form of development, details of design principles are also required, as well as visual effects. I do not consider details of heights and the treatment of the western edge of the development are necessary as these also are matters that can be controlled through future reserved matters applications.
46. In the interests of highway safety, conditions are required in respect of the construction of the vehicular access and visibility splays. To prevent degradation of the environment, a condition is required in respect of drainage.

47. So that the scheme has an acceptable effect on matters of biodiversity importance, conditions are also required in respect of a Biodiversity CEMP as well as external lighting. The appellant has requested that a number of conditions, including those in respect of biodiversity protection, be phased in recognition of the self-build nature of the proposal. While this is noted, given the findings of my own and the Council's AAs, together with the comments provided by Natural England, I am not satisfied based on the information available to me that allowing this information to be provided on a phased basis, and not in a comprehensive manner, would ensure that these matters are appropriately addressed.
48. To ensure that there would be no unacceptable effects on the living conditions of nearby occupiers or on highway safety during the course of the development, a Construction Management Plan is required.
49. A condition is suggested requiring details of levels, and adherence with parameters for heights. While I consider details of levels are necessary, the matter of building heights can be controlled through approval of the details of appearance as a reserved matter.
50. The suggested condition in respect of the retention of garages is not necessary at this stage, as only the matter of the means of access to the site is for determination. Similarly, the suggested condition in respect of accordance with approved landscaping details is not required, as landscaping is not for determination at this stage. For this reason, as layout and landscaping are for future determination, a tree protection condition is not necessary at this stage.

Conclusion

51. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Martin Allen

INSPECTOR

SCHEDULE OF CONDITIONS (12)

1. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
2. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") for each plot shall be submitted to and approved in writing by the local planning authority before any development takes place on that plot and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than 5 years from the date of this permission.
4. The development hereby permitted shall be carried out in accordance with the following approved plans/documents:
 - Drawing Numbers 2 001G, 2 010A, 2 110F and 4473 002 Rev A.
 - Ecological Impact Assessment.
5. With the first reserved matters submission each respect of each plot, the plans and particulars shall include details of:
 - an Energy Efficiency Statement Incorporating into development scheme practical measures to achieve energy efficiency through siting, layout and, design and renewable energy generation.
 - Design principles for the site area to include the following:
 - How the proposals integrate/assimilate with the built edge of Frome and respond to the existing built character; and
 - The impact of the new roof lines within wider views.
6. No occupation of the development shall commence until the visibility splays shown on drawing number 4473-002A have been provided. There shall be no obstruction exceeding 300mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.
7. No occupation shall commence until the approved vehicular access has been constructed with a bound and compacted surfacing material (not loose stone or gravel) for the first 6 metres of its length as measured from the edge of the adjoining carriageway. The access shall be retained as such thereafter.
8. Notwithstanding the details submitted, no development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. Discharge from the site shall be restricted to greenfield rates of runoff with attenuation provided up to the 1 in 100 year plus 40% climate change event. The scheme shall include a programme of phasing, implementation, and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details.
9. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan

(CEMP: Biodiversity) 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), including: protection measures for retained trees and hedgerows; sensitive vegetation clearance measures for amphibians, reptiles, nesting birds and hedgehogs; safeguarding measures for bats; and safeguarding measures for badgers including buffer zones.
- 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, lines of communication and written notifications of operations to the Local Planning Authority.
- Use of protective fences, exclusion barriers and warning signs.
- Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

10. No external lighting shall be erected or provided on the site until a "lighting design for bats" has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.
11. No development on each plot shall take place until a Construction Management Plan for that plot has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors,
 - loading and unloading of plant and materials,
 - storage of plant and materials used in constructing the development,
 - wheel washing facilities,
 - measures to control the emission of dust and dirt during construction, and
 - delivery and construction working hours.The development shall thereafter be undertaken in accordance with the approved Construction Method Statement.
12. No development on each plot shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed

buildings, in relation to existing ground levels, for that plot have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

END OF SCHEDULE



Costs Decision

Site visit made on 19 July 2023

by **Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 October 2023

Costs application in relation to Appeal Ref: APP/Q3305/W/22/3313309 Land adjacent to Whitemill, Marston Lane, Frome

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Frome LVA LLP for a full award of costs against Mendip District Council.
 - The appeal was against the refusal of an outline planning application for 5no. self-build dwellings and associated works with details of access and all other matters reserved.
-

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant, seeking a full award of costs, relies on the Council having prevented or delayed development that should clearly have been permitted, failing to produce evidence to substantiate each reason for refusal, making vague, generalised, or inaccurate assertions about the proposals impact and refusing permission on the basis of a matter capable of being dealt with by condition. This follows a positive recommendation to approve the planning application by officers to the Council's Planning Board, but which the Board then decided to refuse. It is contended that the reasons for refusal do not withstand scrutiny and that there is no harm arising from the matters alleged in the reasons for refusal.
4. In relation to the reason for refusal pertaining to highway safety, the applicant contends that there was sufficient information presented at the time of the application to demonstrate that there would be no detriment to highway safety. It is further highlighted that there was no objection to the scheme from the Council's highways consultee. I am conscious however of the Council asserting that the decision to refuse the application on this basis was made having regard to the local highways knowledge of the members of the Planning Board. The minutes of the Board meeting clearly show that Members were concerned over the width of the road at the point of the proposed vehicular access and that, notwithstanding the findings of the speed survey, there were concerns over its results and that they may not be representative of the actual speeds of vehicles at this location. As such, it is clear that the Board members considered

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the submitted information but were unconvinced by it, a view that they were entitled to come to, despite the positive recommendation from Officers. Thus, I do not find that the Council has been unreasonable in the formulation of the reason for refusal in respect of access, despite me disagreeing when making my decision.

5. The applicant considers in respect of the second and third reason for refusal that they do not result in any harm, either through the loss of any roadside hedge or other landscape impact of the development, particularly on the skyline, as is alleged. Again, when making my decision I have disagreed with the contentions of the Council and found that there would be no harm through the loss of any roadside boundary feature or through any unacceptable visual effect on the ridgeline at this location. However, I am mindful that this can be a subjective matter and that individuals may have differing opinions on this. The Members of the Board considered that the scheme would be detrimental in this regard. In my view, that is a view that the Members on the Board were entitled to reach. They are not bound to accept the recommendation of the officer, provided they can show good reason for departing from it. While I have not agreed with the Council on this point, the evidence submitted adequately establishes the basis on which the scheme was resisted. Thus, I consider that concerns in this regard were not unreasonable.
6. The fourth reason for refusal relates to the effect of the proposal on the nearby property of Whitemill. The Council points to the difference in levels between the appeal site and this property and that the positioning of two-storey dwellings immediately adjacent to it would be harmful. However, the application was submitted in outline with only the matter of access for determination. Matters of scale and layout are for future consideration. Furthermore, the illustrative layout provided shows sufficient separation between the existing and proposed buildings. In my view, it has not been sufficiently demonstrated that the Council was reasonable in taking the position that it did in this regard; there is only scant reference to this matter within the Minutes of the Board meeting and this is not sufficient to establish reasonable grounds for taking a view different to that of the recommendation of the Planning Officer in respect of this matter. The applicant has been put to unnecessary expense in seeking to defend this reason.
7. Reason for refusal five refers to the planning balance undertaken by the Council, identifying the harms alleged and weighing them against the benefits of the scheme. This is a quintessential matter of planning judgement for the decision-maker. The Members of the Board had substantive concerns in regard to the development and they considered these to significantly and demonstrably outweigh the benefits. I find nothing unreasonable in that assessment.
8. Nonetheless, I therefore find that, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated in respect of the reason pertaining to the alleged effect on the living conditions of neighbouring occupiers, and that a partial award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended,

and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Mendip District Council shall pay to Frome LVA LLP the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the fourth reason for refusal, such costs to be assessed in the Senior Courts Costs Office if not agreed.

10. The applicant is now invited to submit to the Mendip District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Martin Allen

INSPECTOR

Application Reference	2022/0895/OUT
Site Address	Land at Frome Road, Norton St Philip
Applicant/Organisation	Mr B Waldon, Springleaze Trading Ltd
Application Type	Outline Application
Proposal	Application for outline planning permission (all matters reserved) for a residential development of up to 30 dwellings (including 10 affordable dwellings), formation of access, ancillary public open space and landscaping (Re-submission).
Decision	Refusal (Delegated)
Appeal Decision	Appeal Dismissed
Appeal Decision Date	10.10.2023



Appeal Decision

Site visit made on 15 August 2023

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/Q3305/W/23/3318169

Land At Frome Road, Norton St Philip BA2 7NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr B Walden of Springleaze Trading Ltd against the decision of Mendip District Council.
 - The application Ref 2022/0895/OUT, dated 29 April 2022, was refused by notice dated 9 September 2022.
 - The development proposed is application for outline planning permission (all matters reserved) for a residential development of up to 30 dwellings (including 10 affordable dwellings), formation of access, ancillary public open space and landscaping (Re-submission).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading has been taken from the Council's decision notice and the appeal forms because it more accurately describes the number of dwellings proposed. The application was submitted in outline with all matters reserved.
3. The appeal is accompanied by an alternative indicative layout plan¹, illustrative sectional drawing² and illustrative perspective³ which show an option for development on the site. These plans have not been subject to any public consultation but have been available for the Council and third parties to view. Given that the application is for outline planning permission with all matters reserved, the indicative nature of the plans, and given my findings below, I am satisfied that no party would be prejudiced by my consideration of these plans. I have therefore considered them in determining this appeal but treated them, and any other site plans dealing with the matters reserved, as illustrative only.
4. The appellant has advised that the appeal has been lodged because they believe circumstances have changed significantly since the previous appeal at the site⁴ and since the refusal by the Council of the application that is the subject of this appeal. The appellant advises that these circumstances relate primarily to a High Court Judgement following a Judicial Review⁵ (JR) of the Mendip District Local Plan 2006-2029 Part II: Sites and Policies which resulted in five Local Plan housing allocations being struck out. This includes one site in

¹ 1685.21.AL.1.100 Rev.P5

² Site Section SK01

³ Streetscene 02-A3

⁴ APP/Q3305/W/21/3287786

⁵ Case No: CO/323/2022

Norton St Philip referenced by the previous Inspector. During the course of the appeal, I sought comments on the current position of the Local Plan in light of the JR. I have taken the comments received in relation to this into account and will return to this matter below.

5. Also, after the determination of the planning application and prior to my site visit, the appellant submitted a signed and dated planning obligation (Unilateral Undertaking) to make provision for affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links or highway infrastructure improvements. The Council subsequently confirmed that the UU addresses its second reason for refusal. However, I am still required to consider this agreement in relation to the Regulatory tests of the Community Infrastructure Levy (CIL) and will return to this below.
6. The Council's first reason for refusal references the Norton St Philip Neighbourhood Plan. I have limited details of the status of the plan although I understand that it has not progressed passed the examination stage to referendum. On that basis, I give the document little weight.

Main Issues

7. The main issues for the appeal are:
 - whether the appeal site is an appropriate location for housing, with particular regard to the local development strategy and including effects on the character and appearance of the area, and
 - whether affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links and highway infrastructure improvement planning obligations are necessary and suitably provided.

Reasons

Location and Character and Appearance

8. Norton St Philip, which is designated as a primary village under Core Policy 1 (CP1) of the Mendip District Local Plan Part 1: Strategy and Policies 2014 (LPP1) is located broadly to the north-west of the appeal site. The appeal site lies outside the defined settlement boundary. As a result, it lies in the open countryside for the purposes of CP1 (1c.) of the LPP1 that sets out that development in the open countryside will be strictly controlled and exceptionally permitted in line with Core Policy 4 (CP4) of the LPP1.
9. Policy CP4 contains criteria permitting development in the countryside that, amongst other things, provides rural affordable housing, provides occupational dwellings where there is a proven and essential functional need, supports the rural economy and range of community facilities. As the proposal includes a high percentage of open market housing and would not support the rural economy or community infrastructure as detailed within the policy, the proposal does not meet any of the listed criteria in CP4 to justify its location and the extension of built form into the countryside beyond the defined settlement limits.
10. Policy CP4 reflects Policy CP1(3.) that states that in identifying land for development in the Local Plan, any development outside of development limits will be strictly controlled. Therefore, despite the site's location fairly close to

the services and facilities within Norton St Philip, the proposed development beyond the settlement boundary does not meet any of the exceptions for residential development in the countryside. As a result, the proposal is not justified by LPP1 policies and is therefore contrary to the development strategy.

11. Turning to the effects on the ground from the encroachment into the countryside, the site does not form part of any formal landscape designation and is itself part of a larger undeveloped field adjoined by low-density linear residential development fronting Frome Road with open paddocks to their rear. The linear low-density housing and paddocks provide a visual and physical transition from the more densely built-up area of the settlement into the countryside. The generally undeveloped and open nature of the paddocks, application site and the larger field that it forms part of, make a considerable contribution to the landscape and setting of the settlement providing a gentle and gradual transition from built development to countryside on approach and when leaving the settlement. This assessment is supported by the sites designation within Character Area C2 of the 'Cotswold Edge' within the Landscape Assessment of Mendip District 1997 (LA) that recognises the predominance of arable fields, in this instance located in a key and prominent position forming a green and open approach to the settlement.
12. By reason of the scale of the development and the built form extending a considerable distance back from the road into the field, the proposal would result in a considerably higher density of residential development in comparison to the adjoining development on Frome Road. As a result, the transitional linear lower density of frontage development along Frome Road would be disrupted and replaced by a scale and form of development alien to its transitional context. Although there is some flexibility with an application in outline with all matters reserved, essentially in light of the quantum of development proposed and size and shape of the appeal site, the existing low-density linear pattern of development would not be replicated with the open transitional contribution to the wider area eroded.
13. Despite the opportunities for the retention of the existing boundary hedging, and introduction of additional landscaping that the flexibility of the outline proposal would allow for as shown on the indicative layout plan, it would still be likely that some of the houses would be visible above the hedgerow and through tree planting when travelling along Frome Road or Tellisford Lane. The development would also be visible through the proposed access, from surrounding properties on Frome Road and Tellisford Lane and from the proposed footpath link from the development to Tellisford Lane. As a result, the significant change in character would be noticeable and contrary to the linear pattern of built form when travelling through the area and through the transitional zone between the built-up area of the settlement and the open countryside.
14. In addition, in light of the character of this part of the open countryside on approach to the site on Frome Road and Tallisford Lane comprising mainly low field hedgerows with sporadic trees, the inclusion of significant groups of tree planting to screen the proposed dwellings would in itself be an alien and visually unnatural addition on approach to this part of the settlement. This has the potential to draw attention to the site and associated dwellings further undermining the transitional nature of the area. Whilst I appreciate that the LA states that tree cover increases on the approach to villages strengthening the

contrast with the landscape, there are few trees on approach to Norton St Philip past the appeal site. As such, the introduction of a significant number of trees would be harmful to, and at odds with, the existing character of the immediate area.

15. Overall, the proposal would not be in an appropriate location for housing with particular regard to the local development strategy and would harm the character and appearance of the area. Therefore, it would not accord with Policies CP1, CP4, DP1, DP4 and DP7 of the LPP1, which among other things strictly and exceptionally control development in the countryside, seek to ensure proposals contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district, states that development that would individually or cumulatively significantly degrade the quality of the local landscape will not be supported and state that proposals should be of a scale, mass, form, and layout appropriate to the local context. In addition, the proposal would be contrary to the National Planning Policy Framework (the Framework) that seeks to ensure that development reflects the character of an area, safeguards the environment and recognises the intrinsic character and beauty of the countryside.

Planning Obligations

16. The Council's decision notice includes a second reason for refusal relating to the absence of a suitable planning obligation to make adequate provision for affordable housing, public open space, sustainable urban drainage, travel plan measures, public footpath links or highway infrastructure improvements as necessary in accordance with LLP1 policies and the Framework.
17. However, this reason for refusal is no longer being pursued by the Council following the submission of a signed and completed unilateral undertaking. This secures at least 30% affordable housing, contributions per dwelling towards the provision of a LEAP and the provision of a MUGA, on-site provision of a community orchard, LAP and open space, provision of a travel information pack, travel plan, travel plan fee, travel voucher scheme, provision of a management company for the community orchard, open space and sustainable urban drainage system (SUDs), and the submission, laying out and maintenance of a SUDs scheme.
18. Notwithstanding this, it is necessary that I consider this obligation against the three tests set out in paragraph 57 of the Framework and pursuant to the Community Infrastructure Levy (CIL) Regulations 2010.
19. The proposal would provide at least 30% affordable housing provision, comprising 80% Social Rented Housing and 20% Shared Ownership. This would be secured by planning obligation in the submitted UU, and would be necessary, directly, fairly, and reasonably related in scale and kind pursuant to Policy DP11 of the LPP1. Among other things, the policy sets the level of affordable housing provision to inform the Council's negotiations towards meeting the district's housing need from all housing proposals, whilst ensuring it is secured in perpetuity.
20. Most new housing development of this scale brings about demand for public open space, play space, community orchard, SUDs facilities and an associated management company, therefore I am satisfied that the proposed obligations

and contributions would be necessary to make the development acceptable in planning terms. These obligations therefore meet the relevant tests.

21. The Council are content that issues in relation to the provision of a travel information pack, travel plan, travel plan fee and travel voucher scheme could be appropriately mitigated and managed through the provision of the legal agreement securing these obligations. The UU accompanying the appeal makes provision for these obligations and renders the development acceptable in planning terms. They are also manifestly directly related to the site, and are proportionate, as they seek to do no more than is necessary.
22. On the basis of the above, I consider the UU to accord with the criteria of CIL Regulations 122 and with paragraph 57 of the Framework.

Other Considerations and planning balance

23. I appreciate that the proposal would cause no significant harm to ecology, flooding, community safety, traffic generation, waste, noise and pollution or archaeology. I also appreciate that the proposal would incorporate the use of sustainable materials and construction methods and would comprise suitable sustainable urban drainage, hedgehog holes, bird and bat boxes and electric car charging points. However, as these matters are requirements of local and national planning policy for development, they are neutral in my consideration.
24. Other potential benefits including biodiversity gain, and additional support to the village school from additional children have not been strongly quantified or evidenced, and as such I give them limited weight.
25. The fact that the site is not affected by phosphate issues that affect parts of the southwest of the district does not in itself justify the proposal and carries little weight.
26. The Inspector dealing with the previous appeal, along with the appellant and Council concluded that due to significant distances and intervening landscape features, that outline proposal would not harm the setting or significance of any designated heritage assets in the locality. This includes Norton St Philip Conservation Area, Grade I listed building of The George or Grade II listed buildings of Chatley House and Chatley Farmhouse. In accordance with my statutory duties under Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, based on the heritage evidence submitted by the appellant, the Council's officer report and comments from relevant consultees, I agree that the heritage significance of these assets would be preserved by this appeal proposal. This is neutral in my consideration.
27. The provision of 10 affordable housing units carries moderate weight in favour of the proposal, as do the benefits to the supply of housing. There would be other economic benefits from additional support for local businesses, shops and public transport, construction and supply chain jobs, Council Tax revenue, any New Homes Bonus allowance and economic activity from additional residents. These also carry some weight alongside the environmental benefits from additional planting and social benefits from a new community orchard and footpaths and associated links that would be provided through the site. The provision of travel information packs, travel plan, travel plan fee and travel voucher scheme are necessary to mitigate the impacts from the development and as such are neutral in my consideration.

28. Based on my findings under the first main issue, the development would be contrary to the local development strategy and cause significant harm to the character and appearance of the area. The relevant policies are largely consistent with the Framework where it states that planning decisions should reflect the character of an area, safeguard the environment and recognise the intrinsic character and beauty of the countryside. Therefore, the proposed development would be contrary to the development plan as a whole and I give significant weight to the conflict with these policies.
29. The JR of the Mendip District Local Plan 2006-2029 Part II: Sites and Policies (LPP2) has struck out a housing allocation for 27 dwellings in Norton St Philip, along with 4 other sites across the authority. One of the consequences of the JR is that the Council are required to undertake a partial review of the LPP2 to identify sites for the 500+ dwellings struck out as part of the JR. The Council have until the 1 July 2024 to submit this to the Planning Inspectorate. Partly, although not solely, as a result of this, it is common ground between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii. of the Framework should be applied.
30. From the schedule of accommodation set out on the application form the appeal proposal would provide a number of benefits, including providing a considerable number and mix of dwellings (including self-build) on a small site fairly close to a range of services and facilities which would contribute towards the supply and mix of housing in the area. It would also provide a considerable number of affordable housing units in an area of significant need and historic under provision.
31. At 30 dwellings with 10 affordable housing units, the development and benefits would be appreciable and in light of the lack of a five-year supply of deliverable housing sites and implications from the JR, this carries considerable weight. The other economic benefits from additional support for local businesses, shops and public transport, construction and supply chain jobs, Council Tax revenue, any New Homes Bonus allowance and economic activity from additional residents carry a moderate amount of weight. As do the environmental benefits including additional planting and social benefits from a new community orchard and footpaths and associated links.
32. As stated above, other potential benefits including biodiversity gain, and additional support to the village school from additional children have not been strongly quantified or evidenced, and I give them limited weight. The provision of hedgehog, bat and bird boxes and new public open space are necessary to mitigate the impact from the development so do not weigh in favour of the proposal.
33. In contrast, I have found that the appeal proposal would result in significant harm to the local development strategy and character and appearance of the area.
34. In light of the above, and although I attribute considerable weight to the benefits of the proposal, these are outweighed by the significant harm to the character and appearance of the area. Accordingly, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

35. Overall, for the reasons given above, the proposal conflicts with the development plan taken as a whole. There are no other considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan. The appeal is dismissed.

C Rose

INSPECTOR

Application Reference	2021/1430/FUL
Site Address	Land accessed off Bindon Lane, Witham Friary, Frome
Applicant/Organisation	Mr & Mrs Pritchard
Application Type	Full Application
Proposal	Change of use from Agricultural to Equestrian for the relocation of an existing Riding School business. Construction of Menage and 2No. 'American barns' with associated parking, paths, muck heap & hard standing and alterations to existing access. Also installation of a mobile home to be occupied by the owners in association with the business.
Decision	Refusal (Planning Board)
Appeal Decision	Appeal Dismissed & Costs Refused
Appeal Decision Date	18.10.2023



Appeal Decision

Hearing held on 19 September 2023

Site visit made on 19 September 2023

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Appeal Ref: APP/Q3305/W/23/3323827

Land accessed of Bindon Lane, Witham Friary, Frome

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Pritchard against the decision of Mendip District Council.
 - The application Ref 2021/1430/FUL, dated 15 June 2021, was refused by notice dated 15 December 2022.
 - The development proposed is change of use from Agricultural to Equestrian for the relocation of an existing Riding School business. Construction of Menage, 2 'American barns' associated parking, paths, muck heap & hard standing. Also installation of a mobile home to be occupied by the owners in association with the business.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by the appellants. This application is the subject of a separate decision.

Preliminary Matters

3. Mendip District Council has now merged with other councils in Somerset to form Somerset Council. However, the development plan for the area formally covered by the District Council remains in place until such time as it is revoked or replaced. I have determined the appeal on this basis.
4. While not a reason for refusal, matters of highway safety have been raised by interested parties. The appellants have had opportunity to comment on this issue prior to, and at the Hearing.
5. During the appeal process and following the submission of appeal statements, the appellant has submitted amended plans in relation to highway access. They suggest that this information should be considered in the appeal decision to address third parties concerns in relation to highway safety. Further late evidence was submitted within and immediately after the hearing which were discussed at the event.
6. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. The change within the plans relate to the existing access and the incorporation of a lockable gate. Notwithstanding the Council's engagement

<https://www.gov.uk/planning-inspectorate>

with the plans, I note the concerns of interested parties of a lack of opportunity to fully respond to these plans prior to the Hearing. Due to the extent and nature of the change fundamentally amending the proposed access solution in relation to the proposed blocking up of the existing access, and in the interests of fairness I consider that parties may be prejudiced if I take this information into account. As all parties were informed at the Hearing, I have therefore assessed this appeal on the highway access plans that formed the basis of the Council's decision.

7. Other late documents were submitted during and directly after the Hearing (as detailed at the bottom of this decision letter). Given that these documents do not fundamentally alter the proposal and the relevance to discussions between all parties at the Hearing, I have taken these particular documents into consideration in my decision.

Main Issues

8. The main issues are:

- Whether there is an essential need for a rural worker to live permanently at the appeal site;
- The effect of the proposal on the character and appearance of the area; and
- The effect of the proposal on highway safety.

Reasons

Essential Need

9. The appeal site lies outside of any recognised development boundary. In such locations Core Policy 1: Mendip Spatial Strategy of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 15 December 2014) (LP) states that development will be strictly controlled but may exceptionally be permitted in line with the provisions set out in Core Policy 4: Sustaining Rural Communities. This Policy supports occupational dwellings in rural locations, where there is a proven and essential functional need to support agricultural, forestry and other rural-based enterprises.
10. In this respect, LP Policy DP13 supports proposals for permanent or temporary accommodation in open countryside locations which are necessary to support rural enterprises subject to certain criteria. Amongst other things, this criterion includes that it can be demonstrated that the dwelling and its proposed location are essential to support or sustain the functioning of the enterprise; there is a need for permanent occupation which relates to a full-time worker or one who is primarily employed by the business; and all alternative accommodation options have been explored and no satisfactory alternative means of providing accommodation has been identified.
11. LP Policy DP13 also supports the grant of temporary permission for a 3-year period for new rural enterprises, where clear evidence, through a business plan or other assessable proposal, shows a firm intention and ability to develop the enterprise on a sound financial basis.
12. Paragraph 80 of the National Planning Policy Framework (Framework) seeks to avoid isolated homes in the countryside unless one or more circumstances apply, including where there is an essential need for a rural worker to live

permanently at or near their place of work in the countryside. The Planning Practice Guidance (PPG) outlines how the need of isolated homes in the countryside for essential rural workers can be assessed including evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an enterprise; the degree to which there is confidence that the enterprise will remain viable for the foreseeable future; and in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

13. The appellants currently operate a riding school from rented land elsewhere. I heard from Mrs Pritchard at the Hearing that the riding school has successfully been operating for some 11 years and provides a range of equine related activities including riding lessons, hacks and camps to a broad range of customers including adults and children.
14. At the time of the application the submission indicates the business had 13 horses and ponies, although a Business Appraisal (BA) by Ian Judd & Partners submitted with the appeal indicates 9 horses and ponies. At the Hearing I was advised by the appellants that this number is actually 12 horses and ponies, with the additional horse being retired from the enterprise, but retained by the appellants. The BA also outlines the labour requirement of the enterprise, being 2.44 full-time employees, which is not refuted by the Council.
15. The appellants indicate that the supervision of the horses and ponies and their care, safety and welfare, as well as site security cannot be undertaken whilst living remotely from the site resulting in an on-site presence at all times being essential. It is put to me that such examples of incidents include colic, horses becoming cast, injuries suffered in the fields, and horses escaping. At the Hearing I heard from the appellant's veterinary surgeon, Mr Francis, who has considerable experience in equine care.
16. Mr Francis outlined that the welfare of horses is paramount and there are a number of differing reasons why a vet is called to a site including those described above. Mr Francis noted how living on the site would clearly benefit the welfare of the animals and how in such circumstances such as colic, which Mr Francis stated could be mild to fatal, it is better to be on site to provide quick reaction and ongoing care.
17. However, it is not unusual for horses to be unsupervised in locations that do not have a permanent dwelling on site. I accept that there may be situations where horses need a quick response in order to alleviate, minimise or remove risk of injury arising through illness or accident. This is corroborated by Mr Francis and the oral evidence of Mrs Pritchard.
18. Mrs Pritchard stated at the Hearing there had been numerous incidents requiring attention at her current enterprise and provided an example of an incident which required Mrs Pritchard to be present on the site for 3 nights in order to care for a horse, although I note that this was the only instance provided where Mrs Pritchard had to stay overnight in the last 18 months. From the evidence before me, the need to attend to the horses during the night is very occasional. Whilst such episodes cannot be predicted, they are clearly infrequent. There is no convincing evidence before me to suggest such incidences are any more likely overnight than during the day when workers are present and thereby it is not shown that the enterprise requires a worker to live on site.

19. With regard to security, I understand the concerns voiced by Mrs Pritchard in relation to the effect of the enterprise if tack, equipment, or indeed horses were stolen. It was put to me at the Hearing by the appellants side that security systems such as CCTV are not effective and would prevent an immediate response to any incident. However, no substantive evidence has been put to me as to why horses and equipment could not be adequately protected using security systems such as alarms and surveillance, which would also likely act as a deterrent against criminal activity. It has therefore not been adequately demonstrated that no other security measures could be undertaken other than the requirement to live on the site.
20. In terms of the availability of alternative accommodation, as well as property searches noted within the written evidence, I heard at the Hearing from the appellants side that a search for available properties had very recently been undertaken taking into account properties for rent and sale in both a 3 mile, and 5 mile radius of the appeal site. Although I have no written evidence of these later searches, I am told these searches indicate 1 property for rent within 3 miles, and 7 within 5 miles, and 5 properties for sale within 3 miles, and 8 within 5 miles. However, it is put to me that the cost of these properties is prohibitive.
21. The Council have put to me that they would expect a search radius of 5-10 miles to be appropriate, with settlements providing significant numbers of accommodation 7 miles from the appeal site. The appellants currently do not live at their existing premises, but some 30 minutes drive away. However, the landowner from whom the appellant rents the land does currently live within sight and sound of the enterprise, and I am told provides observation of the site and animals and informs the appellants of any issues.
22. Notwithstanding, the appellant's current business has operated successfully with the appellants being some distance from the site. I accept that the close proximity of the landowner may have resulted in some incidents being dealt with in a more timely manner. However, given the infrequent nature of potential incidents, and that the site would be attended during the day, as well as possible security systems such as CCTV that could be utilised during the night, travel time from properties up to 10 miles away would appear appropriate.
23. On the basis of the evidence before me, I am not persuaded that nearby alternative accommodation, including within nearby settlements, which may be close enough to make visits to the site at unsocial hours, including in response to remote alarms, is not a practical proposition.
24. The BA states that the appellant's existing enterprise has made a profit in each of the eleven years it has been running. Three years of tax returns were provided within the application documentation outlining the turnover and allowable expense of the business. Whilst providing some confidence, these do relate to the existing business, and the proposal does differ in terms of capital costs, expenses and services provided such as livery not being offered within the proposed enterprise. In this regard the BA notes a gross margin of £53040 per annum once fully established. However, this is based on various assumptions, and I note inconsistencies with the assumptions utilised and that put forward elsewhere in evidence, such as the number of horses and ponies as well as projections within other supporting information such as the Design and

Access Statement. As such, I cannot be certain that the projections in the evidence before me are correct.

25. I also heard from the appellants at the Hearing in relation to the anticipated capital costs of the new enterprise, noting the appellants ability to undertake some of the work themselves, as well as methods of finance in place to meet the projected expenditure. The proposal however is not supported by a great deal of verifiable financial information, noting that some potentially large expenses such as electrical connections have not been factored in, or any evidence (aside from a quote for a bore hole handed to me at the Hearing) to confirm the figures given.
26. Whilst I acknowledge that the appellants have operated a similar enterprise successfully elsewhere for a significant period of time, this proposal relates to a differing site with differing financial implications. Projections provided to me indicate an increase in profits which I was told at the Hearing by the appellants side would be due to increases in fees as well as less cost in the business due to the appellants not having to rent the land or their accommodation.
27. However, I was also told by the appellants about difficulties with demonstrating projections due to 'no 2 days being alike' within the business. Although this may be so, I find inconsistencies with the information provided. There is also some uncertainty in the submission in terms of numbers of lessons, hacks or camps that would be offered, with variance given within the written evidence, and orally at the Hearing. In the absence of more detailed consistent information, robust evidence that the activity is planned on a sound financial basis is absent.
28. Although I am considering part of this appeal as a proposal for accommodation for a temporary period, to allow it would require reasonable certainty that, within three years, the business would be capable of becoming financially viable. On the basis of the evidence before me, and that provided at the Hearing, such reassurance is currently lacking.
29. For the above reasons, I conclude that an essential need for a rural worker to live permanently at the appeal site has not been demonstrated. Accordingly, the proposal would conflict with LP Policy DP13, the purpose of which I have previously outlined.

Character and Appearance

30. The appeal site is an area of agricultural land located to the southeast of Bindon Lane and bordered by a railway line. Due to the surrounding topography, which falls from Bindon Lane towards the site, the site is at a noticeably lower level than Bindon Lane but is largely screened from public views by mature hedge and tree planting outside of the site area to the northwest. The site is not within any protected landscape designations, although my attention has been drawn to the proximity to the Cranborne Chase Area of Outstanding Natural Beauty and Dark Skies Reserve.
31. The site falls within the South West Upper Valley Character Area of the Mendip Landscape Character Assessment (LCA), the key characteristics of which include small scale irregular field patterns. Furthermore, perceived characteristics also make an important contribution to the character of the area and are noted to include areas feeling generally remote and isolated, unspoilt

countryside and areas of good degrees of tranquillity with occasional disturbance from rail lines. I observed that the appeal site exhibits these key and perceived characteristics and contributes positively to the character and appearance of the area.

32. A section drawing has been provided with the appeal documentation that is based on lidar data. Whilst this may not provide as accurate a representation as a topographical survey, it does provide a good indication of the topography of the area and relationship with the proposed built form.
33. The proposed mobile home is located to the higher area of the site. Whilst the small scale, proposed hedging and temporary nature of the mobile home are acknowledged, it would nevertheless appear somewhat incongruous in the landscape from the viewpoints it would be visible due to its domestic appearance. The parking area would similarly be partially screened by hedging, and whilst public views of parked vehicles may be limited due to the current mature planting, the scale of the parking provision, when in use would also draw the eye to the site, particularly if the mature screening were not to be retained. However, I acknowledge that the barn buildings would be of an appearance, and incorporate appropriate external finishing materials reflective of, and not dissimilar to other agricultural buildings I observed in the wider area.
34. From my observations, glimpse views of the barn buildings, mobile home and parking area would currently be possible from Bindon Lane, more so during winter months when foliage is not in leaf, with wide views being available from private land to the south. Moreover, as the existing mature screening along the northwest boundary is outside of the appeal site, the appellant has no control over its retention, with minimal area available for any additional landscaping along this boundary. If this were to be removed, notwithstanding floor and roof levels, the variety of proposed built form would be prominent.
35. Additionally, notwithstanding the appellant's suggestion at the Hearing that a condition could be imposed restricting lesson numbers, the proposal would inevitably result in movements and general activity at the appeal site that differs significantly and noticeably from the agricultural use of the site, at odds with the previously described perceived characteristics of the area.
36. Furthermore, even if conditions were imposed ensuring floor levels are not significantly increased, or an appropriate lighting scheme including times of operation could be agreed and secured, such lighting in this location would add to the prominence of the enterprise when in use. In combination, the scale of proposed built form, movements and general activity associated with the enterprise, as well as lighting required during the hours of operation in darkness would result in a noticeably intensive use within the surrounding countryside landscape which is largely undeveloped between Bindon Lane and the railway line.
37. Although equine enterprises are not unusual in the countryside, such an intensive commercial use in this location, combined with the reliance on mature screening outside of the appellant's control, would result in a level of development, at odds with, and harming the previously described characteristics of the surrounding area.

38. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The proposal would therefore conflict with LP Policies CP1, CP4 and DP1. These policies seek, amongst other matters, to ensure development is appropriate to the location and maintain and enhance local identity and distinctiveness.

Highway Safety

39. The surrounding highway network features long sections of single lane highway and tall hedge boundaries and the existing access provides restricted visibility. Whilst there is some disagreement between parties as to the actual number of movements that would be attracted to the site, I note that the Highway Authority (HA) based their assessment on movements associated with the appellant's existing enterprise.

40. I acknowledge the lack of Personal Injury Collision records near the appeal site and given the likely associated traffic movements I find the proposal is unlikely to pose a severe impact upon the local highway network, and the HA have reached a similar finding. However, the existing visibility is restricted, and given the additional movements that would be attracted to the site, I find that the proposal would result in a highway safety concern for all users of the highway by vehicles accessing and egressing from the access. Nevertheless, access arrangements have been amended through the planning application process with an amended plan providing a realigned access creating a visibility splay, and the original access being blocked up.

41. An interested party has submitted to the Council a 'Traffic Objection Report' (TOR) dated May 2022 which questions the number of equine and vehicular movements and concludes, that the access does not meet required standards. The HA considered that notwithstanding the findings of the TOR, due to the nature and geometry of the highway in this location the visibility splays as submitted were acceptable, subject to the imposition of planning conditions.

42. Although I find from my own observations of the highway adjacent the site, including the width of carriageway, number of vehicular movements along the highway and speeds vehicles were travelling at the time of my visit, that the revised access would provide sufficient visibility for the vehicular movements likely to be attracted to the site, a 'Grampian' style condition has been suggested by the Council. This is in relation to the closing up of the original access, which would be required to ensure an access with adequate visibility is utilised. The PPG states that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. Furthermore, the PPG states Grampian conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.

43. I am informed that an interested party has a legal right of way over the existing access and track and was told at the Hearing that no consent has been provided to block the right of way which has not been refuted by the appellant. Furthermore, concerns have been raised by interested parties, but refuted by the appellant, in relation to the ability to maintain the visibility splays in perpetuity. Notwithstanding, whilst rights of access and land ownership are a civil matter outside of the planning regime, matters such as a right of access

could prevent the closing up of the access, with no prospect of the appellant being able to fulfil the requirement of the condition.

44. I therefore find that the suggested Grampian style condition would not meet the tests of conditions as outlined within the Framework and PPG. A further condition was suggested by Mr Burgess at the Hearing which would require the submission of revised access plans and alternative arrangements to the stopping up of the existing access. Nonetheless, given I have found that the existing access would result in highway safety concerns, I am concerned that any planning permission granted might be negated by the lack of the ability to provide suitable access arrangements. Therefore, this is a matter which should be resolved before planning permission is granted rather than leaving it to a planning condition.
45. Consequently, the proposal would result in a harmful effect on highway safety, contrary to LP Policy DP9. This policy seeks, amongst other things, to ensure safe and satisfactory access. Furthermore, the proposal would be contrary to the provisions of the Framework which requires safe and suitable access for all users.

Other Matters

46. The Grade II listed Little West Barn Farm lies to the southeast of the appeal site. From my observations, in so far as they relate to this scheme, the setting of this heritage asset is the immediate surrounding area of the building, with the significance of this heritage asset arising from its age and architectural features. I have undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting, or any features of architectural or historic interest which it possesses. In view of the intervening railway line and separation distances involved, I find that the proposal would have a neutral effect on, and thereby preserve, the heritage asset.
47. The proposal would support rural business and rural employment in accordance with the general aims of the Framework. The proposal would also provide some employment opportunities and associated expenditure during the construction phase. However, any benefits to the rural economy and employment would be modest due to the relatively small scale of the business. I also heard from the appellants side at the Hearing the importance of the role of horses in society and the positive effect horses have on local communities and the wellbeing of people, as well as the benefits to school children and the ability to undertake work experience.
48. Nonetheless, some of these benefits already exist within the appellants existing enterprise which would be relocated, and therefore I can only give these matters minimal weight in favour of the proposal.
49. I acknowledge the site location within Flood Zone 1, the findings of the appellant's Ecological Appraisal and the discussions at the Hearing in relation to a borehole and the use of land for grazing, as well as my observations on site of the relationship between the proposal and neighbouring dwellings. In view of my findings on the main issues above, even if I were to find no harm in these matters, these matters would be neutral in the planning balance and would not lead me to any different overall conclusion.

50. Another planning permission¹ granted by the Council is cited by the appellant. I acknowledge that consistency in decision making is important, however I do not have full details of the factors that led to the granting of this other planning permission. It was said at the Hearing to be related to a racehorse training enterprise at a differing site and location. Therefore, it is materially different to the appeal scheme before me.

Conclusion

51. The proposal would conflict with the development plan, read as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

S Harrington MA MRTPI

INSPECTOR

¹ 2020/1836/FUL

APPEARANCES

FOR THE APPELLANT:

Andrew Burgess	Planning Consultant
Caroline Martin	Architect
David Francis	Veterinary Surgeon
Maria Pritchard	Appellant
Tim Gardner	Surveyor

FOR THE LOCAL PLANNING AUTHORITY:

Anna Jotcham	Somerset Council
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INTERESTED PARTIES:

Matt Williams	Planning Consultant on behalf of Fiona Macintosh and Ian Peters
Ian Peters	Local resident
Alan Fox	Local resident
David Yeoman	Local resident
Julie Fuller	Local resident
Andrew Fuller	Local resident
Camilla Evans	Local resident
Harry Pritchard	Interested party
Maddy Ferrari	Parish Councillor and Local resident
Barry Clark	District Councillor
Philip Ham	District Councillor

DOCUMENTS submitted at the Hearing

- Additional suggested condition - Levels;
- Core Policy 1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 15 December 2014);
- Bore Hole Quote – Tor Drilling.

DOCUMENTS submitted following the Hearing

- Deed of Easement 8 April 2021;
- Deed of Easement 1st June 2022;
- Title Register - WS89809;
- Additional suggested condition – Access.



Costs Decision

Hearing held on 19 September 2023

Site visit made on 19 September 2023

by **S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Costs application in relation to Appeal Ref: APP/Q3305/W/23/3323827 Land accessed of Bindon Lane, Witham Friary, Frome

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Pritchard for a full award of costs against Somerset Council.
 - The appeal was against the refusal to grant planning permission for the change of use from Agricultural to Equestrian for the relocation of an existing Riding School business. Construction of Menage, 2 'American barns' associated parking, paths, muck heap & hard standing. Also installation of a mobile home to be occupied by the owners in association with the business.
-

Decision

1. The application for an award of costs is refused.

The submissions for Mr & Mrs Pritchard

2. The costs application was submitted in writing.

The response by Somerset Council

3. The response was made in writing.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. The PPG sets out that councils are at risk of an award of costs where they, amongst other matters:
 - prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - fail to produce evidence to substantiate each reason for refusal on appeal;
 - make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and
 - not determine similar cases in a consistent manner.

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6. The applicant states that the appeal was unnecessary as the proposal complies with the development plan and was recommended for approval by the Council Case Officer. Furthermore, it is stated that the Council's Planning Board failed to carry out a planning balance correctly or fairly, or applied planning policies correctly and reasons for refusal are unsubstantiated.
7. Although officer recommendations were to grant permission in this case, local planning authorities are not bound to accept the recommendations of their officers and therefore councillors were entitled to reach an alternative view on the effects of the proposal.
8. Reasons for refusal are clearly laid out and refer to relevant development plan policies. The reasons for refusal are a matter of judgement, whilst it is also clear from the second reason that the Council felt that there was insufficient evidence or information to demonstrate the essential need for permanent occupation of the site. Whilst I appreciate that the outcome of the planning application will have been a disappointment to the appellant, the local planning authority were not unreasonable in coming to that decision. Indeed, I note further information was supplied with the appeal, and notwithstanding this information, following consideration of the evidence on its merits alone, I have dismissed the appeal. As such, it follows that I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal. No unreasonable behaviour has been demonstrated in this regard.
9. The PPG states that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policy, and no material considerations indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. I consider that these circumstances arise in this case and therefore that the Council did not prevent or delay development which should clearly be permitted.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Harrington

INSPECTOR

Application Reference	2022/0512/FUL
Site Address	The Willows, Glastonbury Road, Meare, Glastonbury
Applicant/Organisation	Mr T Moon
Application Type	Full Application
Proposal	Erection of a 3-bedroom dwelling.
Decision	Refusal (Delegated)
Appeal Decision	Appeal Dismissed
Appeal Decision Date	20.10.2023



Appeal Decision

Site visit made on 19 September 2023

by **J White BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th October 2023

Appeal Ref: APP/Q3305/W/23/3318670

The Willows, Glastonbury Road, Meare, Glastonbury BA6 9SN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Moon against the decision of Mendip District Council.
 - The application Ref 2022/0512/FUL, dated 11 March 2022, was refused by notice dated 22 September 2022.
 - The development proposed is erection of a 3-bedroom dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Mendip District Council has merged with other Councils into Somerset Unitary Authority, with the individual development plans remaining relevant. As Mendip District Council made the decision on the original application, I have referred to that name above.
3. Since the Council made its decision, on 5 September 2023, a revised version of the National Planning Policy Framework (the Framework) has been issued. However, the only substantive revisions relate to national policy for onshore wind development in England, and I am satisfied that the changes to national planning policy do not materially affect this appeal. I have taken the Framework into account in reaching my decision.
4. As part of the appeal, the appellant has submitted revised plans which were not before the Council when it determined the application. The revised plans include written dimensions to the highway and amendments to the roof plan to reflect drawing number S6189 120. The Council and interested parties have been able to comment on these plans as part of the appeal process, and I do not consider that the minor changes would materially alter the nature of the scheme or result in prejudice to any party. In these circumstances, I have taken the amended plans into consideration.
5. The Council refused the proposal for four reasons. The first reason concerns the effect on the integrity of the Somerset Levels and Moors Ramsar site, with particular reference to phosphate loading. Notwithstanding, as I am dismissing the appeal for other reasons, I will deal with this matter later in this decision, rather than as a main issue.

Main Issues

6. The main issues are the effect of the proposed development upon:
 - The character and appearance of the area;
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- The living conditions of occupiers of 6, 8 and 10 Glastonbury Road (Nos 6, 8 and 10) with particular regard to outlook and privacy; and,
- Surface water drainage in order to minimise flood risk and protect water quality.

Reasons

Character and appearance

7. The appeal site is located within the front garden of The Willows, which together with its neighbour, Linhay, have well-sized linear front gardens. The site lies within a predominately residential area towards the eastern extremity of the village. The surrounding area comprises a mix of different property types, including detached, semi-detached and terraced dwellings of varying ages. Despite the presence of dwellings either side of The Willows and Linhay, which are typically arranged perpendicular and close to the road, the properties in the locality are mainly set back from and face onto Glastonbury Road. These are set within large plots, giving the area a pleasant spacious and open feel. Properties are generally punctuated by small gaps that help define the varied architectural form and scale of buildings found in the area.
8. Even though there is a varied building line, the siting of the proposed dwelling in front of the Willows and within its front garden would be incongruous in the vicinity, where no comparable examples of such development exist. Whilst there are dwellings which lie close to the road, the spacious quality created by the front garden of the appeal site is conspicuous from the highway and maintains the prevailing pattern of development. The plot size of the proposed dwelling would consequently be disproportionately small when compared with the predominant pattern and rhythm of development along the road frontage. The proposal would therefore introduce substantial built form in front of The Willows, which would provide a cramped aspect within views from the road and from neighbouring dwellings.
9. As a result of these factors the development would be out of keeping with the area's prevailing settlement pattern and would erode the distinctive spacious and open feel. Whilst I note the appellant's explanation that the proposal would use similar design features and materials to those of surrounding dwellings, this would not overcome the harm I have identified, which arise from the proposal's location and plot size.
10. For these reasons, I conclude on this main issue that the proposal would cause harm to the character and appearance of the area. As such, the appeal scheme would be in conflict with Policies DP1 and DP7 of the Mendip District Local Plan 2006-2029 (adopted 2014) (the MDLP), which amongst other things, require development to positively contribute to the maintenance and enhancement of local identity and support high quality design that is of a scale, mass, form and layout appropriate to the local context. The proposal would also conflict with the provisions under Chapter 12 of the Framework in relation to achieving well-designed places.
11. My attention has been drawn to the National Design Guide. However, for the above reasons, the development would also be inconsistent with the overarching design principles of the National Design Guide.

Living conditions

12. The properties of Nos 6, 8 and 10 lie to the northern side. These are a row of three two-storey terraced dwellings that have a common boundary with the appeal site. Due to the presence of gardens either side and at the appeal site, the rear elevation of the terrace of dwellings and their garden spaces have a sense of openness.
13. I noticed during my site visit that the boundary of the appeal site with Nos 8 and 10 comprised a timber panel fence, and the boundary with No 6 was predominately a chain-link fence. Each of these neighbours has first floor windows with an outlook toward the appeal site, as well as over the neighbouring gardens. There is already a mutual degree of overlooking between the residential properties, which is common within many more built up areas.
14. Even though the proposed dwelling would be lower in height than the terraced dwellings, it would be positioned in close proximity to the rear elevations and common boundary, particularly in relation to No 8. Notwithstanding the intervening boundary treatments and the presence of some vegetation, due to the proximity and scale of the proposal, it would be noticeable in rear views from these dwellings. Further, as the proposed dwelling would extend along a large proportion of the shared boundary with No 8 and be in close proximity to its rear elevation, the proposal would be significant in terms of creating a dominant and obtrusive development in relation to that property. This would result in an undue sense of enclosure causing significant harm to neighbouring occupiers living conditions of No 8 with particular regard to outlook.
15. Notwithstanding, due to the proposed position of the dwelling, which would be at an angle to Nos 6 and 10, and where there would be a greater sense of separation compared with No 8, the proposal would not harm the outlook of Nos 6 and 10.
16. The proposed dwelling would be placed to face Glastonbury Road and would not have any windows within its side elevation towards Nos 6, 8 and 10. The rear dormer window would be positioned centrally within the roof slope, serve a bathroom and would be obscured glazed. The dormer windows to the front would be oblique to the terraced dwellings and would be unlikely to give rise to a greater degree of overlooking than at present. Consequently, the appeal scheme would not result in a significant degree of overlooking and would not significantly impact on the privacy of the occupiers of Nos 6, 8 and 10.
17. Nonetheless, I conclude that the proposal would have a significant harmful effect on the living conditions of occupiers of No 8 with particular regard to outlook. Therefore, with regard to this main issue, there would be conflict with Policy DP7 of the MDLP, which amongst other things, seeks to protect the amenity of users of neighbouring buildings and land uses.
18. The appeal scheme would also be contrary to the guidance contained in the Design and Amenity of New Development; Guidance for interpretation of Local Plan Policy DP7 (adopted March 2022), which amongst other things seeks to ensure the amenity of current and new occupiers is protected. For similar reasons, the proposal would conflict with the provisions under Chapter 12 of the Framework in relation to creating places that promote health and well-being, with a high standard of amenity for existing and future users.

19. In its reason for refusal the Council has also referred to MDLP Policy DP8. However, as this policy covers broader principles for environmental protection, it is not determinative for this main issue.

Surface water drainage

20. The site is located within Flood Zone 1, which based on the Environment Agency's definition is land having a less than 1 in 1000 annual probability of river or sea flooding. MDLP Policy DP23 requires development proposals to incorporate appropriate water management measures to reduce surface water run-off and ensure that it does not increase flood risk elsewhere. MDLP Policy DP8 requires that development does not give rise to unacceptable adverse environmental impacts on the quality of water resources.
21. The site is categorised by the Council as having a very low risk of surface water flooding and the submitted details propose that a soakaway would be used to manage surface water. However, the Land Drainage Engineer has identified that the soils mapping indicates that the site lies within an area of loamy and clayey floodplain soils with a naturally high groundwater.
22. In that context, there is little substantive evidence to demonstrate that the soil conditions on the site are suitable for infiltration or that the area is unlikely to have a variable flood risk. I acknowledge the appellant's comments regarding the proportionate nature of providing specific surface water drainage details, however, given the provisions of the policies set out above, it is necessary for appropriate provision for surface water drainage to be evidenced.
23. Therefore, concerns remain and relate to lack of evidence demonstrating that infiltration is feasible in the context of the appeal scheme and likely ground water levels. As such, the feasibility of the proposal's surface water drainage solution is unproven, and on the balance of probabilities the risk of surface water flooding persists.
24. There is a need to consider the use of planning conditions that might otherwise make the proposal acceptable. However, it would not be appropriate to condition matters that are fundamental to determining whether something is feasible or not. This is because there would be too much uncertainty about whether the condition could ever be complied with, or whether the planning permission could ever be implemented.
25. Very limited information has been provided in respect of surface water drainage to satisfactorily demonstrate that the proposed development could meet the requirements of MDLP Policy DP23.
26. Consequently, with regard to this main issue, I am not satisfied that the proposal would comply with Policies DP23 and DP8 of the MDLP which, in summary, seeks to ensure that development proposals do not increase the risk of flooding or harm the quality of water resources. This is consistent with the objectives of the Framework insofar as flood risk is concerned.

Other Matters

27. The proposed dwelling would fall within the catchment flowing into the Somerset Levels and Moors Ramsar site, an inland wetland which provides important habitat for rare aquatic invertebrates. There is a known issue with nutrients entering the watercourses and adversely affecting environmental

conditions for these species. Any new housing development will result in an increase in phosphates contained within foul water discharge. As the designated site is in 'unfavourable' condition, any increase including from single dwellings, is seen as significant either alone or in combination with other developments. Habitats Regulations Assessment (HRA) would therefore be required prior to any grant of planning permission. However, given my overall conclusion, whilst I acknowledge that the appellant has suggested a pre-commencement condition, there is no need to consider the implications upon the Ramsar site because the scheme is unacceptable for other reasons.

28. The fact that the site is not within a conservation area, or the curtilage of a listed building does not undermine the value of the character and appearance of the area. I acknowledge the appellant's view that the proposal would provide a family home with good living conditions. However, the benefits are limited by the scale of the proposal and, accordingly, are of limited weight.

Planning Balance

29. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
30. There would be benefits with the construction of a dwelling in a village location with good access to facilities and services to serve the day to day needs of prospective residents. Given only one dwelling is proposed, the contribution would be limited, and I give this factor modest weight. There would be benefits arising from the construction period and future spend of occupants giving support to local services and facilities. Nevertheless, as construction benefits would be short term, and given the scale of the proposal, these factors attract little weight.
31. The proposal would significantly harm the character and appearance of the area and living conditions of the occupiers of No 8. Further there is insufficient evidence to demonstrate that the proposal would not lead to an increase in the risk of flooding. The Framework advises that development should not increase flood risk and that the creation of high-quality buildings and places is fundamental to what the planning process should achieve. It also states that developments should be sympathetic to local character and provide a high standard of amenity for existing users. Paragraph 219 of the Framework is clear that the weight to be given to local policies depends on their consistency with the Framework.
32. The proposed development would conflict with Policies DP1, DP7, DP8 and DP23 of the development plan and it as a whole. I give conflict with these policies substantial weight as they are generally consistent with the Framework.
33. The Council accepts that it is not possible to demonstrate a five-year housing land supply at present. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed, as outlined in paragraph 11d)i. Therefore, the presumption in favour of sustainable development outlined in Paragraph 11d)ii of the Framework is engaged.

34. The proposal would align with the aims of the Framework to significantly boost the supply of housing and that small-scale developments can make an important contribution to meeting the housing requirement and different types of need (paragraphs 60 and 69). As the proposal is for one dwelling, there would be modest benefit.
35. There would be economic and social benefits from the build and occupation of the dwelling as well as support for local services, facilities and the community. Such benefits would be minimal given the size of the development, and I give each limited weight. A finding of no harm in relation to living conditions of occupiers of Nos 6 and 10 weighs neither for nor against the appeal scheme.
36. Despite the acknowledged benefits identified by the appellant, the scheme would cause significant harm to the character and appearance of the area and living conditions of the occupiers of No 8. There is insufficient evidence to demonstrate that the proposal would not lead to an increase in the risk of flooding. These are harms which attract considerable weight respectively and would outweigh the benefits of the proposal. The appeal scheme would be contrary to the Framework where it seeks to ensure proposals are sympathetic to local character and provide a high standard of amenity for existing and future users (paragraph 130) and seeks to ensure flood risk is not increased elsewhere (paragraph 167).
37. Overall, having considered the above factors, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Conclusion

38. For the reasons given above, the scheme would conflict with the development plan and the Framework when considered as a whole. There are no material planning considerations identified, individually or cumulatively, which are of such weight to indicate a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above, the appeal should be dismissed.

J White

INSPECTOR

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