

# Public Agenda Pack



Notice of Meeting of

## **PLANNING COMMITTEE - EAST**

**Tuesday, 5 March 2024 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

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For further information about the meeting, including how to join the meeting virtually, please contact Democratic Services [democraticserviceseast@somerset.gov.uk](mailto: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](mailto:democraticservicesteam@somerset.gov.uk) by **12 noon on 4 March 2024**.

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 22 February 2024.

# **AGENDA**

**Planning Committee - East - 2.00 pm Tuesday, 5 March 2024**

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

**Councillor Reminder for Declaring Interests (Agenda Annexe) (Pages 11 - 14)**

**Click here to join the online meeting (Pages 15 - 16)**

**1 Apologies for Absence**

To receive any apologies for absence and notification of substitutions.

**2 Minutes from the Previous Meeting (Pages 17 - 26)**

To approve the minutes from the previous meeting.

**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](mailto:democraticservicesteam@somerset.gov.uk) by 5pm on Wednesday 28 February 2024.

#### **5 Planning Application 2021/2413/FUL - Land At 352613 133868, Baltonsborough Road, Butleigh, Street, Somerset (Pages 27 - 74)**

Erection of 37 no. dwellings (Use Class C3) and a cafe/work hub (Use Class E) with associated access, parking and landscaping (resubmission of 2020/2674/FUL).

#### **6 Planning Application 2023/2277/HSE - Canada House, Station Road to West Lane, Alhampton, Shepton Mallet, Somerset (Pages 75 - 82)**

Proposed garage extension to replace existing lean-to car port. Proposed infill rear extension joining workshop to dwelling. New roof over existing workshop and lean-to.

#### **7 Planning Application 2023/2217/HSE - 10 Lewmond Avenue, Wells, Somerset (Pages 83 - 90)**

Two-storey rear extension (retrospective).

#### **8 Planning Application 2023/1679/RE3 - Marston Roundabout, Frome, Somerset (Pages 91 - 100)**

Erection of advertisement/sponsorship 4no. hoarding signs on roundabout.

**9 Planning Application 2023/1851/RE3 - Land At 362482 154962, Rush Hill, Ston Easton, Wells, Somerset (Pages 101 - 112)**

Erection of a single advertisement/sponsorship hoarding signs on the triangle junction between the A37 and A39.

**10 Planning Application 2023/0152/FUL - Cold Harbour Farm, Withy Wood Lane, Cranmore, Shepton Mallet, Somerset (Pages 113 - 130)**

Internal alterations and the conversion of 3 associated outbuildings to ancillary residential use.

**11 Planning Application 2023/0153/LBC - Cold Harbour Farm, Withy Wood Lane, Cranmore, Shepton Mallet, Somerset (Pages 131 - 144)**

Internal alterations and the conversion of 3 associated outbuildings to ancillary residential use.

**12 Planning Application 2023/2304/FUL - Tilham Farm, Tilham Lane, Baltonsborough, Glastonbury, Somerset (Pages 145 - 160)**

Demolish Barn B and erection of 4 x 1-bed residential dwellings.

**13 Planning Application 2023/1884/FUL - Emborough Farm, Roemead Road, Binegar, Radstock, Somerset (Pages 161 - 182)**

Erection of a temporary rural workers dwelling and associated works.

**14 Planning Application 2020/1287/FUL - Cheese Yard, Peace Close Lane, West Horrington, Wells, Somerset (Pages 183 - 198)**

Demolition of existing Dutch barn and erection of new dwelling with associated parking (Shadow HRA submitted received 03.01.2024).

**15 Planning Application 2023/1275/FUL - Wells Police Station, 18 Glastonbury Road, Wells, Somerset (Pages 199 - 236)**

Redevelopment to form 47 No Retirement Living Apartments for Older People (Sixty Years of Age and/or Partner over Fifty-Five Years of age), Guest Apartment, Communal Facilities, Access, Car Parking and Landscaping.

## **16 Planning Appeals Report (Pages 237 - 266)**

Report of appeal decisions made by the Planning Inspectorate between 23<sup>rd</sup> January 2024 and 21<sup>st</sup> February 2024.

### **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 be 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](mailto: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.



## Councillor reminder for declaring interests

The [Members Code of Conduct](#) deals with declaration of interests and participation at meetings.

### **Non participation in case of Disclosable Pecuniary Interest**

Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests\*, you **must** disclose the interest, **must not** participate in any discussion or vote on the matter and **must not** remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest,' you do not have to disclose the nature of the interest, just that you have an interest. A dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

### **Disclosure of Other Registerable Interests**

Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests\*\*, you **must** disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise **must not** take part in any discussion or vote on the matter and **must not** remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **Disclosure of Non-Registerable Interests 'directly relating' to financial interest or well-being**

Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you **must** disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you **must not** take part in any discussion or vote on the matter and **must not** remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## **Disclosure of Non-Registerable Interests 'affecting' financial interests or well-being**

Where a matter arises at a meeting which affects –

- a) your own financial interest or well-being;
- b) a financial interest or well-being of a relative or close associate; or
- c) a financial interest or wellbeing of a body included under Other Registrable Interests

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

Where a matter affects the financial interest or well-being:

- a) to a greater extent than it affects the financial interests of the majority of inhabitants of the division affected by the decision and;
- b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest,

you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you **must not** take part in any discussion or vote on the matter and **must not** remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

If your Non-Registrable Interest relates to –

- 1) an unpaid directorship on a company owned by your authority or
- 2) another local authority of which you are a member,

subject to your declaring that interest, you are able to take part in any discussion and vote on the matter.

\*1. **Employment:** any employment or office held, or trade, profession or vocation carried on, by you or your partner for profit or gain.

2. **Sponsorship:** any payment or financial benefit towards your election expenses or expenses as a member received within the last 12 months, excluding any from your council.

3. **Contracts:** any current contract between your council and you, or your partner, or any body in which you or your partner are a partner, director, or shareholder.

4. **Land:** any land which is in your Council's area which you or your partner own, have a right to occupy, or receive the income from (excluding a licence to occupy land for less than a month).

5. **Corporate tenancies:** any tenancy between your council and a body in which you or your partner are a partner, director, or shareholder.

6. **Securities:** any beneficial interest in any shares or other securities of any description in a body held by you or your or your partner if the body has a place of business or land in your council's area, and: the total value of the securities held is over £25,000, or you or your partner hold more than one hundredth of the total issued share capital of the body, or if the body has more than one class of shares you or your partner hold more one hundredth of the issued share capital of that class.

\*\*a) any unpaid directorships b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority c) any body exercising functions of a public nature directed to charitable purposes or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union, of which you are a member or in a position of general control or management.

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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, 6 February 2024 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 Martin Lovell	Cllr Tony Robbins
Cllr Claire Sully	Cllr Philip Ham

**10 Apologies for Absence** - Agenda Item 1

9

Apologies for absence were received from Councillors Adam Boyden, Dawn Denton and Helen Kay. Councillor Philip Ham substituted for Councillor Denton.

**11 Minutes from the Previous Meeting** - Agenda Item 2

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The Committee was asked to consider the Minutes of the meeting held on 9 January 2024.

Councillor Martin Lovell proposed and Councillor Tony Robbins seconded that they be accepted. These Minutes were taken as a true and accurate record and were approved.

**111 Declarations of Interest** - Agenda Item 3

Cllr Tony Robbins declared a non-registerable interest in Item 9 and said he would leave the room when it was discussed.

**11 Public Question Time - Agenda Item 4**

**2**

There were none.

**11 Planning Application 2023/1135/FUL - Land at 351605 155774 Burrington  
3 Road, Charterhouse, Cheddar, Somerset - Agenda Item 5**

The Officer's Report stated that this application related to the demolition of stable buildings and the erection of a dwelling. Also, the stopping up of vehicular access from Burrington Road and the creation of a new access track further east along Burrington Road. There would be a new package treatment plant and associated works to convert the site from equestrian to residential.

The site was outside any development limits in open countryside and within the Mendip National Landscape.

As the application was recommended for approval, this would be a departure from the local plan and therefore was referred to the Planning Committee for determination.

It was noted that previous permission had been granted on the site in February 2023 for the conversion of the main stable building to a residential dwelling with the stopping up of the existing access and creation of a new access to the east.

In summary, the Planning Officer stated that, given that the site already benefited from a fall-back position in the conversion, the new proposal would not result in any additional harm above that already permitted in terms of sustainability, and no material harm has been identified. The application was therefore recommended for approval subject to conditions, as a departure from the Development Plan.

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

The Committee was then addressed by the agent for the application. He made the following comments:

- This is a brownfield site, previously used for keeping and stabling horses.
- Previous planning permission granted in 2023 was granted to convert the largest concrete stable into a 2-bed single storey dwelling. The new application is only slightly larger and is for a 3-bed single storey dwelling.
- There is no change to the previously approved access.

- The proposed new position 10m further east would mean less impact on the neighbouring property and will be well screened in the wider landscape.
- No objections have been received from the Parish Council or neighbours.

There was a brief discussion in which Members expressed their approval of the application and were happy to see that the access to the proposed dwelling would be located further away from the bend in the road. The development would tidy up a site which was run down in appearance.

At the conclusion of the debate, it was proposed by Councillor Philip Ham and seconded by Councillor Edric Hobbs to approve the application in accordance with the Officer's recommendation.

On being put to the vote the proposal was approved unanimously.

### **RESOLVED**

That planning application 2023/1135/FUL be **APPROVED** in accordance with the Officer's recommendation.

### **Votes - Unanimous**

#### **11 Planning Application 2023/1535/FUL - Barn at Lower Shots, Ashmoor Drove, 4 Bleadney, Somerset - Agenda Item 6**

The Officer's Report stated that this application related to a site located outside the settlement limits as identified in the Mendip District Council Local Plan. As the Officer's recommendation was for approval, the application had been referred to the Planning Committee for determination. The proposal would utilise the existing access from Ashmoor Drove which is a single lane, unclassified carriageway.

The Report continued that there was existing permission to convert the barn to a 2no. bed dwelling. To facilitate the new extended element of the dwelling, existing barn buildings surrounding the main barn (to be retained and converted) would be demolished. The new build would largely sit within the footprint of the demolished barns.

In the summary, the Planning Officer recommended that that planning permission be approved as no adverse impacts had been identified which would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in the National Planning Policy Framework (NPPF).

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

The Committee was then addressed by the agent for the application. He made the following comments:

- To accommodate the applicant's large family, they would like to demolish a concrete barn abutting the milking parlour which was already approved for conversion.
- It would have a modern, contemporary appearance to complement the red brick milking parlour.
- No new issues for highway safety, ecology or flood risk.
- The Parish Council had recommended approval and there were no objections from neighbouring properties.

Members had a brief discussion and were happy with the proposal.

At the conclusion of the debate, it was proposed by Councillor Philip Ham and seconded by Councillor Edric Hobbs to approve the application.

On being put to the vote the proposal was carried unanimously.

## **RESOLVED**

That planning application 2023/1535/FUL be **APPROVED** in accordance with the Officer's recommendation.

## **Votes - Unanimous**

### **11 Planning Application 202/0910/FUL - Land East of Squires, Mardis Lane, West 5 Lydford, Somerset - Agenda Item 7**

The Officer's Report stated that this application would be a departure from the existing adopted Development Plan, so in accordance with the scheme of delegation the application had been referred to the Planning Committee for determination. The application site was adjacent to, but fell outside of, the designated development limits.

In the summary, the Planning Officer said that the application would deliver one dwelling which should be given significant weight in the planning balance, particularly in the context of the lack of five-year housing land supply within the ex-

Mendip area. The proposed dwelling would not be considered isolated. The occupiers would have access to some services and facilities within the nearby villages of Lydford and Keinton Mandeville without having to necessarily rely on private vehicular travel. It would deliver simultaneously, economic and social benefits in the form of employment opportunities during the construction period.

No adverse impacts had been identified which would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in the NPPF. Therefore on this basis, the proposed development represented a sustainable development and the application was recommended for approval.

The Planning Officer explained the application to the Committee with the aid of a PowerPoint presentation. She also clarified that only 1 letter of objection had been received, not 2 as indicated in her report.

The Committee was then addressed by the agent for the application. He made the following comments:

- No part of the application site lies within a green or open space which is designated in the Local Plan, contrary to what the Parish Council had stated.
- A neighbouring property had been approved at appeal in 2016.
- The Conservation Officer had raised no objections and had complimented the application on its good quality design and materials.
- Both the Conservation Officer and the Planning Officer were content that there was no harm arising to the character of the area or setting of the nearest Listed Buildings.
- The lane only serves two existing dwellings, a stables and a sewage works. It would only require a short 70m drive along the lane to the new dwelling and would therefore not be prejudicial to highway safety.

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

- The concerns of the Parish Council regarding the design of the dwelling, its proximity to 4 listed buildings and safety of the lane should be taken into consideration.
- Why have permitted development rights been removed from the property?
- Considering that the Conservation and Planning Officer had no objections, it would be difficult to identify what harms would outweigh the benefits and therefore difficult to refuse.
- The building to the west of the site was approved in recent years and if access via the single-track lane was acceptable then, it still would be now.

In response to Members comments, the Legal Adviser made the following point:

- Although the development would be outside of development limits, as there is no 5-year housing land supply, the tilted balance would come into effect. This would mean that unless the Committee can identify harm, the fact the site is outside the development limits would not be a sufficient reason for refusal on its own. Paragraph 11d of the NPPF says that applications should only be refused if any adverse impacts would significantly and demonstrably outweigh the benefits.

The Planning Officer advised that permitted development rights had been removed in this location to ensure that the building could not get any bigger and to provide control for the protection of the nearby listed buildings.

At the conclusion of the debate, it was proposed by Councillor Bente Height and seconded by Councillor Edric Hobbs to approve the application in accordance with the Officer's recommendation.

On being put to the vote the proposal was carried with 7 in favour and 3 abstentions.

#### **RESOLVED**

That planning application 2020/0910/FUL be **APPROVED** in accordance with the Officer's recommendation.

#### **Votes – 7 in favour, 3 abstentions**

#### **11 Planning Application 2023/1850/FUL - Land at 364102 150298, Stockhill 6 Road, Chilcompton, Somerset - Agenda Item 8**

The Officer's Report stated that this application would be a departure from the existing adopted Development Plan, so in accordance with the scheme of delegation the application had been referred to the Planning Committee for determination.

In the summary, the Planning Officer said that there were benefits to the proposal in terms of contribution to the housing shortfall within the Council area, and there would be some economic benefits for the duration of the construction phase. No demonstrable harm had been identified and the site was within walking distance of a primary school and other services, including public transport. The application site was situated outside of the development limits, but not in a remote location. As

there was no specific identified and demonstrable harm, and taking into account the limited benefits, the application was recommended for approval.

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

There were no public speakers for this application.

In the discussion which followed, Members made comments including the following:

- Although just outside the Development limit, Chilcompton is the biggest village in the Mendip area with many facilities, so is in a sustainable location.
- Initial concerns of overdevelopment, but content that it would fit in with the location.
- The Environmental Protection Officer has reviewed this application and has no objections despite the small holding next door.
- The small holding has been located within the residential area for decades and there is no known history of complaints.

At the conclusion of the debate, it was proposed by Councillor Tony Robbins and seconded by Councillor Edric Hobbs to approve the application in accordance with the Officer's recommendation.

On being put to the vote the proposal was carried unanimously.

## **RESOLVED**

That planning application 2023/1850/FUL be **APPROVED** in accordance with the Officer's recommendation.

## **Votes - Unanimous**

### **11 Planning Application 2023/0167/VRC - Duke of Cumberland Inn, Edford Hill, 7 Holcombe, Somerset - Agenda Item 9**

At the start of this agenda item Cllr Robbins left the meeting due to his earlier Declaration of Interest at Agenda Item 3.

The Officer's Report stated that the application had been referred to the Planning Committee at the request of the Chairman and as the Officer's recommendation to refuse differed from that of the Parish Council.

Since the Officer's recommendation was completed on this application, approval had been granted for a self-contained car park away from the pub site under application number 2022/1618/FUL. Despite this, the proposed arrangements for deliveries to the pub and the changes to the use of the area for vehicular parking directly opposite the pub site were still considered unacceptable by Officers.

In the summary, the Planning Officer's report concluded that the removal of conditions 3 and 9 from 2020/0242/FUL would result in unacceptable harm in terms of amenity loss, highway safety impacts, loss of parking and visual harm. This harm would outweigh any benefits which might result from the removal of the conditions and the application was therefore, recommended for refusal.

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

The Committee was then addressed by an objector to the application. The comments included:

- Speaking on behalf of the nearest neighbour whose access has been badly affected by the location of the rubbish bins.
- A prescriptive easement was already in place when the pub was purchased. This makes it difficult for the neighbour to enter his property or turn his car.
- All delivery vehicles are a disturbance and some arrive earlier than the conditioned 7.00 am. Removal of that condition would cause greater disturbance at earlier hours.

A representative from the Parish Council was the next to speak. He said the Parish Council had recommended approval of the application. The village has very few facilities and the pub was a great asset to the village. He noted that the application had been submitted over a year ago and objections dated back to February 2023. It was not acceptable to be making a decision based upon old information and that many of the issues raised in the objections had been resolved.

The final speaker was the applicant. He made the following comments:

- He has owned and operated the business for 14 years.
- There have 25 comments of support only 1 neighbour has made objections.
- The Parish Council are in full support.
- He has requested his suppliers not to make deliveries until after 7.00 am, but occasionally they do come earlier. This does not happen often.
- The Council has asked the neighbouring property owners if there has been



noise disturbance from the deliveries. None were identified apart from the 1 neighbouring property.

- The storage of the waste bins near to the windows of the pub is not ideal and causes a blockage in the road when the lorries come to empty them. There is also the odour and unsightly look to consider.
- Would like to return the bins to their original location in the north of the parking area opposite the pub and requests that Condition 9 is therefore removed.

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

- The concerns of both the owner and the neighbour are appreciated.
- Pubs are closing at a fast rate. They need support and restricting the hours that deliveries can be made is not supportive.
- The photographs provided to the Committee of overflowing bins are not representative of the situation as it stands now. They were taken during Covid restrictions.
- As a new car park has been approved for construction serving the pub, Condition 9 restricting could be removed once the new car park is operational.
- It is difficult to see how the harms would outweigh the benefits of this application.
- The current location of the bins directly under the windows of the pub is not ideal due to odours, vermin and being unsightly.
- An operational plan for deliveries could be required before the removal of Condition 9.

The removal or re-wording of Conditions 3 and 9 was discussed at length and culminated with the decision to approve the application but with the prior submission and approval of an operational plan for deliveries. Once the new car park had been built and was operational, Condition 3 would be amended to read deliveries would only be permitted between 6.00 am to 8.00 pm, including Public and Bank Holiday, but not on Sundays. Condition 9 would be removed in its entirety, but only when the new car park had been built and was operational.

At the conclusion of the debate, it was proposed by Councillor Martin Dimmery and seconded by Councillor Susannah Hart to approve the application contrary to the Officer's recommendation, but with amendments to the conditions as shown below.

On being put to the vote the proposal was carried with 7 votes in favour, 1 vote against and 1 abstention.

**RESOLVED**

That planning application 2023/0167/VRC be **APPROVED** contrary to the Officer’s recommendation but subject to the following variations to the two conditions, namely that:

Condition 3 and Condition 9 of planning permission 2020/0242/FUL shall remain in full effect until:

1. an operational plan for deliveries has been submitted to and approved by the Council; and
2. the off-site car park approved pursuant to planning permission 2022/1618/FUL has been implemented and brought into use.

Thereafter, Condition 3 of planning permission 2020/0242/FUL shall be varied to read as follows:

*“Condition 3 - Deliveries shall be taken at or despatched from the site only between Monday - Saturday 06:00 hours till 20:00 hours, and not at any time on Sundays”*

and Condition 9 of planning permission 2020/0242/FUL shall be deleted in its entirety.

**Votes – 7 in favour, 1 against and 1 abstention**

**11 Appeals Report - Agenda Item 10**  
**8**

The report of decisions made by the Planning Inspectorate between 19 December 2023 and 22 January 2024 was noted.

**(The meeting ended at 4.00 pm)**

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**CHAIR**

Application Number	2021/2413/FUL
Case Officer	Ed Winter
Site	Land At 352613 133868 Baltonsborough Road Butleigh Street Somerset
Date Validated	24 November 2021
Applicant/ Organisation	Galion Homes Ltd
Application Type	Full Application
Proposal	Erection of 37 no. dwellings (Use Class C3) and a cafe/work hub (Use Class E) with associated access, parking and landscaping (resubmission of 2020/2674/FUL).
Division	Mendip South Division
Parish	Butleigh Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

## **Scheme of delegation**

The application proposes new residential development (major application) outside of settlement limits. The officer recommendation is for approval, and therefore in accordance with the scheme of delegation this application is referred to Planning Committee as a departure from the local plan.

## **Description of proposal, site and constraints**

The application site comprises land in agricultural use of 11.8 hectares (grade 3b, not best and most versatile). The land consists of a field located on the north-eastern side of the village of Butleigh. The site is to the north and east of Butleigh Village Hall and recreation ground. The north-western boundary of the site abuts Baltonsborough Road and Wash Brook. Butleigh Rhyne, a steeply banked stream, runs along the southern and eastern boundaries of the site. Beyond the eastern boundary of the site lies a large solar farm and a wastewater treatment plant is located to the south-east. Fields lie to the north and west of the site. The site boundaries are generally lined by trees and hedges, with field accesses located in the south-western and south-east corners, and further access on Baltonsborough Road.

Butleigh is identified in Local Plan Part I as a primary village and therefore includes a development boundary. The site lies outside the development boundary and is separated from the village by the village hall and recreation field. The site is not allocated for development within the local plan.

Full planning permission is sought for the erection of 37 dwellings, a café and seven 'work hub units' (205sqm combined total).

A similar application was made in December 2020 (2020/2674/FUL) but withdrawn in 2021. The current application was first submitted in November 2021, although its progress was held up for over a year due to uncertainties around phosphate mitigation.

Amendments to the scheme were received in 2023 to improve the parking and layout of the site, the introduction of smaller work hub units (to improve their marketability), and the introduction of play areas. Clarifications regarding drainage were sought by the lead local flood authority and the Somerset Drainage Board, which have now been fully addressed.

The 37 dwellings are a mix of two, three, four and five-bed one and two storey terraced, semi-detached and detached homes. 11 would be affordable and secured as such in perpetuity. The buildings, gardens, roads and pavements amount to 4.6ha. A significant part (1.4ha) of the site would be used for features such as swales, wetland, woodland and a community orchard. The remaining 5.8 hectares would stay in agricultural use. Total site area is 11.8ha.

The houses are all designed to complement local vernacular and would be built to exceed current building regulations standards. Blue lias would be used on all front elevations, with remaining elevations in either blue lias or render. Roofs would be slate or clay tile. Blue lias and estate railing would be used for boundaries, as well as planting. All homes would have at least one active electric vehicle charging point of at least 7kw, prior to the occupation of dwellings.

The commercial units would consist of a café and seven work hub-units, all of which would be timber clad with zinc roofs. Both the café and work hub units would be in use class E: commercial, business and service. Class E includes a wide range of uses such as artist studios, barbers, crèches, gyms, hairdressers, music studios and osteopaths. The café and work hub units would have their own parking area, consisting of 13 car parking spaces (including one disabled bay) and 12 bicycle parking spaces. A permissive footpath would go around the periphery of the site.

A new vehicular access into the site would be formed from Baltonsborough Road. A pedestrian link onto Back Town would be provided in the south-western part of the site.

The application is supported by a suite of documents including a design & access statement, transport statement, odour assessment, flood risk assessment & drainage strategy, archaeological assessment, arboricultural impact assessment, and a nutrient neutrality assessment & mitigation strategy.

### ***On site constraints***

- Air limit (MOD)
- Agricultural land classification: 3b (not best and most versatile)
- Flood zone 1
- Sewage treatment buffer zone.
- Somerset Levels & Moors RAMSAR catchment area.
- SSSI impact risk zone
- Upper Brue Internal Drainage Board area

### **Relevant history**

- 2020/2674/FUL - A proposal for 37 dwellings and a cafe/work hub was withdrawn in April 2021.

### **Summary of division councillor comments, parish/city council comments, representations and consultee comments**

- SC division member: Cllr Sully requests application be determined at planning committee.
- Butleigh Parish Council: Objection (full comments on website)
  - Not allocated
  - This site in combination with Sub Road scheme would add in excess of 20% additional dwellings to Butleigh with no additional infrastructure (roads, sewerage etc)
  - Proposed vehicular and pedestrian accesses unsafe.
  - Butleigh sewage works unable to cope with current levels of waste and frequently overflows. Concerns over untreated water being diverted into neighbouring ditch system. Objection from Wessex Water regarding odour.
  - Concerns over construction traffic routing
- SC Affordable Housing: No objection, subject to legal agreement.
- SC Contaminated Land: No objection (informative advised).
- SC Ecology: No objection, subject to conditions/legal agreement.
- SC Education: No objection as there is sufficient school capacity at present.
- SC Environmental Protection: No objection subject to conditions.
- SC Highway Authority: No objection.
- SC Lead Local Flood Authority: No objection
- SC Planning Policy: Objection
- SC Trees & Woodland: No comments received.

- CPRE (The Countryside Charity): Objection
- NHS: No objection subject to s106.
- Natural England: No objection, subject to mitigation being secured in perpetuity through legal agreement.
- Somerset Drainage Boards Consortium: No objection
- South West Heritage Trust Archaeology: No objection subject to conditions.
- Wessex Water: No objection

### ***Summary of representations from neighbours/members of public***

This application has generated a significant level of interest from members of the public. Only one comment of support was received, whereas all the other comments were to object. 90 objections were received in response to the initial submission of the application in 2021, with a further 38 objections in response to the amendments that were submitted in 2023. The issues raised by objectors in 2021/2022 remained the same in 2023.

### *Summary of objections*

Key points from the objections to the planning application include:

- **Outside of Development Limit:** The proposed development is located outside the designated development limit outlined in the local plan.
- **Lack of Need:** Many objections question the necessity of additional housing in the village, citing existing approvals.
- **Brownfield sites are available in Street & Glastonbury.**
- **Traffic Concerns:** Worries about increased traffic congestion, particularly on narrow country lanes, leading to safety hazards and noise pollution. The cafe will attract additional traffic.
- **Infrastructure Strain:** Existing infrastructure such as drainage, roads, and schools is already strained and unable to support additional housing developments. Concerns about proximity to the proposed development to Butleigh Wastewater Treatment Works.
- **The village primary school is at full capacity.**
- **Environmental Impact:** Concerns about the development's potential to increase flooding, reduce green spaces, and harm wildlife habitats.
- **Character of the Village:** Opposition to the proposed development as it is seen as out of character and scale to the village. Design & layout does not fit in with the character of the village.
- **Quality of Life:** Concerns about the impact on residents' quality of life, including increased noise, light pollution, and congestion.
- **Inadequate Consultation:** Criticism of the lack of meaningful consultation with the local community and disregard for residents' concerns.

- Phosphate Levels: Doubts about the effectiveness of proposed tree planting to offset phosphate production from the development.
- Employment: Limited employment availability within Butleigh resulting in need to travel for work.
- Loss of productive agricultural land.
- Loss of wildlife habitat.
- No need for a cafe/work hub as there is space available in the pavilion, church rooms, school hall.

*Summary of support comment received in 2022*

- Desire for Family Home: The commenter, a young professional and parent, expresses a desire for an attractive 4/5 bedroom house in the Baltonsborough/Butleigh area, which is rare to find for sale and urges consideration for people seeking to buy long-term family homes, suggesting that the proposed development could meet this demand.
- Concerns about Opposition: The commenter believes that many of the objections come from residents who already live in large detached family houses, and suggests that they may oppose any housing scheme, regardless of affordability.
- Benefits of New Facility: The commenter highlights the positive impact of the Balsbury Grocery in Baltonsborough, suggesting that the addition of new facilities, like those proposed by the development, can create local hubs and offer choice and opportunity to residents.
- Positive View of Developer: The commenter praises Galion, the developer behind the proposed development, for their efforts to design and build attractive homes that fit with the area, using quality materials that will stand the test of time.

**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 development plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites & Policies (2021) (post JR version)

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

Core policies

- CP1: Mendip Spatial Strategy
- CP2: Supporting the Provision of Housing
- CP3: Supporting Business Development and Growth

- CP4: Sustaining Rural Communities

#### Local development policies

- DP1: Local Identity and Distinctiveness
- DP3: Heritage Conservation
- DP4: Mendip's Landscapes
- DP5: Biodiversity and Ecological Networks
- DP7: Design and Amenity of New Development
- DP6: Bat Protection
- DP9: Highways Impact of New Development
- DP10: Parking Standards
- DP11: Affordable Housing
- DP19: Development Contributions
- DP23: Managing Flood Risk

#### **Other possible relevant considerations (without limitation)**

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- National Design Guide
- Landscape Character Assessment 2020
- Design and Amenity of New Development Supplementary Planning Document 2022
- Greenspace Supplementary Planning Document 2023

#### **Assessment of relevant issues**

- The proposed development would deliver 37 homes, of which 11 would be affordable.
- The proposed development would also deliver 205sqm of café and work hub units and an uplift in biodiversity.
- The site is located in “open countryside” for the purposes of the spatial strategy, an area where development is to be strictly controlled.
- The council is unable to demonstrate a five-year supply of housing site in the Somerset East area and can demonstrate a supply of 2,213 homes, which is 3.24 years' worth. This is a shortfall of 1,201 homes against the requirement of 3,414.
- Highways, phosphates, odour (proximity to sewage works), flood risk issues have been addressed through the planning application process.
- There are both benefits and harms to this application, which need to be weighed up.

#### **Principle of the use**

In terms of the spatial strategy and settlement hierarchy, as set out in local plan policies CP1 and CP2, the site is located within “open countryside” (NB, this is not a landscape term, but a settlement hierarchy term, in this context). In such locations, development is to



be strictly controlled. Policy CP4 identifies a number of exceptions to this strict control, none of which apply to the residential element of the proposed development, but do apply to the commercial element. Therefore, in local plan terms, the development as proposed is not acceptable in principle.

***NPPF as a material consideration and whether the “tilted balance” is engaged***

The NPPF is a material consideration in the determination of planning applications.

Paragraph 11d states:

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [8], granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [7]; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

*[Footnote 7] The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.*

*[Footnote 8] This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.”*

As the Somerset East area cannot demonstrate a five-year supply of housing, the tilted balance is engaged, unless the situation in *i* applies. That situation is not considered to apply to this planning application.

*The policies which are most important for determining the application and whether they are out of date*

NPPF paragraph 11d requires the policies most important for determining the application to be identified and to determine whether or not they are “out of date”. Case law (e.g. Peel

Investments [2020] EWCA Civ 1175) has confirmed that “out of date” in this context means the degree to which they are consistent with the NPPF and whether they have been overtaken by events. For policies that are deemed “out of date”, the weight to be attributed to them should be reduced, based on the reasons for their being “out of date”. This exercise should be carried out regardless of whether a five-year supply of housing land can be demonstrated as five-year supply is an additional consideration.

The policies most important for determining the application are considered to be:

- CP1: Mendip Spatial Strategy
- CP2: Supporting the Provision of Housing
- CP3: Supporting Business Development and Growth
- 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: Highways Impact of New Development
- DP23: Managing Flood Risk

The reasons as to why these are considered to be the most important policies, whether they are considered “out of date” and the weight to be attributed to them is set out below.

### *CP1*

Mendip Spatial Strategy is chiefly concerned with achieving a sustainable pattern of growth and seeks to do this by directing the majority of development to the five principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells, with development tailored to meet rural needs allowed for in primary and secondary villages. Outside of these areas, development is to be strictly controlled. The policy also seeks to channel development towards appropriate previously development land and other land within settlement boundaries and then to the most sustainable locations on the edge of identified settlements. This is then reflected in site allocations. This policy also defines the settlement boundaries.

This strategy is considered to be consistent with NPPF aims of achieving sustainable development. However, CP1 is also over five years old. It is also the case that the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. It is therefore considered the CP1 has been overtaken by events, and is therefore out-of-date out of date, to the extent that it restricts development through the settlement boundaries. The settlement boundaries are therefore given reduced weight. This is not to say that

development anywhere would be acceptable, but that the LPA should view the settlement boundaries as having reduced weight and therefore offering some flexibility.

### *CP2*

Supporting the Provision of Housing takes the principles of the spatial strategy set out in CP1 and identifies the *amount* of development required overall and by settlement for Frome, Glastonbury, Shepton Mallet, Street and Wells. For the primary and secondary villages, an aggregated figure of 1,780 homes is identified. The supporting text to the policy identifies requirements for each village, with completions and consents early in the plan period taken into account, resulting in a remaining 'level of development' figure, which was used to inform site allocations in LPP2. An additional 505 homes across the district are also to be delivered in the plan period.

CP2 further states that sites are to be allocated in line with the principle that growth at the primary and secondary villages should be proportionate. 15% is identified as a proxy for proportionate growth in the supporting text.

LPP1 is over five years old and the local planning authority cannot demonstrate a five-year supply of deliverable housing. Therefore, references in the policy and supporting text to housing numbers, to the extent that they are considered material in restricting development, should be given reduced weight.

However, the principle of proportionate growth is considered to be consistent with the NPPF and should be given full weight.

### *CP3*

CP3 Supporting Business Development and Growth supports economic development proposals in line with the spatial strategy set out in CP1 and, in rural areas, CP4. This policy is considered consistent with the NPPF and should be given full weight.

### *CP4*

CP4 reiterates the approach to site allocations in rural areas set out in CP1 and CP2 and serves as an exception policy to the strict control of development as set out in CP1, for some types of housing and economic development. This policy is considered consistent with the NPPF and should be given full weight. The principle of proportionate growth is considered to be consistent with the NPPF and should be given full weight.

### *DP1*

The local plan policy on Local Identity and Distinctiveness is considered to be consistent with the NPPF and not overtaken by events. It is therefore attributed full weight.

#### *DP4*

The local plan policy on Mendip's Landscapes is considered to be consistent with the NPPF and not overtaken by events. It is therefore attributed full weight.

#### *DP5*

The local plan policy on Biodiversity and Ecological Networks is considered to be consistent with the NPPF and not overtaken by events. It is therefore attributed full weight.

#### *DP7*

The local plan policy on Design and Amenity of New Development is considered to be consistent with the NPPF and not overtaken by events. It is therefore attributed full weight.

#### *DP8*

The local plan policy on Environmental Protection is considered to be consistent with the NPPF and not overtaken by events. It is therefore attributed full weight.

#### *DP9*

The local plan policy on Highways Impact of New Development is considered to be consistent with the NPPF and not overtaken by events. It is therefore attributed full weight.

#### *DP23*

The local plan policy on Managing Flood Risk is considered to be consistent with the NPPF and not overtaken by events. It is therefore attributed full weight.

Having identified the policies most important to the determination of the application, and the weight to be attributed to each of them, it can be concluded that for most of the policies that are considered most important for the determination of the application are not considered to be out of date, but CP1 and CP2 are considered to be partly out of date.

However, as previously stated, the council cannot demonstrate a five-year supply of deliverable housing sites.

The rest of NPPF paragraph 11d then needs to be considered. This allows for applications to be determined either on the basis of 11di, or 11dii.

As stated above, based on the information available (see discussion in relevant sections below), it is not considered that the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, as set out in NPPF 11(d)(i).

Therefore, the 'titled balance' as set out in NPPF paragraph 11 is engaged. This states 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 NPPF taken as a whole.

### **Conclusion on tilted balance**

The tilted balance is engaged. The application should be granted unless 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.

### **Spatial strategy**

As set out above, in local plan terms, the proposed development lies outside of the settlement policy boundary and the housing element of the scheme does not accord with the local plan's spatial strategy, because it is located outside of the settlement boundary, where development is strictly controlled. However, because the 'tilted balance' is engaged, further consideration of adverse impacts is required. In addition, economic development element of the scheme should be considered against CP3 and CP4.

CP2 provides for 1,780 dwellings to be developed in rural areas. The supporting text to CP1 states that these should be in primary and secondary villages and that a rough rule of 15% of dwelling stock at the start of the plan period should be provided. This is to accord with the principle set out in the main part of the policy that growth should be proportionate. This takes completions and permissions that were already in place in the earlier (2006-2013) part of the plan period and results in residual allocation requirements for each village. For Butleigh, the supporting text identifies the figure of 45 dwellings as a "village requirement" (table 8), which equates to about 13.8% of dwellings at the start of the plan period. At that point, there were already 17 completions and consents (1/4/2006-31/3/2013) and as such a residual 28 homes was identified for potential allocation in LPP2.

LPP2 has indeed allocated a site in Butleigh towards meeting the requirement for 45 additional dwellings: Policy BT1: Land at West View, Sub Rd. BT1 is for a minimum of 25 dwellings, but this site has outline consent for up to 32 dwellings (2018/2648/OTS, allowed at appeal). 2023 monitoring also confirms that there have also been 13 completions in Butleigh in the plan period to date (2006-2023, indicating that 4 of the 17 completions and consents identified at the start of the plan period have not in fact been delivered). Therefore, the amount of development in Butleigh has met the amount identified for the village in the plan, although it should be remembered that the plan requirements are expressed as minima, rather than a target.

Given that the plan minimum requirement for Butleigh has been met, to what extent can further housing over and above this amount be considered harmful? One of the principles for identifying the amount of growth for villages was “That levels of new development in each place should be appropriate to their existing scale and have regard to environmental constraints (LPP1 4.31)”. In addition, CP2 also establishes the principle that growth in villages should be proportionate. On this basis 15% was identified as an appropriate amount of growth over the 23-year plan period (2006-2029).

If the 37 dwellings currently being considered were granted planning permission and delivered, this would represent 11% of the dwelling stock at the start of the plan period and would mean that cumulatively the dwelling stock of Butleigh would increase by about 25.3% (based on 324 dwellings at the start of the plan period and 406 committed if this application is granted). This clearly represents an increase on the 15% plan requirement, but to what extent is the amount of development proposed in the current application harmful?

In a recent allowed appeal at Coalpit Lane, Stoke St Michael (2020/0580/OTS), issued 27<sup>th</sup> January 2023, the inspector considered that “In terms of scale, the proposed development of 47 dwellings is substantial, though not of a level that would be disproportionately large for this village.” Stoke St Michael had about 300 dwellings at the start of the plan period and, like Butleigh a requirement for 45 dwellings was identified in the plan. The Stoke St Michael appeal was allowed, bringing the level of completed committed development in the plan period in Stoke St Michael to 69, which represents growth of 23% in housing stock.

In a recent dismissed appeal at Rode (2021/0071/OTS), issued 21<sup>st</sup> April 2023, the inspector stated that: *“Overall, this cumulative growth would result in Rode’s housing stock increasing by around 30% since the start of the plan period. This would be significantly higher than the proportionate 15% envisaged by the spatial strategy, which, in my view, would result in an excessive amount of unplanned development in this location. I acknowledge that some other primary villages have delivered growth above the level in LP1, some to higher levels than the proposed 30% housing growth in Rode. However, development in other primary villages will have been determined based on the specific circumstances and factors relevant to each individual settlement. I do not have sufficient evidence to determine whether these villages are directly comparable to Rode and even if they were I must determine this appeal on its own merits.”* That application was for 49 dwellings.

In another recent dismissed appeal at Beckington (2020/2298/OTS), issued 7<sup>th</sup> October 2022, 45 dwellings were proposed and the inspector considered the 45 dwellings would represent disproportionate growth, although here, completions and commitments already amounted to 40% growth in stock, before considering the additional 45, which would take that figure to 53%.

In terms of the above appeals, cumulative growth of 23% at Stoke St Michael was not considered disproportionate, whereas growth of 30% (Rode) and 53% (Beckington) was considered to be disproportionate.

The current application at Butleigh would result in cumulative committed growth of 25%.

In considering whether 25% cumulative growth would be disproportionate for Butleigh, and taking account of the comments of the inspector in the Rode decision, about the circumstances specific to each village, it is considered appropriate to assess the core facilities that were used to identify primary villages, in CP1. The core facilities are:

- A primary school.
- A shop meeting a range of daily needs.
- A meeting place (whether a public house or a village hall).
- A public transport service that allowed people to at least reach a nearby town by 9am and return them to their village after 5pm.

Somerset Education have confirmed sufficient capacity is available at the primary school in Butleigh. Butleigh has a shop (Butleigh Post Office), which provides a range of local services and goods, there is a village hall, however, according to the Rural Settlement Services and Facilities Study: Draft Village Profiles, October 2022, public transport is considered to be limited. Street is only 12 minutes by bus, but services are infrequent.

Therefore, the core facilities that were used to identify primary villages, in CP1 are still available in Butleigh.

Therefore, a 25% increase in dwelling stock at Butleigh (which is between the 'proportionate' 23% at Stoke St Michael and the 30% 'disproportionate' at Rode) and taking into account the reasonably good level of 'core facilities' available in Butleigh, it is considered that the proposed level of growth would not be disproportionate.

With regard to the economic development parts of the scheme (the café and work hub units), these need to be considered against policies CP3 and CP4.

CP3 states that economic development uses in rural areas should be considered in line with CP4. CP4 gives policy support in rural areas for proposals that:

*“(a.) deliver modest clusters of flexible premises able to meet the needs of the rural economy in the Primary Villages identified in Core Policy 1, or (b.) enable the establishment, expansion and diversification of business in a manner and of a scale which is appropriate to the location and constraints upon it...”*

It is considered that both (a.) and (b.) provide policy support to the café and work hub units. This is because the units, all being within use class E, offer flexibility, and are considered to be appropriate in scale and form to the location and its constraints.

### **Conclusion on spatial strategy**

#### *Housing element*

Based on the proportion of cumulative development that would arise as a result of this application being 25% of the dwelling stock and the start of the plan period, and that this is in between the 23% that was considered acceptable at the Stoke St Michael appeal and the 30% that was considered unacceptable at Rode, and taking into account the reasonably good level of ‘core facilities’ available in Butleigh, it is considered that the proposed level of growth would not be disproportionate. The growth is not considered to result in demonstrable harm. It is also relevant that the plan is in its latter stages and furthermore, the allocated site at Sub Road only has outline consent. Therefore, the homes on the application site and the allocation site are unlikely to be delivered much before the end of the plan period.

Overall, the cumulative level of growth that would arise as a result of granting permission for this application is to result in a **neutral effect** in terms of the proportionate growth of settlements.

However, the council is unable to demonstrate a five-year supply of housing site in the Somerset East area and can demonstrate a supply of 2,213 homes, which is 3.24 years’ worth. This is a shortfall of 1,201 homes against the requirement of 3,414. It is therefore considered that the contribution of 37 dwellings would be highly beneficial in terms of overall housing supply. Given the current shortage of housing supply the provision of 37 homes, including 11 affordable homes, at a primary village is considered a **significant benefit**.

#### *Café and work hub units element*

As stated above, it is considered that the café and work hub units are consistent with the local plan. However, while they are considered consistent with the local plan, the benefits that would arise due to these units is only considered **limited to moderate**, based on the floorspace proposed and the limited details of need.



## **Design and sustainability**

Policy DP1 requires that all development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district. Proposals should be formulated with an appreciation of the built and natural context of their locality recognising that distinctive street scenes, townscapes, views, scenery, boundary walls or hedges, trees, rights of way and other features collectively generate a distinct sense of place and local identity.

Policy DP7 requires new development to be of high-quality design which are usable, durable, adaptable, sustainable and attractive places. Development should demonstrate and appropriate design response in terms of:

- Scale, mass, form and layout.
- Energy efficiency, sustainable construction techniques.
- Sustainable drainage.
- Renewable energy generation on site.
- Water efficiency measures.
- Waste reduction, recycling and reuse.
- Local or recycled materials.
- Accessible.
- Crime prevention.
- Construction management.

### *DP1: Local identity and distinctiveness*

In terms of local identity and distinctiveness, the most important features of the existing site are considered to be the undeveloped field itself, the surrounding hedgerows and trees, in particular the row of nine trees on the south-eastern side of Baltonsborough Road, on the approach to Butleigh.

The proposed development would result in the loss of one of the nine trees referred to above, in order to create the principal access to the site. Hedgerows around the site would be retained, with the exception of a short section to be removed to create the access.

The proposed development also includes a significant number of new trees to be planted. This includes around 60 fruit trees (apple, sweet cherry, pear and plum), which are mostly grouped together to form a small orchard along the north-western boundary and up towards the north-western corner of the site. This will provide free access to healthy food to residents, in accordance with NPPF paragraph 96.

The proposed development would result in the loss of around a third of the 12-hectare site as an agricultural field. Such fields are considered part of the identity of Butleigh as a rural village.

However, around two-thirds of the site would remain as public open space, swales and agricultural field and would be publicly accessible via the permissive footpath to the site periphery, whereas there is currently no public access to the site.

In terms of materials, the development features blue lias natural stone to all front elevations, with some house types using this material on all sides. Render is used to side and rear elevations on the remaining house types, except for the barn-style houses. The barn-style houses have some timber cladding to the principal elevation but again, the main walling material is blue lias. Roof coverings are slate or clay tiles. Boundary treatments are either blue lias walls or estate railing in black. All of the selected materials are considered to be characteristic of the local context.

Architectural treatment is traditional in appearance and is considered reflective of the local vernacular, albeit designed to contemporary standards resulting in dwellings that are generally larger than some of the older dwellings found in the village.

In terms of the effect of the proposed development on local identity and distinctiveness, the loss of a third of the site as a field in agricultural use is considered to result in moderate harm to local identity. The loss of the short section of hedgerow and tree T6 to create the principal access is considered to result in limited harm. The planting of around 60 fruit trees is considered a moderate benefit.

The use of locally appropriate, high-quality materials and an architectural response that reflects local vernacular is considered to strengthen local identity and is considered a moderate benefit in terms of local identity.

Overall, the impact on local identity and distinctiveness is considered to be **limited harm to a neutral impact**.

#### *DP7: Design and amenity of new development*

Policy DP7 is supported by the Design and Amenity of New Development supplementary planning document (SPD), which provides additional detail on the implementation of the policy. This is referred to below where relevant.

While there is some crossover between DP1 and DP7, DP7 focusses on the wider aspects of design, rather than local identity and distinctiveness.

The overall aim of DP7 is to achieve “*high quality design which results in usable, durable, adaptable, sustainable and attractive places.*” It is considered that the proposed development achieves all of these overarching aims of DP7. The high-quality materials, architecture, as discussed in the section above, reflect how compliance with this policy is achieved, as does the generous provision of open space. The scale, mass, form and layout is also considered to be appropriate to the local context. The proposed development is 1-2 storey in height and features dwelling sizes characteristic of the area. The materials and architectural treatment, as discussed in the section above, is considered to be high quality and appropriate to the context. While the development site, at 11.8 hectares, is fairly significant in size, when compared to the village as a whole, around two thirds of the site would not be developed. Car parking is predominantly on-plot, meaning there are no vehicle-dominated street scenes.

The proposals include a café building and seven “work hubs”, as in use class E: commercial, business and service. Class E includes a wide range of uses such as artist studios, barbers, crèches, gyms, hairdressers, music studios and osteopaths and thus offers adaptability.

A sustainability statement accompanies the application, by AES sustainability consultants. This states that the development will achieve carbon emissions that are significantly lower than that required by the building regulations (part L 2021, which applies from June 2023). According to the sustainability statement, the fabric efficiency of all house-types exceeds that required in the building regulations by 4-11%. The sustainability statement further states that with air source heat pumps and solar photovoltaic panels, significant carbon dioxide emissions reductions, compared to the building regulations targets can be achieved, of between 65% and 94%. The sustainability statement considers that ASHP is the best option and solar PV feasible. DP7 states that development should ‘maximise’ renewable energy generation on site and therefore it is considered reasonable and necessary to condition the provision of both ASHP and PV.

Policy DP7 also requires the maximising of opportunities for the use of water efficiency measures, recycling and conservation. In order to achieve this, it is considered necessary and reasonable to attach a condition requiring the provision of rainwater harvesting (e.g. water butts).

A condition requiring the submission of a construction management plan is a standard condition attached to this type of scheme and is considered reasonable and necessary to ensure that the amenity of nearby neighbours is protected during the construction period, as far as is reasonably practicable.

DP7 also requires the incorporation of sustainable drainage systems. The site will contain sustainable drainage features, to improve water quality and provide storage. The scheme has been designed to attenuate flows to the 1:100 year plus 40% climate change allowance. This is covered in more detail in the section on drainage but it should be added here that the lead local flood authority (LLFA) had reviewed the drainage strategy and considers it to be acceptable.

In terms of amenity of existing and future occupants, this is dealt with in the section on environmental protection.

Overall, the application is considered to respond positively to DP7. The impact is considered to be a **moderate benefit**.

### **Open space and green infrastructure**

Policy DP16 Open Space and Green Infrastructure of Local Plan Part 1, states that all new development will make a contribution to new open space, including accessible natural greenspace, to meet the needs of the growing population. DP16 also states that new open space should be provided on site and its future management provided for. The amount or type of required open space is not specified in the policy.

However, the supporting text to the policy states that the *“National Playing Fields Association’s long-standing standard of 2.4ha of new space per additional 1,000 people will remain the benchmark level of new provision sought within Mendip”*. This standard is also known as the six-acre standard. The National Playing Fields Association is now known as Fields in Trust.

Policy DP16 is also supplemented by the Greenspace SPD, which requires that proposals for new residential development to have regard to a more recent publication by Fields in Trust, *“Guidance for Outdoor Sport and Play, Beyond the six Acre Standard”* published Nov 2020. This states that developments of 11-200 dwellings should provide a local area of play (LAP), usually designed for children of six years and under, of 0.01 hectares and a locally-equipped area of play (LEAP), designed for children who are beginning to go outside and play independently, of 0.04 hectares as a minimum. A contribution to an off-site multi-use games area (MUGA) should also be provided.

The proposed development will provide both a LAP and a LEAP on-site, to meet the above size standards. A contribution to a MUGA will also be made. All three will be secured as part of the legal agreement. The landscape plans show the locations of the proposed LAP and LEAP, both of which meet the required sizes.

Based on an average dwelling occupancy of 2.1 persons per dwelling, 37 dwellings equates to approximately 78 people living on site (2.1 persons x 37 units). Based on the requirement of 2.4 hectares per 1,000 population, the required area of public open space for 78 people would be 0.19 hectares. In addition to the LEAP and LAP, 1.4 hectares of land would be provided as tree planting and swales, in addition to the permissive footpath to the periphery of the site. The tree planting and footpath are together considered to represent a **significant benefit**.

## Housing tenure and size

### Tenure

Policy DP11 requires that that 30% of the total number of new homes be provided in affordable tenures. The vast majority of affordable housing is delivered in this way and therefore achieving a policy-compliant level of affordable housing is attributed significant weight. This development proposes a policy-compliant level of affordable housing, with 11 affordable housing units proposed. Of these, seven would be for social rent and four would be First Homes. This is considered a **significant benefit**.

### Size

The breakdown of housing by size and tenure is as follows.

- 26 (70%) open market, 11 (30%) affordable
- 2-beds: 7no (all affordable)
- 3-beds: 16no (4no affordable, 12no open market)
- 4-beds: 12no (all open market)
- 5-beds: 2no (all open market).

DP14 states that “proposals for residential development should provide an appropriate mix of dwelling types and sizes.” The policy continues that the Strategic Housing Market Assessment (SHMA) and other local evidence such as the Local Housing Needs Assessment in rural areas should be reflected in proposed housing mixtures. The SHMA is considered the appropriate evidence, although it dates from 2016 and is therefore somewhat out of date. The SHMA states indicative targets for the former Mendip area for open market housing are those shown in the left column below. The right column shows the proposed provision.

Target (open market housing)	Proposed (open market housing)
1-bed 5-10%	0
2-bed 30-35%	0
3-bed 40-45%	12no (46%)

4-bed 15-20%	12no (46%)
5-bed 0%	2no (5%)

As can be seen from the table above, there is an under provision of one and two-bed open market dwellings and an over provision of four and five-bed open market dwellings. There is under provision for smaller homes, most significantly so with regard to 2-bed homes.

In terms of affordable housing, the council’s housing enabling officer has commented that the affordable housing mix and tenure approach adheres to demand and housing needs evidence. This mix would be secured via legal agreement.

The sizes of houses proposed will contribute to the demand that there is for these sizes of houses, which is a benefit. However, the mix could be improved with greater provision of 2-bed homes, and therefore the overall approach to housing mix is considered a limited benefit.

Overall, accounting for the policy-compliant level of affordable housing, the approach to tenure and size is considered a **significant benefit**.

**Education**

The council’s education department has confirmed that there is sufficient school capacity at present. The proposed development would therefore have a **neutral effect** in terms of school capacity. This also means that contributions for education cannot be sought.

**Heritage assets**

The potential for archaeological remains of local significance has been identified by South-West Heritage Trust. However, the Trust recognises that the geophysical survey report indicates that there are no archaeological assets on the site that would preclude development. SWHT recommends that a Programme of Works in Accordance with a Written Scheme of Investigation (POWWSI) be secured through a pre-commencement condition to any permission. This is considered reasonable and necessary.

There are no listed buildings on site and the site lies outside Butleigh Conservation Area, although the south-western corner of the site is adjacent to the conservation area. There is no conservation area appraisal for Butleigh Conservation Area and therefore the special interest of the conservation area is not freely available to refer to. However, there is very limited intervisibility between the site and that part of the conservation area that is adjacent to this site and harmful effects on the wider conservation area are considered unlikely, as there would be no or limited intervisibility between the two elsewhere. Part of the conservation area stretches to the north of Butleigh, and this is understood to take in a

designed landscape (parkland) associated with Butleigh Court (grade II listed). However, intervisibility is limited to none and therefore it is considered that no harm would arise to the conservation area as a result of the proposed development.

There are no listed buildings that would be affected by the proposed development. St Leonard's Church is not visible from the site or vice versa and the site can only be seen after walking some 250m from St Leonard's, in the field to the north-east of the church. This is not considered to represent any harm to the significance of the heritage asset. Some other listed buildings are closer as the crow flies from the site but are not visible at eye level, due to intervening buildings.

To conclude on heritage, no harm to the significance of any heritage assets would arise as a result of a grant of planning permission but it is considered reasonable and necessary to add the POWWSI as recommended by SWHT. This is considered to result in a **neutral effect**.

## **Landscape**

The site is not located within a national landscape (NL, formerly known as area of outstanding natural beauty) and it is not within the setting of one (the Mendip Hills NL is 12km north and the Cranbourne Chase NL is 22km east). Nor is the site located within a special landscape feature (SLF) or its setting (the nearest is Butleigh Park/Cedar Avenue, around 0.5km west of the site, but there is no intervisibility between the site and the SLF).

A landscape impact statement carried out by Paul Swan chartered landscape architects has been submitted as part of the application. This evaluates the site as being not remote from the built form of the village and that the proposed development would not result in the loss of any distinctive features. The evaluation also considers the proposed development to be reflective of the local landscape character with hedge and tree planting and continuation of similar vernacular of housing density to that found in the more modern dwellings on the eastern edge of the village. Materials selection (lias, slate and clay) and building heights of 1-2 storeys is considered by the evaluation to be sympathetic, seen as part of the more modern edge to the village.

While it is noted that the proposed development would result in the development of an agricultural field, which would clearly result in significant localised change to the landscape, the landscape impact is considered to be tempered by the retention of landscape features characteristic of the area such as the hedgerows and importantly, the site lies outside of any landscape designation or its setting and the flat topography of the site and surrounding area means that the development would not be seen in longer or

even medium-distance views. Overall, the landscape impact is considered to result in **limited to moderate harm**.

### **Loss of countryside land and agricultural land**

The NPPF (para 180) states that:

*“Planning policies and decisions should contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland...”*

Paragraph 180 deals with both the character and beauty of the countryside and agricultural land as a resource. The character and beauty elements of this policy have been considered in relation to landscape and local identity and distinctiveness. However, the issue of loss of agricultural land still needs to be considered.

The site is classified as grade 3b under the Agricultural Land Classification System, which according to the NPPF is not the best and most versatile agricultural land. Therefore, the loss of agricultural land, while currently in use for crops, is only considered to result in **limited harm**.

### **Ecology**

#### ***Phosphates***

The application site is within the fluvial catchment of the Somerset Levels & Moors Ramsar Site. The Somerset Levels & Moors is also designated as a Site of Special Scientific Interest under the Wildlife and Countryside Act 1981 (as amended). In the absence of mitigation, the application will add phosphorus to the catchment of the designated site due to the increase in dwellings proposed.

A shadow Habitats Regulations Assessment and phosphates mitigation proposals have been submitted with the application.

The required mitigation will be achieved through the use of 32.14 hectares at Higher Hill Farm to the North of Jarmany Hill, Glastonbury TA11 6DA and 3.944 hectares located at Manor Farm West Lydford, TA11 7BT. The mitigation land will cease to be used for cereal production as it is currently and instead woodland will be created.

In relation to the above, both Natural England and Somerset Ecology Services are satisfied that subject to the implementation and maintenance in perpetuity of the proposed



mitigation, there would be no harm to the Somerset Levels and Moors Ramsar site. The mitigation can be secured through a legal agreement.

The phosphate mitigation strategy would be secured through a legal agreement.

This is considered to be a **neutral effect** as the phosphates strategy is mitigation only.

### ***Biodiversity net gain***

An ecological impact assessment report (October 2021) and addendum ecological impact assessment report (July 2023) have been submitted with the application. The addendum was submitted after changes to the layout of the scheme were submitted in September 2023. The addendum concluded that the changes did not significantly alter the conclusions reached in the initial assessment, that the site would result in a significant biodiversity net gain. Original calculations provided within the 2021 EcIA were undertaken using the 3.0 metric and as such for comparison and in line with DEFRA guidance, this metric has continued to be used for the purpose of the addendum report. This indicates that the development proposals will result in a 38.40% net gain in linear-based habitats and a 18.28% net gain in area-based habitats. This is clearly significantly above the current policy requirement to achieve biodiversity net gain and is also above the new requirement for 10% net gain (which applies to applications submitted after 12<sup>th</sup> February 2024).

This is considered a **moderate benefit**, based on the high level of biodiversity net gain that will arise from the development.

### **Environmental protection**

Policy DP7 states that development (either cumulatively or individually) will be required to demonstrate that it does not give rise to unacceptable adverse environmental impacts on:

- Ambient noise levels.
- Air quality.
- The quality of water resources, whether surface river or groundwater.
- Biodiversity.
- Light pollution.
- Land quality and ground stability.
- Residential amenity.
- Public health and safety.

Biodiversity is dealt with in the ecology section.

The proposed development would introduce some noise into an area of countryside that is currently quiet. New sources of noise would come from construction activities while the

site is being built and this includes off-site noise arising from construction traffic reaching the site. The Environmental Protection (EP) team are satisfied that this would be within acceptable limits, subject to conditions restricting deliveries and collections, restrictions on hours when noise-generating activities may take place, the provision of a construction environmental management plan (CEMP)

Post-construction, noise levels will be higher than they currently are on site, due to vehicular movements and activities associated with residential use, such as lawnmowing, music and children playing.

While the construction traffic noise is likely to disturb residents, the duration will be limited. Limited harm is attributed to this. Post-construction activities are considered a normal part of residential use and in any case unlikely to disturb people who live elsewhere in the village. This therefore results in no harm.

EP has identified the potential for noise impacts on proposed dwellings from external sources and from the café and work hubs on existing residents and have requested conditions to assess and mitigate these are attached to any permission. This is considered reasonable and necessary.

During construction, air quality is likely to be affected by construction dust. This would be mitigated in the CEMP and the council's environmental protection team is satisfied with this approach.

EP also require details of cooking facilities in the café to be provided and agreed by the council pre-commencement.

Wessex Water initially raised concerns with regard to odour, but this objection has been withdrawn, after the layout was amended.

The proposed development would introduce some lighting into an area of countryside that is currently unlit. No details of lighting have been provided. However, EP are satisfied that this can be dealt with through a condition on external lighting, including lighting for bats.

While people understandably value views from private properties across land outside their ownership, the planning system does not protect views from private properties across land owned by third parties. Loss of these types of views is therefore not a material consideration in the determination of this application.

The scheme has been designed to avoid amenity issues such as overlooking and overbearing.

The proposed development is therefore considered to comply with policy DP7.

## Highways, transport and access

### Highways impact

A transport statement was submitted when the application was initially submitted in December 2020 and was revised in June 2023 to address minor change to the scheme layout and again in January 2024, to address comments from the local highway authority. In summary, the local highway authority raises no objection to the principal of the proposed development, but a number of issues remain that can be dealt with after planning permission has been granted, as part of the s106 agreement and the s38 and s278 processes. A s278 agreement allows for alterations to be made to the existing highway and will be needed in order to create the principal access. A s38 agreement relates to the adoption and maintenance of new highways by the highway authority and they cannot be entered into until planning permission has been granted.

The transport impact of the proposed development is therefore considered to be acceptable.

### Parking

The Somerset County Council Parking Strategy 2013 was written by one of SC's predecessor authorities but continues to apply to the SC area. This sets out parking standards for residential development, which are zoned based on 'accessibility', and for Zone C, which covers the more rural parts of Somerset, including Butleigh, the parking standards are as follows:

	Requirement	Proposed dwellings	Total spaces required	Total provided
1-bed dwelling	2 Car Parking Spaces	0	0	0
2-bed dwelling	2.5 Car Parking Spaces	7	17.5	14
3-bed dwelling	3 Car Parking Spaces	16	48	60
4-bed dwelling	3.5 Car Parking Spaces	12	42	48

5-bed dwelling	Not specified (3.5 assumed)	2	8	8
Visitors spaces	0.2 Car Parking Spaces per dwelling	37	7.4	3
Café and work hub	No longer applicable due to introduction of use class E.	N/A	N/A	13

The proposed development under provides in terms the 2-bed dwellings and the visitor parking. However, the development over provides for the 3 and 4-bed dwellings, which make up 75% of the development over provide, so it is not anticipated that the lack of visitor spaces would have a negative result, as visitors could park on plot in most cases.

A policy-compliant level of parking is also provided overall and the slight under provision is not anticipated to result in any measurable harm.

#### *Locational sustainability*

The site is located on the north-eastern side of the village. The recreation field is located between the site and the settlement boundary of the village, except for along the south-western edge of the site, which abuts the settlement boundary. This part of the site includes two pedestrian access points, one opposite Admiral's Mead and a second opposite the corner of Back Town as it proceeds south towards Henley Lane. A further pedestrian access is provided to the boundary of the village hall and recreation ground and access via this route would be controlled by a lockable gate. It is understood that the recreation ground is not open to the public at all times, hence the need for a lockable gate. The vehicular access to the site would be located on Baltonsborough Road.

The pedestrian access opposite Admiral's Mead allows for on pavement pedestrian access via Admiral's Mead and a footpath at the end of Admiral's Mead to High Street. From here, the primary school, shop, bus stop and church are all accessible along pavements. This would be within a ten-minute walk for even the furthest away homes in the proposed development. Pavements are to be provided throughout the development.

Therefore, the accessibility of the development to the rest of the village and in particular, the main services, is considered to be good.

As set out in the transport assessment, Butleigh is served by a local bus and the national cycle network runs through Baltonsborough and other lanes are suitable for cycling. However, as set out in the 2011 census returns included in the transport statement, the vast majority of commuting was by private car or van. The 2021 census was significantly affected by covid-19, with the third national lockdown starting on 6<sup>th</sup> January 2021 and in place until 29<sup>th</sup> March 2021. The census took place on 21<sup>st</sup> March 2021. Patterns of commuting would have been temporarily affected and some commuting patterns would have changed permanently, with more people working for home.

Commuting is only one part of the picture about what makes a place sustainable and even with changed working patterns, such as more people working from homes, trips for essential and leisure activities will still need to be made. In the case of Butleigh, Street offers most of the regular essential destinations such as supermarkets and secondary schools, and is located 3-3.5 miles from Butleigh. This is a nine-minute drive, 16 minutes by bus or 19 minutes by bicycle. Street is considered too far to walk for any regular needs.

Taking account of information from the 2011 and 2021 censuses, it is considered most trips to and from Butleigh are likely to be made by private car. That means that any new development is also likely to result in travel patterns that are predominately made by private car.

However, the local plan has identified Butleigh as a sustainable location for growth, as long as it is proportionate. As discussed above, it is considered that the proposed development would not result in disproportionate growth. This is therefore considered to result in a **neutral effect**.

#### *Construction traffic*

As stated above, Butleigh is identified as a primary village and therefore the principle of development at the village has been accepted in the local plan. All development sites require access for their construction and this involves some impacts on road and local amenity for a limited time. However, these impacts can be reduced through the planning process, including through the use of conditions. In this case if permission were granted, it is proposed to attach conditions regarding construction hours, a construction traffic management plan and construction management plan. This is considered to result in limited harm.

## Land drainage and flood risk

Both the Internal Drainage Board (IDB) and the Lead Local Flood Authority (LLFA) have had a significant level of input into layout in order to ensure flooding and drainage issues are addressed adequately.

Both the IDB and the LLFA are satisfied that the development will not give rise to unacceptable impacts on flooding or drainage, subject to the imposition of pre-commencement conditions to any permission. The proposed development is therefore considered to accord with local plan policy DP23.

The impact on drainage and flood risk is therefore considered to be **neutral**.

## Other matters

### *S106 legal agreement*

Should the planning committee grant planning permission, this would be subject to a s106 legal agreement, covering contributions for the following.

- Affordable housing
- Health (NHS): £15,072 financial contribution
- Landscape and ecology management plan
- Local area of play (0.01Ha) & locally equipped area of play (0.04Ha)
- Multi-use games area (£16,825 financial contribution)
- Management of public open space
- Management of work hub units
- Phasing
- Phosphates mitigation
- Travel plan provisions

The above are considered to meet the requirements of regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 56 of the NPPF:

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- fairly and reasonably related in scale and kind to the development.

## Planning balance

The harms and benefits associated with the appeal scheme are outlined below in accordance with the following hierarchy:

Substantial benefit/harm
Significant benefit/harm

Moderate benefit/harm
Limited benefit/harm
Neutral effect

## **Benefits**

### *Market & affordable housing*

The contribution to the overall housing supply is considered a **significant benefit**, in the light of the significant shortfall of 1,201 homes, against a five-year supply requirement of 3,414 homes.

### *Economic development*

The proposed development would include a café and seven “work hub units”, 205sqm in total. This is considered to be a **moderate to limited benefit**. The implementation of the economic uses would be ensured through a phasing condition and its ongoing management through a management company secured through legal agreement.

### *Construction jobs*

The appeal scheme would create jobs during construction. However, this benefit would only last for the construction period and as such considered a **limited benefit**.

### *Design and amenity*

The application is considered to respond positively to DP7. The impact is considered to be a **moderate benefit**.

### *Biodiversity*

The proposals are considered a **moderate benefit**, based on the high level of biodiversity net gain that will arise from the development.

### *Public open space*

The LAP and LEAP are considered necessary to make the development acceptable. The tree planting and footpath are an additional benefit and together are considered to represent a **significant benefit**. Ongoing management of the public open space would be by management company, which would be secured through legal agreement.

## **Harms**

### *Local identity and distinctiveness*

As set out above, overall, the effect of the proposed development on local identity and distinctiveness is considered to result in a **limited harm to a neutral impact**

### *Landscape*

As set out above, overall, the landscape impact is considered to be **moderate to limited**.

### *Loss of agricultural land*

As the land is not best and most versatile, this is considered to result in **limited harm**.

### *Construction traffic*

All development sites require access for their construction and this involves some impacts on road and local amenity for a limited time. Due to the limited duration this is considered a **limited harm**.

### **Neutral effects**

#### *Growth over and above local plan minimum requirement for Butleigh*

As set out above, this is considered to result in a **neutral effect**.

#### *Location*

the local plan has identified Butleigh as a sustainable location for growth, as long as it is proportionate. As discussed above, it is considered that the proposed development would not result in disproportionate growth. This is therefore considered to result in a **neutral effect**

#### *Heritage assets*

No harm to the significance of any heritage assets is anticipated to arise as a result of the proposed development and the archaeological condition would ensure that any significant buried remains are appropriately recorded. This is considered to result in a **neutral effect**.

#### *Phosphates*

As set out above, the development would effectively mitigate negative impacts on the Ramsar site and protected species. This is therefore considered to result in a **neutral effect**.

#### *Drainage and flood risk*

The impact on drainage and flood risk is therefore considered to be **neutral**.

### **Impact on drainage**

As set out above, both the IDBB and LLFA are satisfied with the proposed development in terms of flooding and drainage, which is considered to result in a **neutral effect**.

### **Summary of planning balance**



<b>Benefits</b>	
Market & affordable housing	Significant benefit
Economic development	Moderate to limited benefit
Construction jobs	Limited benefit
Design and amenity	Moderate benefit
Biodiversity	Moderate benefit
Public open space	Significant benefit
<b>Harms</b>	
Local identity and distinctiveness	Limited harm to a neutral impact
Landscape	Moderate to limited harm
Loss of agricultural land	Limited harm
Construction traffic	Limited harm
<b>Neutral effects</b>	
Growth over minimum requirement for Butleigh	Neutral
Location	Neutral
Heritage assets	Neutral
Phosphates	Neutral
Drainage and flood risk	Neutral

### **Conclusion on planning balance**

The proposed development does not accord with the local plan.

Overall benefits arising from the proposed development are considered to be significant. This is largely due to the contribution to the overall supply of housing, including both market and affordable housing and accounting for the shortfall in supply that currently exists in the Somerset East area. The benefits from the provision of a large amount of public open space is also considered to be significant. The high-quality design & materials of the development also weighs in its favour. The economic development and biodiversity benefits have also been factored in.

Overall harms arising from the proposed development are considered to be moderate. This comes from the collection of harms arising from landscape, loss of countryside and agricultural land. As confirmed above the growth over and above local plan minimum requirements and site's location (directly adjacent to a primary settlement within the defined hierarchy) are considered neutral in terms of impact.

As discussed in the section above on the principle of development, the tilted balance is engaged which means that the application should therefore be granted unless 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. This situation applies, despite the fact that the proposed development does not accord with the local plan.

In view of the overall conclusions on the harms and the benefits of the proposed development, the adverse impacts are not considered to significantly and demonstrably outweigh the benefits. Therefore, planning permission should be granted.

### **Environmental impact assessment**

This development is not considered, at this time, to require an Environmental Assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The development area is 4.4 hectares and the number of dwellings 37, which are below the relevant thresholds in both cases.

### **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.

### **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:

- o 1388/001\_Location Plan
- o 1388/002\_Existing Block Plan
- o 1388/003\_Existing Block Plan
- o 1388/300C\_Proposed Site Plan
- o 1388/301C\_Proposed Site Plan
- o 1388/302D\_Proposed Landscape Plan
- o 1388/303C\_Proposed Landscape Plan
- o 1388/304A\_Proposed Plans - House Type C
- o 1388/305\_Proposed Plans - House Type E Attached
- o 1388/307B\_Proposed Plans - House Type D
- o 1388/310B\_Proposed Drawings - Garage
- o 1388/315A\_Proposed Plans - Barn 3a
- o Design and Access Statement Part 1\_Rev B
- o Design and Access Statement Part 2\_Rev C
- o Design and Access Statement Part 3\_Rev C
- o Energy and Sustainability Statement\_May 2023 (20.06.2023)
- o Arboricultural Impact Assessment & Tree Protection Plan (23.11.21)
- o Arboricultural Method Statement (23.11.21)
- o TR-1\_Tree Removal Plan
- o TPP-1\_Tree Protection Plan
- o 1388/316B\_Proposed Plans - Barn 3b
- o 1388/317B\_Proposed Roof Plan - Barn 3b

- o 1388/318C\_Proposed Accommodation Schedule
- o 1388/319A\_Proposed Plans - Cafiz½ and Units
- o 1388/320A\_Proposed Roof Plans - Cafiz½ and Units
- o 1388/327\_Proposed Drawings - Garages
- o 1388/330A\_Proposed Plans - 2 Bed Affordable Housing
- o 1388/331\_Proposed Plans - 3 Bed Affordable Housing
- o 1388/332\_Proposed Plans - House Type G
- o 1388/333\_Proposed Roof Plans - House Type G
- o 1388/334\_Proposed Plans - House Type H
- o 1388/335\_Proposed Roof Plans - House Type H
- o 1388/336\_Proposed Plans - House Type J
- o 1388/337\_Proposed Roof Plans - House Type J
- o 1388/338\_Proposed Roof Plans - Barn 3a
- o 1388/350A\_Proposed Landscape - Overall Strategy
- o 1388/351A\_Proposed Landscape - Boundary Strategy
- o 1388/352A\_Proposed Landscape - Tree Strategy 1
- o 1388/353A\_Proposed Landscape - Tree Strategy 2
- o 1388/354A\_Proposed Landscape - Tree Strategy 3
- o 1388/355A\_Proposed Landscape - Planting Strategy
- o 1388/356A\_Proposed Landscape - Hard Landscaping
- o 1388/360\_Proposed Visuals
- o 1388/400\_Proposed Elevations - House Type C
- o 1388/401\_Proposed Elevations - House Type E
- o 1388/403B\_Proposed Elevations - House Type D
- o 1388/409A\_Proposed Elevations - House Type 3a
- o 1388/410B\_Proposed Elevations - House Type 3b

- o 1388/411A\_Proposed Cafe Elevations
- o 1388/420A\_Proposed Elevations - 2 Bed Affordable Housing
- o 1388/421\_Proposed Elevations - 3 Bed Affordable Housing
- o 1388/422\_Proposed Elevations - House Type G
- o 1388/423\_Proposed Elevations - House Type H
- o 1388/424\_Proposed Elevations - House Type J
- o 1388/430\_Proposed Elevations - Units
- o 1388/500A\_Proposed Site Sections and Elevations
- o Drainage Strategy\_Rev 2 (09.11.22)
- o Flood Risk Assessment\_D/I/D/141446/02
- o SuDS Maintenance Plan\_P1 (20.07.22)
- o 140448-SK01-01\_P6\_Drainage Overview
- o 140448-SK01-02\_P6\_Drainage Overview
- o 140448-SK02-01\_P2\_Site Levels
- o 140448-SK02-02\_P2\_Site Levels
- o 140448-SK03-01\_P4\_Tracking
- o 140448-SK03-02\_P4\_Tracking
- o 140448-SK04-01\_P2\_Visibility
- o 140448-SK04-02\_P2\_Visibility
- o 140448-SK05-01\_P2\_S38 Adoption Areas
- o 140448-SK05-02\_P2\_S38 Adoption Areas
- o 140448-SK07-01\_P1\_Adoptable Drainage Construction Details
- o 140448-SK07-02\_P1\_Adoptable Drainage Construction Details
- o 140448-SK08-01\_P3\_Flood Exceedance Plan
- o 140448-SK08-02\_P3\_Flood Exceedance Plan
- o 140448-SK09\_P3\_Catchment Plan

- o 140448-SK12-01\_P1\_Fire Tracking
- o 140448-SK12-02\_P1\_Fire Tracking
- o Phosphate Mitigation Strategy\_Rev C
- o Ecological Impact Assessment\_October 2021(28.10.2021)
- o Shadow Habitats Regulations Assessment (HRA)\_July 2023 (21.07.2023)

: To define the terms and extent of the permission.

### 3. **Archaeology - Watching Brief (Pre-commencement)**

No development shall commence, except archaeological investigation work, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.

**Reason:** The site is within an area of significant archaeological interest and the Council will wish to examine and record items of interest discovered in accordance with Development Policy 3 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because archaeological remains and features may be damaged by the initial development works.

### 4. **Surface Water Drainage System (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 Development Policies 7, 8 and 23 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.

#### 5. **Garages (Compliance)**

The garage 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 Development Policies 9 and 10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

#### 6. **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 Development Policy 7 (adopted March 2022).

**7. 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, 22 and 23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**8. Sample - Roofing (Bespoke Trigger)**

No construction of the roof of the development shall commence until a sample of all external roofing materials has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

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



9. **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 in accordance with Development Policies 1, 3 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

10. **Water Efficiency - Rainwater Harvesting (Pre-occupation)**

Each dwelling shall not be occupied until it is served by a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. water butts) which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

**Reason:** In the interests of water efficiency in accordance with Development Policies 7 and 23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014).

11. **Air Source Heat Pumps (Pre Occupation)**

Each dwelling shall not be occupied until it is served by an operational air source heat pump in accordance with details which have been first been agreed in writing by the Local Planning Authority. Details must include specifications, siting and noise emissions.

**Reason:** To reduce carbon dioxide emissions and in the interests of residential amenity in accordance with Development Policies 7 and 8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 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).

12. **Solar panels (Pre-occupation)**

Prior to first occupation, solar panels shall be installed on the development 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).

13. **Noise Mitigation (Pre-occupation)**

The use hereby permitted shall not commence, until a noise mitigation scheme to demonstrate that the development will be constructed to provide sound attenuation against external noise in accordance with BS8233:2014 has been submitted to and approved in writing by the Local Planning Authority. The following levels shall be achieved: Maximum internal noise levels of 35dBLAeq,16hr and 30dBLAeq,8hr for living rooms and bedrooms during the daytime and night time respectively. For bedrooms at night individual noise events (measured with F timeweighting) shall not (normally) exceed 45dBLAmax. The noise mitigation scheme shall be carried out in accordance with the approved details prior to the occupation of the development.

**Reason:** To prevent excessive noise and protect the residential amenity of occupiers in accordance with Development Policies 7 and 8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because the details of the noise mitigation features need to be known before development commences to ensure that appropriate noise levels can be achieved and to avoid the need for retrofitting.

14. **Cafe and work hub units - Ventilation and Extraction (Pre-commencement of use)**

The use of the "cafe" and "work hub units", as identified on the approved plans, hereby permitted shall not commence until a detailed scheme for the ventilation and extraction of fumes/cooking smells has been submitted to and approved in writing by the Local Planning Authority. The scheme shall specify the precise details of the flue extraction equipment to be used, including: the stack height; the design and position of all ductwork and filters; the noise/power levels of the fan(s); the number, type and attenuation characteristics of any silencers; details of anti-vibration mounts and jointing arrangements in the ductwork; the number of air changes per hour, and the efflux velocity. The scheme shall be installed in accordance with the approved details prior to the commencement of the use and thereafter maintained as such.

**Reason:** In the interests controlling odours, excessive noise from plant and protecting residential amenity in accordance with Development Policies 7 and 8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

15. **Construction Environmental Management Plan (Biodiversity) (Pre-commencement)**

No development shall take place on site including ground works or vegetation clearance until a Construction Ecological Environmental Management Plan (CEEMP: Biodiversity) concerning the site has been submitted to and approved in writing by the Local Planning Authority. The CEEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities and identification of stages of works;
- b) Identification of "biodiversity protection zones";
- c) Details of working hours;
- d) Details of all plant and machinery to be used during site clearance and construction stage, including an inventory of all Non-Road Mobile Machinery (NRMM);

- e) Details of temporary lighting used in construction of for security reasons;
- f) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- g) The location and timing of sensitive works to avoid harm to biodiversity features;
- h) The times during construction when specialist ecologists need to be present on site to oversee works;
- i) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority;
- j) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- k) Use of protective fences, exclusion barriers and warning signs;
- l) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** 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 Development Policies 5 and 6 of the Mendip Local Plan Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and Chapter 15 of the National Planning Policy Framework.

#### 16. **Construction Management Plan (Pre-commencement)**

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

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;

- c) storage of plant and materials used in constructing the development;
- d) wheel washing facilities;
- e) measures to control the emission of dust and dirt during construction;
- f) delivery and construction working hours.
- g) details of delivery and construction traffic routes to and from the site, including details of temporary signage locations.

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

: 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.

## **Informatives**

### **1. "Land Contamination - Farms**

Due to the nature of farms it would be advised to keep a watching brief 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.

NPPF paragraph 190: *Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*"

## 2. **Securing the Acquisition of Third-party Phosphate Credits**

If development is commenced without supplying the Local Planning Authority with an Allocation Certificate in respect of P-credits, then the implementation of your planning permission may be rendered unlawful. This requirement is considered to go to the heart of the permission and therefore you must obtain formal discharge of the condition prior to commencing any works on site.

## 3. **"Legal Protection Afforded to Bats and Bat Roosts**

The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation Habitats and Species Regulations 2017 (and as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019). 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."

### **"Legal Protection Afforded to Nesting Birds**

The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop immediately, and do not restart either until the young have fledged or advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity. "

### **"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."

#### **"Legal Protection Afforded to Dormice**

The developers are reminded of the legal protection afforded to dormice under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that dormice are encountered during implementation of this permission it is recommended that works stop immediately, and advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity."

#### **4. Works Require Legal Agreement with the Highway Authority**

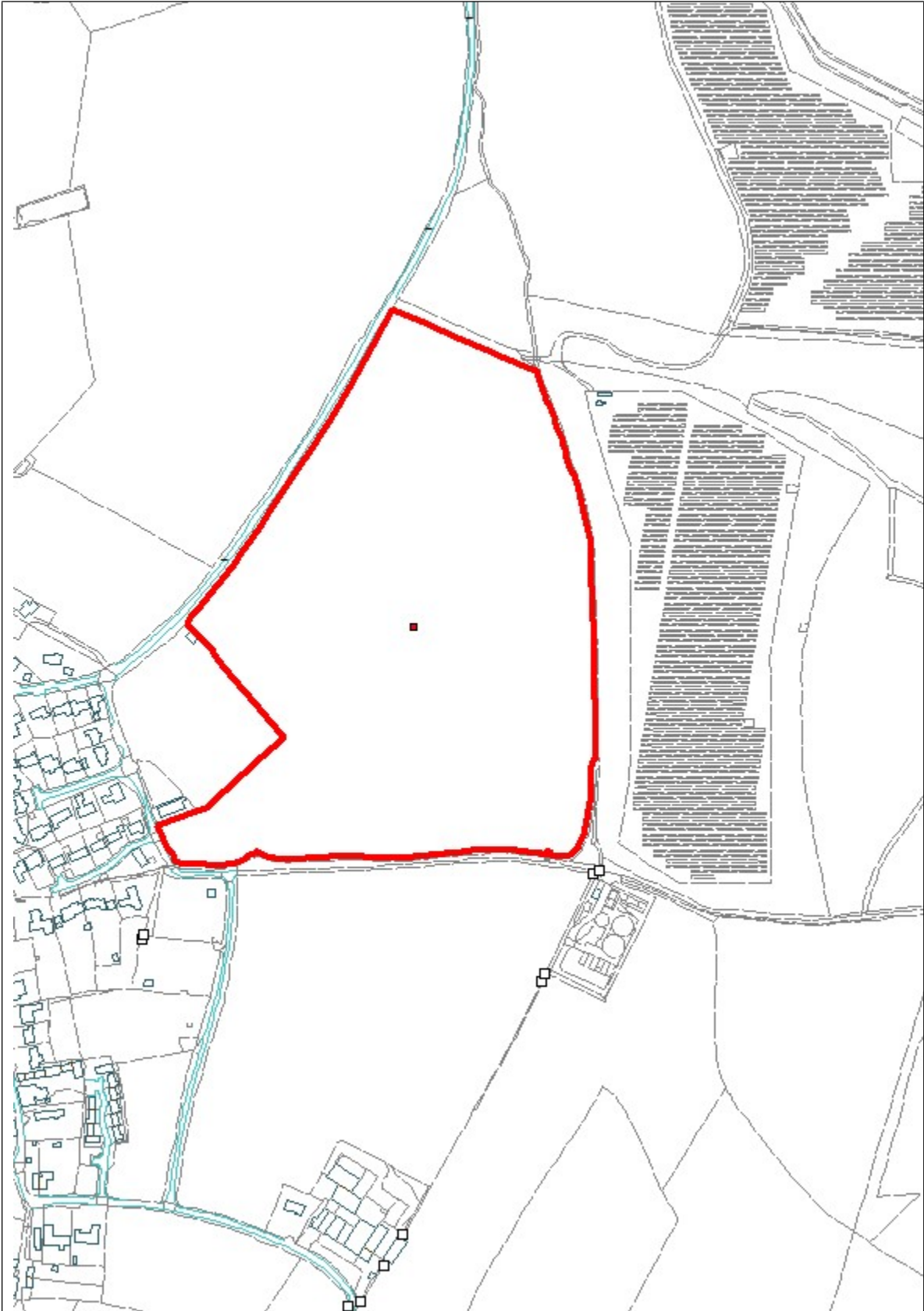
The applicant will be required to enter into a suitable legal agreement with the Highway Authority to secure the construction of the highway works necessary as part of this development. The developer is requested to contact the Highway Authority to progress this agreement well in advance of commencement of development."

#### **"Works Require a Licence from the Highway Authority**

Having regard to the powers of the Highway Authority under the Highways Act 1980 the applicant is advised that the creation of the new access will require an appropriate licence. For details of the process and to submit applications online please visit [www.somerset.gov.uk](http://www.somerset.gov.uk). Application for such a permit should be made at least four weeks before access works are intended to commence."







Planning Board Report 5th March 2024  
Land At 352613 133868  
Baltonsborough Road  
Butleigh  
Street  
Somerset

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Application Number	2023/2277/HSE
Case Officer	Kirsty Black
Site	Canada House Station Road to West Lane Allhampton Shepton Mallet Somerset
Date Validated	30 December 2023
Applicant/ Organisation	Mr & Mrs Power
Application Type	Householder Application
Proposal	Proposed garage extension to replace existing lean-to car port. Proposed infill rear extension joining workshop to dwelling. New roof over existing workshop and lean-to.
Division	Mendip South Division
Parish	Ditcheat Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

## **What3words///crisper.proven.handsets.**

### **Scheme of Delegation:**

The applicant is an employee of Somerset Council. The officer recommendation is for approval, and therefore in accordance with the Published Scheme of Delegation this application is referred to Planning Committee (East) for probity reasons.

### **Site, Constraints and Proposal**

This application concerns Canada House in Allhampton. It is situated south of Station Road To West Lane. It is a semi detached house bordered to the east and west by residential properties and to the south by the car park belonging to the Allhampton Inn. Canada House itself is set back from the highway, is stone built and covers two stories. It is sited within Somerset Levels and Moors SPA\_Ramsar (catchment)and within a SSSI Impact Risk Zone.

The application seeks consent to construct a garage extension replacing the existing lean-to car port to the front elevation of the property and to construct an infill extension ( joining workshop to dwelling) to the rear elevation and adding a new roof over existing workshop and lean-to conservatory.

The front extension will have a sloping tiled roof and be clad in timber weatherboarding and the rear development will have a flat roof with flat roof lights and be finished in painted render.

### **Consultation/Representations**

**Divisional Member:** No comments received.

**Parish Council:** Supports the granting of permission.

**Archaeology:** No objections raised.

**Highways:** Standing advice applies.

**Neighbours:** No local representations received.

**Planning History:** None

### **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)
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)
- 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
- DP7 - Design and Amenity
- DP9 and DP10 - Highway Safety

### **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:**

### **Character and Appearance**

The proposed siting of the development is considered to utilise the available space within the residential site. The proposed garage extension, to the front elevation of the residence, will be visible from views from the public realm, along Station Road To West Lane, but would not be overly visible from the street scene being set back from the northern site boundary the visual impact will be mitigated. The proposed extension would also add visual interest in the use of timber cladding.

The proposal would therefore be considered acceptable in visual terms in accordance with the policies referred to above.

### **Residential Amenity**

The proposed single storey extensions will be located close to the shared eastern site boundary with the detached property of Ninefields. The scheme has been purposely designed to be single storey with those to the rear having flat roofs and with windows located to the side elevation being positioned so as to no reduce privacy to this neighbouring property. The existing boundary wall will also help screen the development.

The proposal is considered not to harm the amenities adjoining residential neighbours and therefore accords with Policies DP7 and DP8.

### **Highways**

The proposal seeks to convert an existing carport into a garage space whilst converting the existing garage into ancillary accommodation. It is considered that there is sufficient parking within the site for up to four vehicles to leave in a forward gearing. Thus 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: 1619 001 LOCATION PLAN, 1619 002 EXISTING BLOCK PLAN/ELEVATIONS/ROOF PLAN, 1619 003 EXISTING ELEVATIONS, 1619 004 PROPOSED GROUND FLOOR PLAN, 1619 005 PROPOSED BLOCK PLAN/ELEVATIONS/ROOF PLAN and 1619 006 PROPOSED ELEVATIONS. All received on 23rd November 2023.

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. **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.

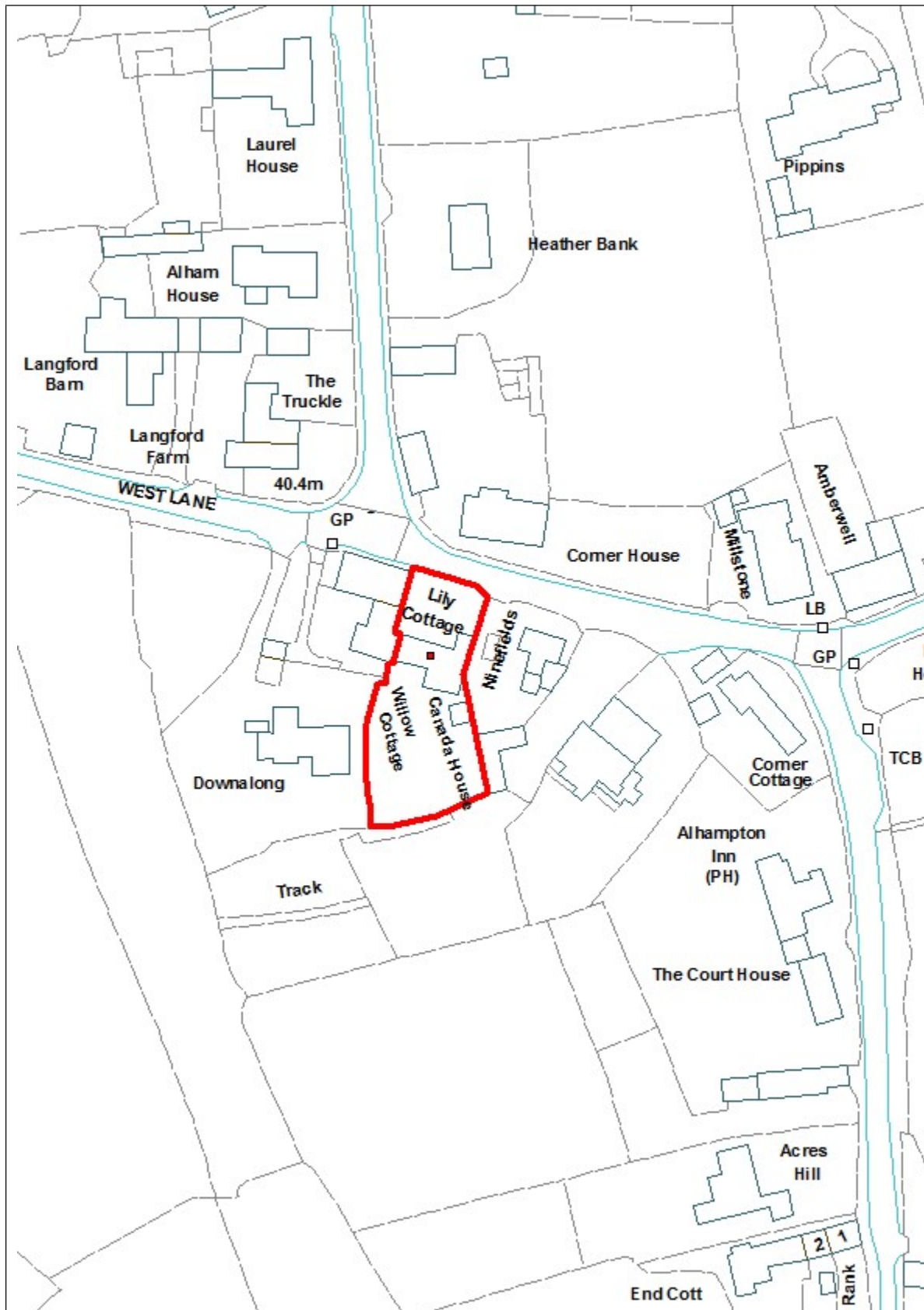
Please note all conditions should be read fully as these headings are intended as a guide only.

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 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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.







Planning Board Report 5th March 2024  
Canada House  
Station Road To West Lane  
Alhampton  
Shepton Mallet  
Somerset  
BA4 6PY

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Application Number	2023/2217/HSE
Case Officer	Jane Thomas
Site	10 Lewmond Avenue Wells Somerset BA5 2TS
Date Validated	16 November 2023
Applicant/ Organisation	Butt-Philip & Baron
Application Type	Householder Application
Proposal	Two-storey rear extension (retrospective)
Division	Wells Division
Parish	Wells City Council
Recommendation	Approval
Divisional Cllrs.	Cllr Theo Butt Philip Cllr Tessa Munt

## **Scheme of Delegation:**

The applicants are related to an elected member, Councillor Theo Butt-Philip. The officer recommendation is for approval, and therefore in accordance with the scheme of delegation this application is referred to Planning Committee (East) for probity reasons in accordance with the published Scheme of Delegation.

## **Description of Site, Proposal and Constraints**

This application concerns 10 Lewmond Avenue, Wells. Lewmond Avenue is a cul-de-sac located in a residential area to the north-west of Wells city centre. The proposal site lies outside the boundaries of both the Wells Conservation Area and the area of high archaeological potential associated with the city's heritage. There are no listed heritage assets in the vicinity.

10 Lewmond Avenue is a cream rendered semi-detached (with number 8) dwelling, with a detached garage accessed via a driveway that separates the house from 12 Lewmond Avenue. 10 Lewmond Avenue has a front garden and smaller back garden that backs onto Woodside, with 5 Woodside lying directly behind on the opposite side of that lane.

The only planning history for the property relates to planning application 2023/0528/HSE for the erection of a single-storey rear extension, which was approved on 07.06.2023.

This proposal is for retrospective consent for a two-storey extension to the rear of the property. The application form states that work commenced on this extension on 01.11.2023

Construction of the proposed two-storey extension to the rear of 10 Lewmond Avenue has already commenced although at the time of the site visit in January 2024 remained unfinished, with no windows installed, not rendered, and still with scaffolding in situ.

A site visit was conducted in the afternoon of 19.04.2023 as a part of the assessment of the earlier application, and a second visit made on the afternoon of 02.01.2024 as part of the assessment of this of this application. Photographs from both site visits can be viewed within the online record for this application.

As was the case with the previously approved single-storey extension the footprint of the proposed extension is relatively modest, replacing an existing, smaller, single-storey extension and adding a small amount of extra floor space, squaring off the back elevation of the house allowing internal alterations to reconfigure the layout of the ground floor of the house. This proposal adds a second storey across the whole of the new footprint allowing the reconfiguration of the first floor of the house, enhancing the bedroom accommodation and bathroom facilities.

10 Lewmond Avenue lies within the Somerset Levels and Moors SPA RAMSAR Catchment and SSSI Impact Risk Zone. As an existing residential dwelling the proposed development will have no additional impact upon these designations.

The property also lies within a consultation zone for the North Somerset Mendips Bats Special Area of Conservation. Consultation has been made to Somerset Ecology for any comment upon the impact of this proposal.

### **Summary of Consultation/Representations:**

Wells City Council: The Planning and Environment Committee 'unanimously voted to abstain'

Divisional Member: No response received. Applicants are related to the Divisional Member.

Somerset Ecology Officer: No response received

Neighbours: Two comments received – 1. Neutral but concerned about neighbour amenity from overlooking from rear first floor windows and overshadowing, and 2. Objection on grounds of neighbour amenity due to overshadowing and overlooking of neighbouring properties, and extension of the built form/building line to the rear of the property. Please see relevant sections of the report for consideration of these issues. The matter of a possible restrictive covenant on extensions to properties on Lewmond Avenue is a civil matter and not a planning consideration in the assessment of this application.

The application states that applicants are related to an elected member, Councillor Theo Butt-Philip. In light of this the officer's recommendation is contained within this document but the application will, for probity reasons, be referred to Planning Board (East) in accordance with the published Scheme of Delegation.

### **Relevant Planning Policy**

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)

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

- DP1 Local Identity and Distinctiveness
- DP7 Design and Amenity of New Development
- DP8 Environmental Protection

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework (2023)
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- Household Extension Design Guide – Mendip District Council (1993)

### **Character, Appearance and Impact on the Street Scene**

The position of 10 Lewmond Avenue, backing onto Woodside, gives the house a relatively open aspect, however the position of the existing garage means that the proposed rear extension will be visible in only glimpsed views from the front of the house. The new first-floor element of the extension is visible above the 2m high garden fence to the rear.

This proposal increases the extension approved under planning consent 2023/0528/HSE from a single storey to two-storeys. Whilst this does increase the built form of to the rear of

the dwelling this extension remains of a scale and form appropriate for a dwelling of this size at this location. The new pitched roof to the rear will be at a lower elevation than the main roof of the dwelling, maintaining a subservient appearance to the extension. The extension will be rendered and painted in a cream colour which will, along with other materials specified, match those of the finishes of the existing dwelling.

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**

This proposal will create valuable additional space allowing some reconfiguration of both the ground and first floors of the house to create a modern living space. This will be of amenity benefit for both current and future occupants. Whilst the extension does increase the built form of to the rear of the dwelling the footprint remains the same as that approved under planning consent 2023/0528/HSE. An assessment of the impacts in terms of residential amenity is set out below.

- i. Given the site's orientation and the separation distance between it and the neighbouring properties, including number 12 Lewmond Avenue it is considered that any additional shadow cast by the proposed extension will be contained largely within the curtilage of 10 Lewmond Avenue for most of the year. However it is recognised that during summer months there would be a small part of the rear garden close to the site boundary over and above the situation as exists at present.
- ii. It is important to consider the window openings proposed in the new extension and, in particular, any impact of the addition of a second storey contained within this application. The ground floor fenestration remains largely as that approved previously. The one new window faces onto the boundary fence/garage wall of the neighbouring property raising no risk of overlooking either into or from the new window beyond that which may exist with the existing/previous situation. The first floor of the proposed extension includes no windows to the side elevation. Two windows are proposed to the rear elevation, but these are of similar dimensions to those of the previous rear elevation, albeit nearer to the rear boundary of the property. Therefore, on balance, it is considered that the first-floor fenestration of the proposed extension will create no greater risk of overlooking either into or from the rear of 10 Lewmond Avenue over that which exists at present/existed previously

On balance therefore, it is considered that, 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 overshadowing, overbearing impact, loss of privacy, noise, or other disturbance. The proposal is therefore considered to accord with the policies referred to above.

## **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.

## **Recommendation**

Approve

## **Conditions**

### **1. Retrospective Permission (Compliance)**

Notwithstanding the time limit given to implement planning permissions prescribed by Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004), this permission, being a retrospective permission as prescribed by Section 63 of the 1990 Act, shall have been deemed to have been implemented on the 1st November 2023.

### **2. Plans List (Compliance)**

This decision relates to the following drawings:

H6716/001 Existing Plans and Elevations

H6716/002 Existing Site and Location Plan

H6716/101A Proposed Site and location Plan

H6716/200F Proposed Plans and Elevations

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

## **Informatives**

1. 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

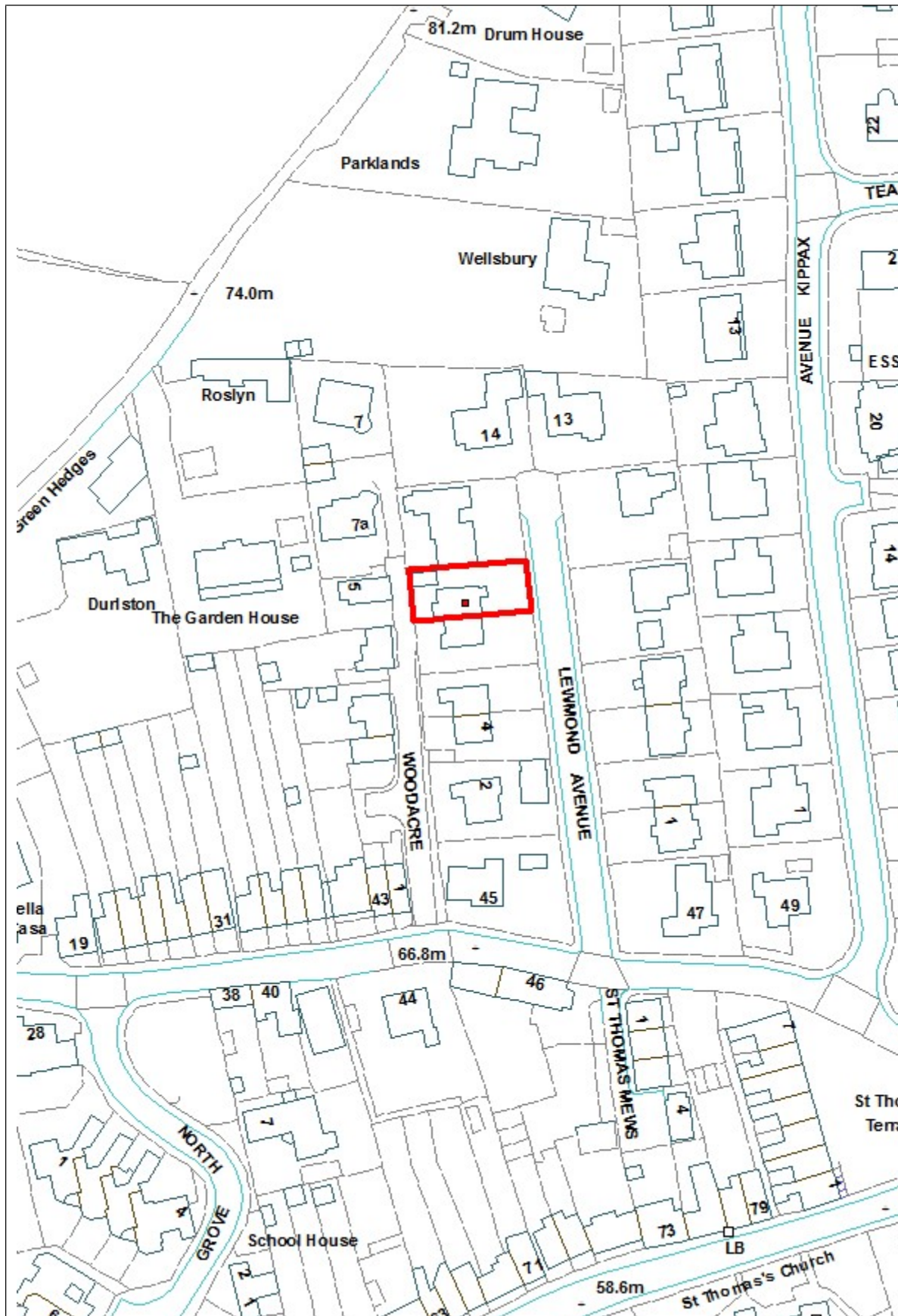
is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.

2. 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.

3. **Building Regulations Approval**

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 5th March 2024  
10 Lewmond Avenue  
Wells  
Somerset  
BA5 2TS

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Application Number	2023/1679/RE3
Case Officer	Carlton Langford
Site	Marston Roundabout Frome Somerset
Date Validated	13 November 2023
Applicant/	L Simms
Organisation	Somerset County Council
Application Type	Full Application Under Regulation 3
Proposal	Erection of advertisement/sponsorship 4no. hoarding signs on roundabout.
Division	Frome East Division
Parish	Frome Town Council
Recommendation	Approval
Divisional Cllrs.	Cllr Shane Collins Cllr Helen Kay

## **Referral to Planning Committee:**

The applicant is the Council and the land on which the proposed signage is to be erected is in the control of the Highway Authority (The Council) and for these reason and in and in accordance with the scheme of delegation this application is referred to Planning Committee for consideration.

## **Description of Site, Proposal and Constraints:**

The application site comprises a traffic roundabout on Marston Road leading into Frome.

This application seeks permission to erection of 4 number advertisement/sponsorship hoarding signs on roundabout.

## **Relevant History:**

No relevant planning history.

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

Ward Member: No response

Town Council: No comments.

From Civic Society: Objects – This appears to be (another) attempt to privatise and degrade part of the public realm, creating hazardous distraction to drivers and more unnecessary detritus, impoverishing the streetscape and environment, to bring in a very marginal income stream to the council. This will not even be a drop in the ocean of their shortfall next year. It is claimed the proposals will "control the proliferation of unauthorised signage whilst providing a low- risk revenue stream." Somerset would be better off enforcing the planning rules for unpermitted advertising signage and fining those that flout the rules (such as large supermarkets) to raise income. This commercialisation of our streets simply adds more visual litter to the environment. Can we expect more 'sponsored' advertising on every junction throughout the town, more distractions for drivers, more clutter? The application is for 'advertisement / sponsorship'. Is the applicant claiming that the roundabout now needs to be sponsored to function? The idea that the roundabout or even the council should be 'sponsored' is absurd.

Highways Development Officer: No objections.

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 strongly 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 Local Plan Part II: Sites and Policies, Post-JR version, 16 December 2022.
- 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
- DP1 – Local Identity and distinctiveness
- DP7 – Design and amenity
- DP9 – Transport

### **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)
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Somerset Council Highways Advertising Policy (March 2022)

### **Assessment of relevant issues:**

#### **Applications for express consent**

Local planning authorities control the display of advertisements in the interests of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

Unless the nature of the advertisement is in itself harmful to amenity or public safety, consent cannot be refused because the local planning authority considers the advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary or offensive to public morals.

“Amenity” is not defined exhaustively in the [Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007](#). But rather a matter of interpretation and in practice, “amenity” is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement.

“Public Safety” - Factors relevant to public safety are specified within the Advertisement Regulations and not confined to road safety and includes all of the considerations which are relevant to the safe use and operation of any form of traffic or transport on land (including the safety of pedestrians), over water or in the air.

#### **Somerset Council Highways Advertising Policy –**

This policy is intended to govern any form of advertising or sponsorship channelled through Somerset Council’s publications, promotional materials, events, council property and assets, or its website.

Somerset Council (“the Council”) intends to maximise revenue from advertising and, where appropriate will permit advertising on its assets such as roundabouts and fleet vehicles. As the designated Highway Authority, the Council is responsible for the management and maintenance of the entire highway network, including all adopted roads, bridges and

structures, signage, verges, and roundabouts. The Council currently has approximately 120 roundabouts with central islands, covered in grass or shrubs, others very floral and some fully paved which would be suitable for advertising.

The Council intends to offer businesses with a local presence the opportunity to advertise and to help the local economy. The Council will ensure a consistent approach to signing, maintenance and management of advertising across its portfolio. The income generated from advertising on Highway assets will be reinvested in the Highways asset portfolio.

The Policy seeks to “include” advertising on all suitable roundabouts and any other Highways assets which are deemed appropriate, and “exclude” any roundabouts or other assets that are deemed to be unsuitable (on either safety or amenity grounds).

### **Design and Amenity:**

The proposal is for 4 number hoarding signs of limited dimensions of 1000mm x 500mm with an overall above ground height of 760mm.

Within the context of what is a urban environment the proposed signs are not considered to be visually intrusive. The sign will not impact on any special landscapes nor the setting of heritage assets.

The type and location of signs raise no adverse amenity concerns in this location and conform with the Somerset Council Highways Advertising Policy.

### **Public and Highway Safety:**

The Highway Officer has raised no objection to the location of the sign with respect to high safety. The signs do not obstruct the use of the roundabout or other existing traffic signs on or around the immediate highway.

As there are no public footpaths on the roundabout and therefore no risks to pedestrian safety.

### **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.

### **Other matters:**

*Increased revenue should not be a reason to allow these signs.*

The proposal has been assessed in accordance with Somerset Council Policy (Somerset Council Highways Advertising Policy) which seeks to “include” advertising on all suitable roundabouts and any other Highways assets which are deemed appropriate, and “exclude” any roundabouts or other assets that are deemed to be unsuitable having regard for public safety and amenity in accordance with the [Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007](#).

### **Conclusion:**

The proposed signs raise no adverse public safety nor amenity concerns and are recommended for approval.

### **Recommendation**

Approval

### **Conditions**

#### **1. Standard Advert Time Limit**

This consent shall expire at the end of a period of five years from the date of this approval.

Reason: This condition is specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

#### **2. Standard Advertisement Conditions (Compliance)**

a. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

b. No advertisement shall be sited or displayed so as to -

(i) endanger persons using any highway, railway, waterway, dock, harbour or

aerodrome (civil or military);

(ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air;

(iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

c. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

d. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

d. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: These conditions are specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

### 3. **Plans List (Compliance)**

This decision relates to the following drawings:

LOCATION PLAN

BLOCK PLAN

PROPOSED ADVERTISING SIGN DIMENSIONS

PROPOSED SIGN - NEW COUNCIL BRAND

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. **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.

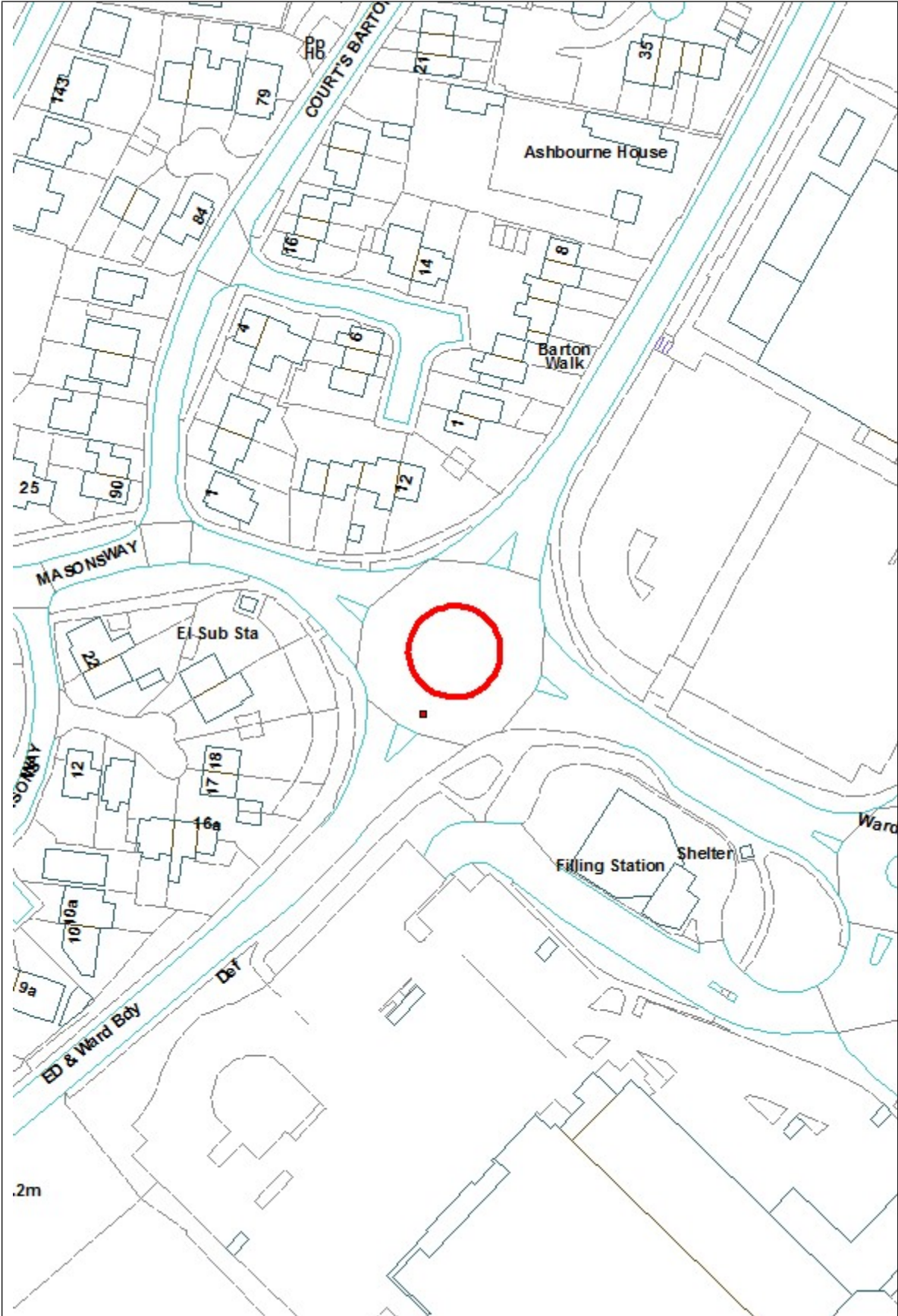
Please note all conditions should be read fully as these headings are intended as a guide only.

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 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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. Whilst every effort has been made to ensure advertising within this publication complies with all relevant legislation, Somerset Council cannot accept any liability for errors or omissions contained in any material provided by an advertiser. The Council does not accept any liability for any information or claims made by the advertisement or by the advertisers. Any inclusion of the Council's name on a publication should not be taken as an endorsement by the Council.
4. 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.

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Planning Board Report 5th March 2024  
Marston Roundabout  
Frome  
Somerset

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Application Number	2023/1851/RE3
Case Officer	Carlton Langford
Site	Land At 362482 154962 Rush Hill Ston Easton Wells Somerset
Date Validated	3 November 2023
Applicant/	L Simms
Organisation	Somerset Council
Application Type	Full Application Under Regulation 3
Proposal	Erection of a single advertisement/sponsorship hoarding signs on the triangle junction between the A37 and A39.
Division	Mendip Hills Division
Parish	Ston Easton Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

## **Referral to Planning Committee:**

The applicant is the Council and the land on which the proposed signage is to be erected is in the control of the Highway Authority (The Council) and for these reasons and in accordance with the scheme of delegation this application is referred to Planning Committee for consideration.

## **Description of Site, Proposal and Constraints:**

The application site comprises a triangular parcel of land at the junction between the A37 and A39.

This application seeks permission to erection an advertisement/sponsorship hoarding signs on the triangle junction between the A37 and A39.

2 hoarding signs were originally proposed but for highway safety reasons one has since been omitted from the scheme.

## **Relevant History:**

No relevant planning history.

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

Ward Member: No response

Town/Parish Council: No response

Highways Development Officer: No objections to 1 number sign.

Local Representations: 3 letters of objection have been received raising the following concerns–

- Visual impact within the open countryside on the edge of an AONB (National Landscape)
- Highway safety, impact on visibility at the junction.
- Highway safety, a general distraction.
- Increased revenue should not be a reason to allow these signs.

**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 strongly 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 Local Plan Part II: Sites and Policies, Post-JR version, 16 December 2022.
- 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
- DP1 – Local Identity and distinctiveness
- DP4 – Landscapes
- DP7 – Design and amenity
- DP9 – Transport

**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)
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Somerset Council Highways Advertising Policy (March 2022)

### **Assessment of relevant issues:**

#### **Applications for express consent**

Local planning authorities control the display of advertisements in the interests of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

Unless the nature of the advertisement is in itself harmful to amenity or public safety, consent cannot be refused because the local planning authority considers the advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary or offensive to public morals.

“Amenity” is not defined exhaustively in the [Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007](#). But rather a matter of interpretation and in practice, “amenity” is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement.

“Public Safety” - Factors relevant to public safety are specified within the Advertisement Regulations and not confined to road safety and includes all of the considerations which are relevant to the safe use and operation of any form of traffic or transport on land (including the safety of pedestrians), over water or in the air.

#### **Somerset Council Highways Advertising Policy -**

This policy is intended to govern any form of advertising or sponsorship channelled through Somerset Council’s publications, promotional materials, events, council property and assets, or its website.

Somerset Council (“the Council”) intends to maximise revenue from advertising and, where appropriate will permit advertising on its assets such as roundabouts and fleet vehicles. As the designated Highway Authority, the Council is responsible for the management and maintenance of the entire highway network, including all adopted roads, bridges and structures, signage, verges, and roundabouts. The Council currently has approximately 120 roundabouts with central islands, covered in grass or shrubs, others very floral and some fully paved which would be suitable for advertising.

The Council intends to offer businesses with a local presence the opportunity to advertise and to help the local economy. The Council will ensure a consistent approach to signing, maintenance and management of advertising across its portfolio. The income generated from advertising on Highway assets will be reinvested in the Highways asset portfolio.

The Policy seeks to “include” advertising on all suitable roundabouts and any other Highways assets which are deemed appropriate, and “exclude” any roundabouts or other assets that are deemed to be unsuitable (on either safety or amenity grounds).

### **Design and Amenity:**

The proposal is for a single hoarding sign of limited dimensions of 1000mm x 500mm with an overall above ground height of 760mm and not considered to be visually intrusive within its setting nor the wider rural landscape. The sign will not impact on any special landscapes or heritage assets.

Whilst it has been suggested that the scheme might visually impact on the AONB (National Landscape), the site is some considerable distance from this National Landscape and views will not be interrupted thereby maintaining the natural beauty of this landscape.

The type and location of sign raises no adverse amenity concerns.

### **Public and Highway Safety:**

The Highway Officer assessed the application in terms of highway safety and concluded –

It is possible that the proposed sign to the eastern corner of the plot of land could potentially distract drivers travelling west along the A39, increasing the potential for collisions with vehicles waiting to turn left or right out of the A37 and therefore that particular sign should not be provided.

The sign located on the northwestern corner of the island poses less of a risk and is likely to be acceptable.

Based on the above comments the application was amended to remove the sign deemed unacceptable.

As there are no public footpaths in the vicinity of the site, there are no risks to pedestrian safety.



The proposed revised scheme was subsequently given Highway Officer support.

## **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.

## **Other matters:**

*Increased revenue should not be a reason to allow these signs.*

The proposal has been assessed in accordance with Somerset Council Policy (Somerset Council Highways Advertising Policy) which seeks to “include” advertising on all suitable roundabouts and any other Highways assets which are deemed appropriate, and “exclude” any roundabouts or other assets that are deemed to be unsuitable having regard for public safety and amenity in accordance with the [Town and Country Planning \(Control of Advertisements\) \(England\) Regulations 2007](#).

## **Conclusion:**

The proposed signage raises no adverse public safety nor amenity concerns and is recommended for approval.

## **Recommendation**

Approval

## **Conditions**

### **1. Standard Advert Time Limit**

This consent shall expire at the end of a period of five years from the date of this

approval.

Reason: This condition is specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. **Standard Advertisement Conditions (Compliance)**

a. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

b. No advertisement shall be sited or displayed so as to -

(i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air;

(iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

c. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

d. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

d. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: These conditions are specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. **Plans List (Compliance)**

This decision relates to the following drawings:

LOCATION PLAN

Site Plan (Revised)

PROPOSED SIGN - NEW COUNCIL BRAND

SIGN DIMENSIONS

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. **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.

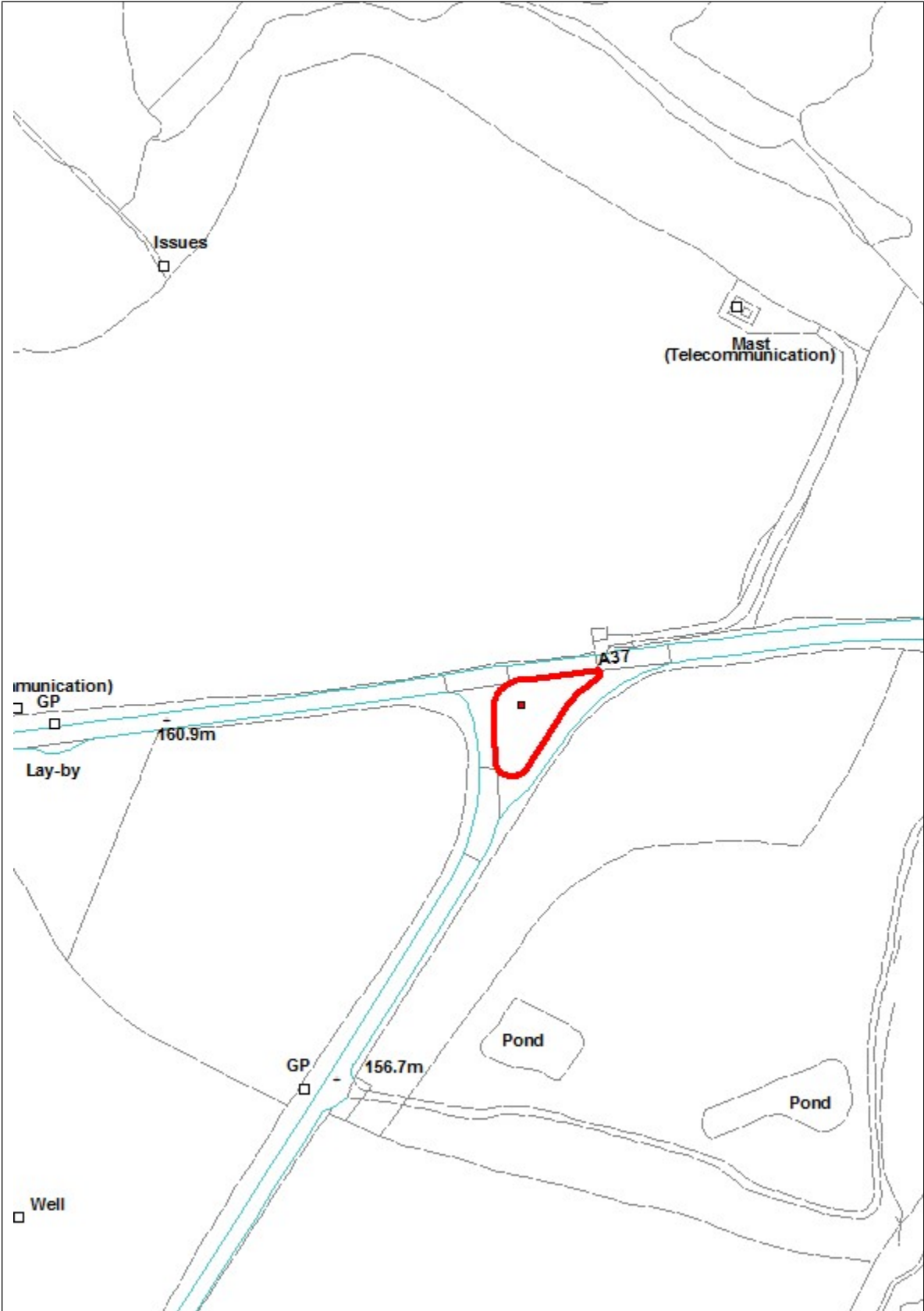
Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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. Whilst every effort has been made to ensure advertising within this publication complies with all relevant legislation, Somerset Council cannot accept any liability for errors or omissions contained in any material provided by an advertiser. The Council does not accept any liability for any information or claims made by the advertisement or by the advertisers. Any inclusion of the Council's name on a publication should not be taken as an endorsement by the Council.

4. 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.



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Planning Board Report 5th March 2024  
Land At 362482 154962  
Rush Hill  
Ston Easton  
Wells  
Somerset

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Application Number	2023/0152/FUL
Case Officer	Kelly Pritchard
Site	Cold Harbour Farm Withy Wood Lane Cranmore Shepton Mallet Somerset
Date Validated	31 January 2023
Applicant/ Organisation	Smolokowska
Application Type	Full Application
Proposal	Internal alterations and the conversion of 3 associated outbuildings to ancillary residential use.
Division	Mendip Central and East Division
Parish	Cranmore Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

## **What Three Words: usage.distanced.inclined**

### **Referral to Planning Committee:**

In accordance with the scheme of delegation, this application was referred to the Chair and Vice-Chair of the Planning Board following the Divisional Member responses on the Listed Building application which is running tandem to this application. The case officer recommendation is to approve with conditions, and the Parish Council recommended approval.

The Chair requested that this be considered by the Planning Committee.

### **Description of Site, Proposal and Constraints:**

The application relates to Cold Harbour Farm. The farmhouse is a Grade II listed building and the application site consists of an L-shaped farmhouse, an attached annex/carport building, and ancillary buildings (the barn and stables). The site is accessed from Withy Wood Lane by a long private drive.

The site is located outside defined development limits, it is a grade II Listed Building and within a Site of Special Scientific Interest Impact Risk Zone. There is a public right of way to the north east.

The application seeks full planning permission for internal alterations and the conversion and alteration of 3 associated outbuildings to ancillary residential use.

During the life of the application the plans have been amended in light of conservation concerns. The amended plans addressed most of their concerns but not all. The conservation officer still has concerns about the impacts of the development on the detached building to the north west of the house known as the barn. This will be addressed later in the report.

### **Relevant History:**

- 085267/002 – Temporary use of barn as carpentry workshop. Approval. 25.01.88
- 085267/003 – Renewal of temporary consent to use barn as carpentry workshop. Approval. 22.02.89 (restricted to B1 light industrial and for benefit of the applicant only)
- 085267/004 – removal of condition 3 (personal permission) from application 085267/003. Approval. 14.06.95 (condition amended to workshop shall not be sold separately from farm)
- 085267/005 - Erection of a two storey extension on the rear (north west) elevation and a two storey extension on the side (south-west) elevation. Approval. 30.09.02
- 085267/006 (LB) - Erection of a two storey extension on the rear (north west) elevation and a two storey extension on the side (south-west) elevation and various minor internal and external alterations to the property. Approval. 30.09.02
- 2014/2722/FUL - The partial re-configuration of the internal layout of the main house including the removal and replacement of staircases and the construction of a glazed kitchen extension. The enclosure of some existing openings. The conversion of a carport into guest accommodation. The conversion of a tractor shed into an office. The conversion and extension of a workshop into an indoor pool and gym involving a change of use from a B1 class use. The erection of a detached garage. Approval. 16.03.15
- 2014/2723/LBC - The partial re-configuration of the internal layout of the main house including the removal and replacement of staircases and the construction of a glazed kitchen extension. The enclosure of some existing openings. The conversion of a carport into guest accommodation. The conversion of a tractor shed into an office. The conversion and extension of a workshop into an indoor pool and gym involving a change of use from a B1 class use. The erection of a detached garage. Approval. 16.03.15

- 2015/0269/FOOT – Diversion of public footpath ref. SM4/16. Withdrawn. 31.03.15
- 2016/2190/APP - Application for approval of details reserved by conditions 3 (joinery details), 4 (rainwater goods and external attachments), 5 (external facing materials in respect of the walls and the roof), 6 (sample panel of the natural stone and mortar) and 7 (sample panel of the infilling/repointing of external facing stonework) on listed building consent 2014/2723/LBC. Approval. 19.10.16
- 
- 2023/0153/LBC is the listed building application which is running in tandem with this current application and is therefore still pending consideration.

**Summary of Divisional Member comments, Parish Council comments, representations and consultee comments:**

Divisional Member: No comments received. But does comment on the 2023/0153/LBC app. As follows

- I have no particular objection to this application, but I think it's a sufficiently significant development that it should be considered by the Planning Board.

Cranmore Parish Council: Approval.

Contaminated Land: No objection.

- Due to the nature of farms, it would be advised to keep a watching brief for potential hotspots of contamination.

Land Drainage: No objection.

- There will be no change to surface water runoff as a result of the proposals.

Heritage Conservation: Objection.

The further amended plans comprise merely reverting to the previously approved 2014 scheme for the barn in terms of external alterations, rather than taking account of the comments made and proposing a truly conservation-led scheme which would suit all concerned, most importantly the building. As it stands, if the current applicant was truly committed to the 2014 scheme for the Barn then there would have been no desire to propose otherwise.

I am, therefore, disappointed that we are in an unfortunate position where it seems that harm will be caused which would not be outweighed by any public benefits, but it is unlikely that this will be refused as it is viewed that this is a “fallback position”.

New owners of this site, and new architects, should have presented an ideal opportunity to find a scheme for this Barn which would cause the least harm, and I maintain that had there been an opportunity to meet with the applicants and discuss their wishes directly, the result may have been different.

Should the overall scheme be approved with these amended plans, conditions as suggested should be added to the decision.

Ecology: No objection subject to conditions

Somerset Rights of Way: No objection.

- There are public rights of way (PROW) recorded on the Definitive Map that run along part of the proposed access to the site (public bridleway SM 4/31 and SM 4/16/1) and PROWs that run adjacent to the site (public footpaths SM 4/16, SM 4/26 and SM 4/27 and public bridleway SM 4/31A) at the present time.
- The local planning authority needs to be confident that the applicant can demonstrate that they have an all-purpose vehicular right to the property along path SM 4/31 and SM 4/16/1.

Local Representations:

One letter of objection has been received raising the following planning issue:

- the proposed enhancements are inadequate and should also include other proposals for birds and other wildlife

Full details of all consultation responses can be found on the Council’s website [www.mendip.gov.uk](http://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)
- 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)
- DP22 (Reuse and Conversion of Rural Buildings)
- 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:**

The planning history shows that the buildings within the grounds of the house have the benefit of been used for ancillary uses. Some of the works covered by the planning history have been implemented and as such the scheme consented in 2015 under reference, 2014/2722/FUL and 2014/2723/LBC could be completed if the current owners wished to

do so. However, they have opted to apply for planning and listed building consent for a development which better suits their needs.

As such the principle of the use of these buildings has been established and the planning history, references quoted above are material in the consideration of the current proposal.

**Design of the Development and Impact on the Surrounding Area and the Character of the Listed building:**

The site is set within its own grounds accessed from a long drive, the alterations proposed will have minimal impact on the surrounding wider area.

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 201 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 200-210 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.

The building to the north west known as The Barn has been considerably altered. As discussed earlier there is an extant permission for this site (reference 2014/2722/FUL and 2014/2723/LBC), which included works to the house and several of the outbuildings, including the barn, some of the works have been implemented.

The conservation officer is particularly but not exclusively concerned about the works proposed to the north west elevation of The Barn. As currently existing, the only opening to this rear elevation is a single door, approximately halfway along its length. The elevation is otherwise unbroken with no evidence that the historic stonework has ever been breached. This feature is a key part of this building's significance; not only due to it having survived intact, but also as primary evidence of the design of traditional farm buildings whereby all openings (except the door) faced into the farmyard.

The scheme originally submitted proposed a number of large glazed doors and windows in the north west elevation. The conservation officer commented that, the loss of such a substantial amount of historic fabric, fundamentally altering the character of this rear elevation and of the barn itself where such large openings would have been created only for practical reasons associated with farming, cannot be justified purely by a wish to see the view and allow more light in. She goes onto comment that the rooflights proposed were domestic in appearance.

The plans were amended following these comments and the number of openings on the north west elevation were reduced but the number of rooflights increased. The revised rear elevation proposed one large plate glass opening, the replacement of the existing timber plank door with a wholly glazed door, and two tall, narrow, aluminium-framed windows.

Following further objection, the plans were finally amended in September last year, where the conservation officer comments that the further amended plans comprise merely reverting to the previously approved scheme for the barn in terms of external alterations. However, you will see from her comments quoted above that whilst she is disappointed with the development proposed, conditions are recommended. Conditions controlling the delivery of certain elements of the scheme will be secured on the listed building application. The north west elevation now proposes five rooflights, two arrow slit windows and a glazed door which is reflective of the previously consented drawings.

The NPPG para 15 states,

“Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused, and provided the harm is minimised.”

There are similarities between the historic consents and this proposal and the north west elevation is the same as what has been consented. The comments of the conservation officer are appreciated and maybe a more sensitive scheme could be achieved, but we have to consider the plans as now submitted.

It is recognised that the public benefits of the works are limited as this is a private residence, but the proposed uses are accepted as “optimum viable” use by the planning history. It is considered that the harm is minimised as a result of the amended plans and the fact the proposals for the north west elevation of the barn have reverted to what is already consented.

It is considered that the amended proposals, would result in less than substantial harm to the significance of the designated heritage asset, but having regard to the extant permission and in relation to continuing the optimum viable use of the buildings which would be in the public interest.

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 significance of the listed building, thereby resulting in less than substantial harm to the significance of the designated heritage asset. The proposal accords with Policy DP1, DP3 and DP7 of the adopted Local Plan Part 1 (2014) and parts 12 and 16 of the National Planning Policy Framework.

### **Impact on Residential Amenity:**

The property is set within its own extensive grounds and has no immediate neighbours.

### **Impact on Ecology:**

A bat activity survey was undertaken, where three of the buildings were confirmed as housing bat roosts and as such the applicants will need to obtain a European Protected Species Licence.

Somerset County Ecology have been consulted and do not object subject to securing conditions as set out in their consultation response. The conditions include, mitigation measures for bats and birds and bio diversity net gain. Whilst the ecologist recommends a condition that no vegetation removal works around the site shall take place between 1st March and 31st August inclusive in the interests of protecting nesting birds, the development proposed is on or with the built development already on site and does not impact on the wider vegetation. In this instance the condition is not considered necessary especially when nesting birds are protected by other legislation.

Subject to suitably worded planning conditions, 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.

### **Assessment of Highway Issues:**

There are no proposed changes to the access or parking for the site.

Given the existing residential use, it is not considered that the proposal would result in a significant increase in traffic movements that would be prejudicial to highway safety.



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:**

The site is within flood zone 1 and there will be no change to surface water runoff as a result of the proposal.

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.

### **Right of Way:**

There are public rights of way on the site but they will not be impacted by the development proposed.

### **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.

### **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:

Plans received 31.01.23

22/788/ES11 Existing studio north east and south west elevations.

22/788/E320 Existing studio section.

22/788/E310 Existing studio north west and south east elevations.

22/788/E301 Existing studio roof plan.

22/788/E300 Existing studio ground floor plan.

22/788/E221 Existing Stable Sections 3 and 4.

22/788/E220 Existing Stables Sections 1 and 2.

22/788/E211 Existing stables south east and north west elevations.

22/788/E210 Existing stables north east and south west elevations.

22/788/E201 Existing stables first floor plan.

22/788/E200 Existing stables ground floor plan.

22/788/E110 Existing house elevations.

22/788/E105 Existing house sections.

22/788/E103 Existing house roof plan.

22/788/E102 Existing house second floor plan.

22/788/E101 Existing house first floor plan.

22/788/E100 Existing house ground floor plan.

22/788/E002 Site block plan.

22/788/E001 Site location plan.

22/788/E202 Existing stables roof plan.

22/788/E003 Rev A Existing landscape site plan.

Plans received 14.07.23

P211A Stables Proposed South East and North West Elevations.

P210A Stables Proposed North East and South West Elevations.

P202A Stables Proposed Roof Plan.

P201A Stables Proposed First Floor Plan.

P200A Stables Proposed Ground Floor Plan.

P110A Annex Proposed Elevations.

P104 Annex Proposed Floor Plans.

P003A Proposed Landscape Plan.

P100 House Proposed Ground Floor Plan.

P101 House Proposed First Floor Plan.

P102 House Proposed Second Floor Plan.

P103 House Proposed Roof Plan.

Plans received 26.09.23

P300C Barn Proposed Ground Floor and Roof Plan.

P310C Barn Proposed North West and South East Elevations.

P311C Barn Proposed North East and South West Elevations and Section.

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

3. **Removal of Permitted Development Rights - Use Class (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, (or any order revoking and re-enacting that Order with or without modification), the development hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Cold Harbour Farm.

**Reason:** The approved use only has been found to be acceptable in this location and other uses within the same use class may require further detailed consideration by the Local Planning Authority, in the interests of the overall character and appearance of the countryside, to ensure a sustainable pattern of development and provision of adequate parking, amenity and access. In accordance with Policies CP1, DP1, 4, 3, 7, 8, 9, and 10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **European Protected Species Mitigation Licence (Pre-commencement)**

No development shall commence until the following has been submitted to and approved in writing by the Local Planning:

- a) a copy of the licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
- b) a copy of a letter from Natural England confirming that the works fall within the remit of a Bat Mitigation Class Licence (WML-CL21) and that the site has been registered in accordance with the class licence
- c) a statement in writing from the licensed bat ecologist to the effect that they do not consider that the specified development will require a licence.

**Reason:** In the interests of the strict protection of European protected species and in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a pre-commencement condition to ensure that a Licence is in place, if required, before development commences and because initial works to commence development have the potential to harm protected species and therefore these details need to be

agreed before work commences.

5. **Replacement of Bat Roosts (Pre-commencement)**

No development shall commence until a detailed scheme to provide bat roosting mitigation measures has been first submitted to and approved in writing by the Local Planning Authority. The detailed scheme should include;

a) The project design is to include a "void" space for brown long-eared bats to roost in. This can be incorporated into any of the three buildings. It should be a minimum of 1.8m high, 3m long and 3m wide. A minimum of two access points to the void should be built into the structure, these can be via bat access tiles or similar.

b) The installation of a single Segova bat brick will be installed in the western elevation of the proposed dwelling to offer roost space for common and soprano pipistrelle. The location of roosts entrances and internal details will be set out in the design.

c) Any areas that are accessible to bats must be lined with traditional black bitumen felt (type 1F) to avoid the risk of entanglement of bats. Any timbers that are to be retained and requiring remedial timber treatment should only be treated with 'bat friendly' chemicals (see <https://www.gov.uk/guidance/bat-roosts-ue-of-chemical-pest-control-products-and-timber-treatments-in-or-near-them>).

The details shall be implemented in accordance with the approved bat roosting mitigation measures and maintained thereafter.

**Reason:** In the interests of the Favourable Conservation Status of populations of European protected species and in accordance with Development Policies 5 and 6 of the Mendip Local Plan. This is a pre-commencement condition to ensure that a replacement bat roost is provided to house any bats from the commencement stage of development.

6. **Provision of Bat Box (Bespoke)**

Construction/demolition operatives shall be inducted, before development commences, by a licensed bat ecologist to make them aware of the possible presence of bats, their legal protection and or working practices to avoid harming bats. Works potentially affecting bats will proceed under the supervision of the licensed bat ecologist. No activities that could result in disturbance shall be carried out between the dates of 1st March and 31st October. If any bat(s) are discovered during construction works, works shall cease until two Harlech woodstone bat boxes are hung on a suitable tree or building on or adjacent to the site at a minimum height of 4 metres as directed by a licensed bat ecologist to accommodate any discovered bats.

The bat boxes shall be retained thereafter in perpetuity.

**Reason:** In the interests of the strict protection of European protected species and in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

No new external lighting shall be installed in connection with the development hereby approved 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 a lighting design for bats, following Guidance Note 08/18 Bats and artificial lighting in the UK (ILP and BCT 2018). 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. The design should accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels. 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.

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

8. **Biodiversity Enhancement (Net Gain) (Pre-occupation)**

No occupation of the development hereby approved shall commence until the following have been installed within the application site:

- a) 1x Kent bat box, purchased or built, on to a mature tree on site, facing south or west, at a height above 3m.
- b) at least 1x standard bird boxes, purchased or built, on to a mature tree on site, facing east or north, at a height above 3m.
- c) at least 2 x Schwegler No. 10 swallow nesting cups, or similar, to be erected on a main beam of the open side buildings such as car ports/garages and large porches, at a height above 3m and at least 1m apart.

The boxes/nesting cups 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. **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 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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.

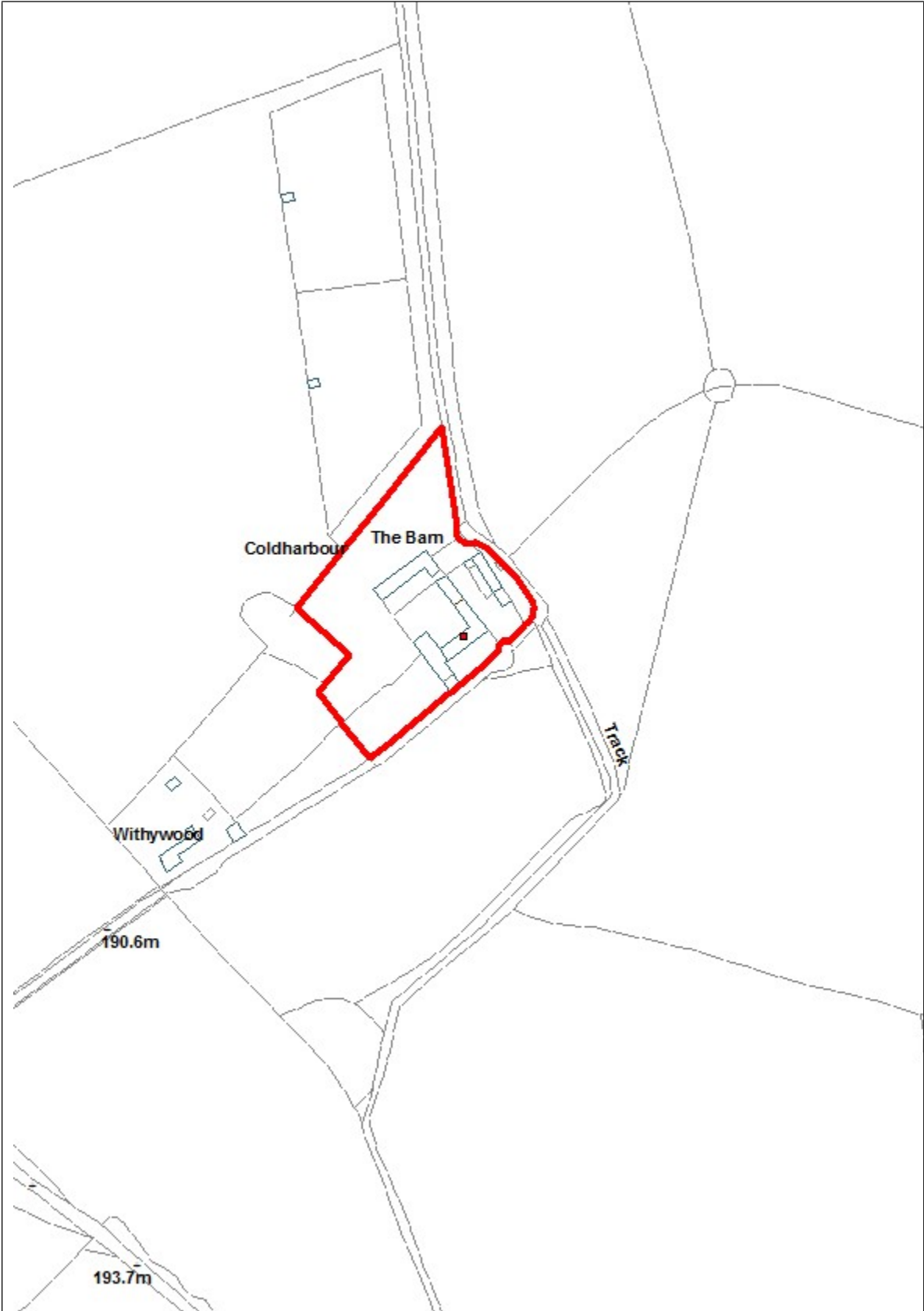
2. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.

3. 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.
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 is advised that 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. There are public rights of way (PROW) recorded on the Definitive Map that run along part of the proposed access to the site (public bridleway SM 4/31 and SM 4/16/1) and PROWs that run adjacent to the site (public footpaths SM 4/16, SM 4/26 and SM 4/27 and public bridleway SM 4/31A) at the present time.

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.

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Planning Board Report 5th March 2024  
Cold Harbour Farm  
Withy Wood Lane  
Cranmore  
Shepton Mallet  
Somerset  
BA4 4QR

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Application Number	2023/0153/LBC
Case Officer	Kelly Pritchard
Site	Cold Harbour Farm Withy Wood Lane Cranmore Shepton Mallet Somerset
Date Validated	31 January 2023
Applicant/ Organisation	Smolokowska
Application Type	Listed Building Consent
Proposal	Internal alterations and the conversion of 3 associated outbuildings to ancillary residential use.
Division	Mendip Central and East Division
Parish	Cranmore Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

## **What Three Words: usage.distanced.inclined**

### **Referral to Planning Committee:**

In accordance with the scheme of delegation, this application was referred to the Chair and Vice-Chair of the Planning Board following the Divisional Member responses on this Listed Building application which is running tandem to the planning application. The case officer recommendation is to approve with conditions, and the Parish Council recommended approval.

The Chairman requested that this application be considered by the Planning Committee.

### **Description of Site, Proposal and Constraints:**

The application relates to Cold Harbour Farm. The farmhouse is a Grade II listed building and the application site consists of an L-shaped farmhouse, an attached annex/carport building, and ancillary buildings (the barn and stables). The site is accessed from Withy Wood Lane by a long private drive.

The site is located outside defined development limits, it is a grade II Listed Building and within a Site of Special Scientific Interest Impact Risk Zone. There is a public right of way to the north east.

The application seeks listed building consent for internal alterations and the conversion and alteration of 3 associated outbuildings to ancillary residential use.

During the life of the application the plans have been amended in light of conservations concerns. The amended plans addressed most of their concerns but not all. The conservation officer still has concerns about the impacts of the development on the detached building to the north west of the house known as the barn. This will be addressed later in the report.

### **Relevant History:**

- 085267/002 – Temporary use of barn as carpentry workshop. Approval. 25.01.88
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- 085267/004 – removal of condition 3 (personal permission) from application 085267/003. Approval. 14.06.95
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- 2014/2723/LBC - The partial re-configuration of the internal layout of the main house including the removal and replacement of staircases and the construction of a glazed kitchen extension. The enclosure of some existing openings. The conversion of a carport into guest accommodation. The conversion of a tractor shed into an office. The conversion and extension of a workshop into an indoor pool and gym involving a change of use from a B1 class use. The erection of a detached garage. Approval. 16.03.15

- 2015/0269/FOOT – Diversion of public footpath ref. SM4/16. Withdrawn. 31.03.15
- 2016/2190/APP - Application for approval of details reserved by conditions 3 (joinery details), 4 (rainwater goods and external attachments), 5 (external facing materials in respect of the walls and the roof), 6 (sample panel of the natural stone and mortar) and 7 (sample panel of the infilling/repointing of external facing stonework) on listed building consent 2014/2723/LBC. Approval. 19.10.16
- 2023/0152/FUL is the planning application which is running in tandem with this current application and is therefore still pending consideration.

**Summary of Divisional Member comments, Parish Council comments, representations and consultee comments:**

Divisional Member: No comments on the planning application but does comment on this application , 2023/0153/LBC, as follows

- I have no particular objection to this application, but I think it's a sufficiently significant development that it should be considered by the Planning Board.

Cranmore Parish Council: Approval.

Heritage Conservation: Objection.

The further amended plans comprise merely reverting to the previously approved 2014 scheme for the barn in terms of external alterations, rather than taking account of the comments made and proposing a truly conservation-led scheme which would suit all concerned, most importantly the building. As it stands, if the current applicant was truly committed to the 2014 scheme for the Barn then there would have been no desire to propose otherwise.

I am, therefore, disappointed that we are in an unfortunate position where it seems that harm will be caused which would not be outweighed by any public benefits, but it is unlikely that this will be refused as it is viewed that this is a “fallback position”.

New owners of this site, and new architects, should have presented an ideal opportunity to find a scheme for this Barn which would cause the least harm, and I maintain that had there been an opportunity to meet with the applicants and discuss their wishes directly, the result may have been different.

Should the overall scheme be approved with these amended plans, conditions as suggested should be added to the decision.

Ecology: No objection subject to conditions

Local Representations:

None received.

Full details of all consultation responses can be found on the Council's website [www.mendip.gov.uk](http://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:

- Policy DP3 – Heritage Conservation
- Policy DP5 - Biodiversity and Ecological Networks
- Policy DP6 – Bat Conservation

**Other possible Relevant Considerations (without limitation):**

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England

**Assessment of relevant issues:**

## **Impact on Listed Building:**

The site is set within its own grounds accessed from a long drive, the alterations proposed will have minimal impact on the surrounding wider area.

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 201 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 200-210 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.

The building to the north west known as The Barn has been considerably altered. As discussed earlier there is an extant permission for this site (reference 2014/2722/FUL and 2014/2723/LBC), which included works to the house and several of the outbuildings, including the barn, some of the works have been implemented.

The conservation officer is particularly but not exclusively concerned about the works proposed to the north west elevation of The Barn. As currently existing, the only opening to this rear elevation is a single door, approximately halfway along its length. The elevation is otherwise unbroken with no evidence that the historic stonework has ever been breached. This feature is a key part of this building's significance; not only due to it having survived intact, but also as primary evidence of the design of traditional farm buildings whereby all openings (except the door) faced into the farmyard.

The scheme originally submitted proposed a number of large glazed doors and windows in the north west elevation. The conservation officer commented that, the loss of such a substantial amount of historic fabric, fundamentally altering the character of this rear elevation and of the barn itself where such large openings would have been created only for practical reasons associated with farming, cannot be justified purely by a wish to see

the view and allow more light in. She goes onto comment that the rooflights proposed were domestic in appearance.

The plans were amended following these comments and the number of openings on the north west elevation were reduced but the number of rooflights increased. The revised rear elevation proposed one large plate glass opening, the replacement of the existing timber plank door with a wholly glazed door, and two tall, narrow, aluminium-framed windows.

Following further objection, the plans were finally amended in September last year, where the conservation officer comments that the further amended plans comprise merely reverting to the previously approved scheme for the barn in terms of external alterations. However, you will see from her comments quoted above that whilst she is disappointed with the development proposed, conditions are recommended. Conditions controlling the delivery of certain elements of the scheme will be secured on the listed building application. The north west elevation now proposes five rooflights, two arrow slit windows and a glazed door which is reflective of the previously consented drawings.

The NPPG para 15 states,

“Harmful development may sometimes be justified in the interests of realising the optimum viable use of an asset, notwithstanding the loss of significance caused, and provided the harm is minimised.”

There are similarities between the historic consents and this proposal and the north west elevation is the same as what has been consented. The comments of the conservation officer are appreciated and maybe a more sensitive scheme could be achieved, but we have to consider the plans as now submitted.

It is recognised that the public benefits of the works are limited as this is a private residence, but the proposed uses are accepted as “optimum viable” use by the planning history. It is considered that the harm is minimised as a result of the amended plans and the fact the proposals for the north west elevation of the barn have reverted to what is already consented.

It is considered that the amended proposals, would result in less than substantial harm to the significance of the designated heritage asset, but having regard to the extant permission and in relation to continuing the optimum viable use of the buildings which would be in the public interest.

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 significance of the listed building, thereby resulting in less than substantial harm to the significance of the designated heritage asset. The proposal accords with Policy DP1, DP3 and DP7 of the adopted Local Plan Part 1 (2014) and parts 12 and 16 of the National Planning Policy Framework.

### **Impact on Ecology:**

A bat activity survey was undertaken, where three of the buildings were confirmed as housing bat roosts and as such the applicants will need to obtain a European Protected Species Licence.

Somerset County Ecology have been consulted and do not object subject to securing conditions as set out in their consultation response. The conditions include, mitigation measures for bats and birds and bio diversity net gain. Whilst the ecologist recommends a condition that no vegetation removal works around the site shall take place between 1st March and 31st August inclusive in the interests of protecting nesting birds, the development proposed is on or with the built development already on site and does not impact on the wider vegetation. In this instance the condition is not considered necessary especially when nesting birds are protected by other legislation.

Subject to suitably worded planning conditions, 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.

### **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.

### **Recommendation**

Approval

### **Conditions**

1. **Standard Time Limit - Listed Building Consent (Compliance)**

The works hereby approved shall be begun before the expiration of three years from the date of this consent.

**Reason:** To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

2. **Plans List (Compliance)**

This decision relates to the following drawings:

Plans received 31.01.23

22/788/ES11 Existing studio north east and south west elevations.

22/788/E320 Existing studio section.

22/788/E310 Existing studio north west and south east elevations.

22/788/E301 Existing studio roof plan.

22/788/E300 Existing studio ground floor plan.

22/788/E221 Existing Stable Sections 3 and 4.

22/788/E220 Existing Stables Sections 1 and 2.

22/788/E211 Existing stables south east and north west elevations.

22/788/E210 Existing stables north east and south west elevations.

22/788/E201 Existing stables first floor plan.

22/788/E200 Existing stables ground floor plan.

22/788/E110 Existing house elevations.

22/788/E105 Existing house sections.

22/788/E103 Existing house roof plan.

22/788/E102 Existing house second floor plan.

22/788/E101 Existing house first floor plan.

22/788/E100 Existing house ground floor plan.

22/788/E002 Site block plan.

22/788/E001 Site location plan.

22/788/E202 Existing stables roof plan.

22/788/E003 Rev A Existing landscape site plan.

Plans received 14.07.23

P211A Stables Proposed South East and North West Elevations.

P210A Stables Proposed North East and South West Elevations.

P202A Stables Proposed Roof Plan.

P201A Stables Proposed First Floor Plan.

P200A Stables Proposed Ground Floor Plan.

P110A Annex Proposed Elevations.

P104 Annex Proposed Floor Plans.

P003A Proposed Landscape Plan.

P100 House Proposed Ground Floor Plan.

P101 House Proposed First Floor Plan.

P102 House Proposed Second Floor Plan.

P103 House Proposed Roof Plan.

Plans received 26.09.23

P300C Barn Proposed Ground Floor and Roof Pan.

P310C Barn Proposed North West and South East Elevations.

P311C Barn Proposed North East and South West Elevations and Section.

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

3. **Joinery Details (Bespoke Trigger)**

No installation of internal and external joinery, to include any glazed or timber panels or partitions, stairs and rooflights, shall commence until full details comprising full or half scale and shall include cross sections, profiles, reveal, surrounds, materials, finish and colour, have been submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall be carried out only in accordance with the approved details.

**Reason:** To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Development Policy 3 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Interior Treatments and Finishes - submission of details (Bespoke Trigger)**

No works shall be undertaken to the interior walls, floors or ceilings of any building on site unless details of the proposal for that building have been first submitted to and approved in writing by the Local Planning Authority. The details should include a schedule to describe the proposed treatments and finishes for walls, floors and ceilings, including a justification and a method statement for each proposed treatment or finish, and the location of each treatment and/or finish should be made clear in a written schedule and/or annotated drawings as necessary. The works shall thereafter be carried out only in accordance with the approved details.

**Reason:** To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy DP3 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014).

5. **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 in accordance with Development Policies 1, 3 and 7 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 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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.

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Planning Board Report 5th March 2024  
Cold Harbour Farm  
Withy Wood Lane  
Cranmore  
Shepton Mallet  
Somerset  
BA4 4QR

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Application Number	2023/2304/FUL
Case Officer	Kelly Pritchard
Site	Tilham Farm Tilham Lane Baltonsborough Glastonbury Somerset
Date Validated	28 November 2023
Applicant/	Mr & Mrs Symonds
Organisation	
Application Type	Full Application
Proposal	Demolish Barn B and erection of 4 x 1-bed residential dwellings.
Division	Mendip South Division
Parish	Baltonsborough Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Claire Sully Cllr Alex Wiltshire

## **What Three Words: ideas.shred.sprouting**

### **Referral to Planning Committee:**

The application proposes new residential development outside of settlement limits. The officer recommendation is for approval, and therefore in accordance with the scheme of delegation this application is referred to Planning Committee as a departure from the local plan.

### **Description of Site, Proposal and Constraints:**

The application relates to a barn at Tilham Farm, Tilham Lane, Baltonsborough. The site benefits from two points of access from the public highway, one from Ham Street the other from Tilham Lane.

The site is located outside defined development limits, within a Site of Special Scientific Interest Impact Risk Zone and within the Somerset Levels and Moors Ramsar Risk Area.

The application seeks full planning permission for the demolition of the existing barn and erection of 4 x one bed dwellings. The dwellings will be formed by two blocks of two dwellings opposite each other and will be single storey. The red line application site confirm that the existing access from Ham Street will serve the proposed units and an additional as referred below (refer to LPA 2021/2922/FUL which is shown on the submitted location plan). The design, siting and external appearance of the buildings to accommodate the 4 dwellings will be the same as that consented by application,

2022/1619/PAA, comprising single storey accommodation with a palette of materials for the walling and roof construction of timber cladding with a corrugated roof.

Other relevant information: To the north east of the site is an existing open fronted barn which has the benefit of planning permission to be demolished and a new dwelling erected under LPA case ref: 2021/2922/FUL.

### **Relevant History:**

- 067276/002AG - Removal of agricultural buildings, erection of a dutch barn and formation of a new vehicular access and track off Ham Street to serve the agricultural unit. Permission required. 31.01.03
- 067276/003 - Extension to existing dwelling, conversion of barn into additional ancillary accommodation, erection of garaging and workshop and use of land as domestic curtilage. Approval. 07.03.03
- 067276/004 - Creation of an agricultural access onto Ham Street. Approval. 17.04.03
- 067276/006 - Erection of agricultural barn for livestock accommodation. Approval. 15.12.04
- 067276/008 - Erection of a holiday let together with annexe, workshop, garage and conversion of outbuilding into additional ancillary accommodation to serve Tilham Farmhouse. Approval. 04.08.05
- 067276/009 - Erection of 2 holiday lets with attached workshop, carport, annexe and conversion of farm building to family room as ancillary use to Tilham farm. Approval. 03.07.07
- 067276/010 - Erection of 2 Holiday Lets with attached workshop, carport, annexe and conversion of farm building to family room as ancillary use to Tilham Farm. Approval. 26.09.07
- 2022/1619/PAA - Prior Approval for a proposed change of use of agricultural building to four dwellinghouses (Class C3) and for associated operational development. Deemed consent. Prior approval given. 21.10.22
- 2023/1117/FUL - Conversion of barn into four dwellings. Withdrawn. 21.12.23

- 2021/1398/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. 04.08.21 (this refers to the open fronted barn to the north east of the barn being considered as part of this application)
- 2021/2922/FUL - Demolish the existing barn with a previously approved Class Q change of use and erection of dwellinghouse. Approval. 01.08.22 (this refers to the open fronted barn to the north east of the barn being considered as part of this application)

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

Divisional Member: No comment received.

Baltonsborough Parish Council: Refusal.

- Questions remain unanswered regarding highways, storage of refuse.
- It is outside development limits.
- Its footprint and design is totally different to the plans passed under class Q.

Highways Development Officer: Additional information is required.

There are two existing access points to this site, both are onto highways subject to the national speed limit. The access point onto Tilham Street is adjacent to a residential dwelling and a high stone boundary wall, at this point visibility is restricted. Given both accesses fall within national speed limits visibility splays in accordance with manual for streets should be provided. Any reduction should be justified. The visibility splays must be across land with the applicants control or highway land.

Parking and turning plans are required which should show 2 spaces per dwelling, in addition the plans should include cycle storage and electric charging points.

Environmental Protection: No objection.

Ecology: No comments received.

Somerset Council Waste Services: No objection.

Somerset Council Waste Services has no objection to the proposed application, however would recommend that due to the increased number of proposed properties using the roadside collection point, that a storage area is provided near the roadside so that bins

and/or recycling containers for the total of 5 properties can be adequately put out without blocking the entrance/visibility to the highway.

NOTE: Since receiving this comment, the waste partnership have confirmed that providing the storage area/collection point is within 15m of the highway, which I can confirm it is, then they have no objection.

#### Local Representations:

We have received two letters of objection and their comments are summarised below:

- Environmental impacts.
- Unsustainable location, remote.
- May set an unacceptable precedent.
- Development will not provide an unmet need for affordable housing.
- It is unproven that it is more sustainable to rebuild an energy efficient building, rather than convert an existing building.
- Fallback position is irrelevant as the development now proposed is new build.
- Development is not in accordance with development plan (CP1 and CP4).
- The access onto Ham Street and the refuse storage/collection area is harmful to amenity of the occupiers of Meadow Cottage.
- The bin store is too small and a larger one would have a visual impact.
- The visibility splay angle to the east goes through the hedge of Meadow Cottage and is 60m not 90m as shown. Cars travelling from the east can potentially still be moving at 60mph prior to breaking as they approach the 30mph speed limit.

Full details of all consultation responses can be found on the Council's website [www.somerset.gov.uk](http://www.somerset.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 strongly 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, 16 December 2022)
- 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)
- 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:**

The site is within open countryside, outside the settlement limits in an isolated location, where development is strictly controlled.

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. 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) can not be given full weight in the decision making process on this application. 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.

Paragraph 188 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.

The Parish Council have commented that the development proposed is different to the prior approval application, however it is not clear why they conclude this. Prior approval has been given and is extant for an identical scheme to this proposal under application reference 2022/1619/PAA which does not expire until October 2025. There is sufficient time remaining that this consent could be implemented and completed if an alternative proposal did not proceed. As such it is considered that there is a reasonable prospect that the extant prior approval would be implemented if the current application were refused. Development in the open countryside outside development limits is strictly controlled, but in this instance the planning history, together with the five-year housing land supply position is considered to carry significant weight in the determination of this application.

An assessment of this current application in terms of compliance with the relevant development policies is set out below. The primary consideration being whether the scheme now being considered in this rural location would be harmful.

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

The design of the building is the same as the prior approval application albeit a new build rather than a barn conversion. It is considered that the development proposed has similarities to an agricultural building and will retain, to some degree, the agricultural character of the cluster of buildings on this site.

The materials for the development can be controlled by condition and permitted development rights can be removed in order to control excessive alterations to the buildings which might otherwise erode their agricultural character.

It is considered that 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 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

### **Assessment of Highway Issues:**

The farm complex and residential dwellings at this site are currently served by two existing vehicular access, one accessing onto Tilham Lane, an unclassified highway subject to the national speed limit, the other onto Ham Street, a classified un-numbered highway also subject to national speed limit.

Somerset Highways have commented that the access point at Tilham Lane would be restricted due to the existing house and wall. They also say that visibility splays for both accesses should be in accordance with manual for streets or any reduction should be justified.

There are currently no controls with regards to which property exits which access point and both accesses are in existence. The submitted application indicates that access to serve the four dwellings proposed would be via the Ham Street access.

The site currently consists of the farmhouse and two flats and the agricultural unit associated with the site. There is the potential for a further dwelling to the north east of this current proposal which has an extant permission, reference 2021/2922/FUL and the Class Q for four dwellings. Cumulatively, there could be eight properties plus the agricultural activity utilising either access.

Drawing number 1839/004 Rev A confirms the access arrangements for the proposed dwellings from Ham Street and that the access to the west (Tilham entrance) will be blocked off .

The applicant's agent has confirmed that the Tilham farmhouse access will be retained to serve the farmhouse, tourism units and for small scale limited agricultural traffic.

It is considered that the reduction in the numbers which could potentially utilise the Tilham entrance would be an improvement in highway safety terms. The Ham Street

entrance would be utilised by five dwellings and possibly a low number of agricultural movements.

During the life of the application a visibility splay plan has been provided which demonstrates the currently visibility splays afforded to the Ham Street access which show 100m to the west and 90m to the east. The submitted plan shows further improvement to visibility to the east by adjusting the hedge line. Whilst the current visibility splay falls short of what would normally be required in this speed limit, the traffic speeds are likely to be significantly slower than the speed limit due to the roads topography and being close to the 30mph speed limit entering the village.

Balancing the highway safety benefits of reducing the traffic utilising the Tillham entrance, and the proposed improvement to the Ham Street entrance, it is considered that the means of access as proposed from Ham Street to serve the dwellings is acceptable.

It is considered that there is adequate space within the site for parking and turning.

In summary the means of access and parking arrangements are considered to be 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.

### **Impact on Residential Amenity:**

The resulting dwellings will be set within a self contained plot separate to the original farmhouse plot. The relationship between the sites is acceptable.

An objection has been received from the neighbour closest to the Ham Street access where they claim the intensification of this use and the location of the refuse collection point will be detrimental to their amenity. At its closest point the track is approximately 25m to their boundary and at the access point onto the highway it is over 30m to their boundary, the bin store is even further away. It is considered that the given the distances involved the development proposed will not harm neighbour amenity.

Within the ownership of the applicant there is sufficient space to deliver amenity space for the dwellings proposed.

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:**

A bat and bird scoping survey report dated March 2021 was submitted with the application. The building was assessed as having negligible bat roost potential. No signs of birds were identified in the building. This report is over two years old and a subsequent preliminary ecological appraisal report dated July 2023 was submitted which concluded similarly to the 2021 report. The report makes recommendations for ecological enhancement.

The site is located in an area that is hydrologically connected to the Somerset Levels and Moors Ramsar site and as such the proposal may have the potential to contribute to additional phosphate loading in the Ramsar site. However as the applicant has a legitimate fallback position by virtue of application 2022/1619/PAA there is no requirement under the Habitats Regulations to assess and mitigate for any phosphate arisings from the development.

It is considered that providing the recommendations of the submitted ecology report, in so far as it relates to the development proposed, are undertaken 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.

### **Land Drainage:**

A sustainable drainage system is proposed to deal with surface water and a package treatment plant is proposed for foul.

The site of the proposed development is within flood zone 1. As such, the proposed development is considered acceptable in terms of flood risk. It is considered that a suitable solution for drainage could be found within land that the applicant owns. As this will be covered by Building Regulations, it is considered unnecessary to impose conditions to secure these details.

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:**

A storage space for refuse bins has been provided within 15m of the highway which is considered acceptable.

## **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 and Planning Balance:**

Whilst this site is located outside the settlement limits, this site has the benefit of an extant approval to form four dwellings under LPA case ref: 2022/1619/PAA. The height, scale and massing of the proposed new dwellings is reflective of the approved scheme which proposed a conversion of the existing building. The new build development now proposed is considered acceptable and raises no new amenity, highway or ecological impact issues over and above the scheme already approved.

Having regard to paragraph 11 of the NPPF, given that the assessment of the application scheme has not identified any demonstrable harm and given the he fallback position as set out above the proposals are considered to be acceptable 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: 1839/001, 1839/002, 1839/003 Rev A, 1839/004 Rev A, 1839/010, 1839/011, 1839/020, 1839/021, 1839/030, 1839/031, 1839/040, 1839/041, 1839/042 all received 28.11.23, and drawing 1839/005 and Preliminary Ecological Appraisal Report by Nash Ecology dated July 2023 received 14.02.24.

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

3. **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 dwellings or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: The development is in a location where isolated new dwellings would not otherwise be permitted having regards to Policies CP1, CP2 and CP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). As such any further extensions require detailed consideration by the Local Planning Authority in the interests of retaining the character of the open countryside having regards to Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **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(s) 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 rural character of countryside having regards to Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **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 DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

No occupation shall commence until the access (from Ham Street only), parking, passing bay and bin store have been constructed in accordance with details shown on drawing numbers 1839/004 Rev A 1839/030 and 1839/005. The vehicular access, parking, passing bay and bin store shall thereafter be kept clear of obstruction and shall not be used other than for the access, parking and passing of vehicles and bin storage in connection with the development hereby permitted.

Reason: To ensure that suitable access, parking and passing areas and bin storage are provided and thereafter retained in the interests of amenity and highway safety in accordance with Development Policies 7, 9 and 10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**7. Implementation of Wildlife Scheme (Pre-occupation)**

The development hereby approved shall be carried out in accordance with the recommendations contained with the submitted Preliminary Ecological Appraisal Report produced by Nash Ecology dated July 2023 and no occupation shall commence until the ecological enhancements set out in paragraph 5.4 of that report have been installed within the application site.

Reason: To ensure that the implementation and success of the Wildlife Protection and Enhancement Scheme 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.

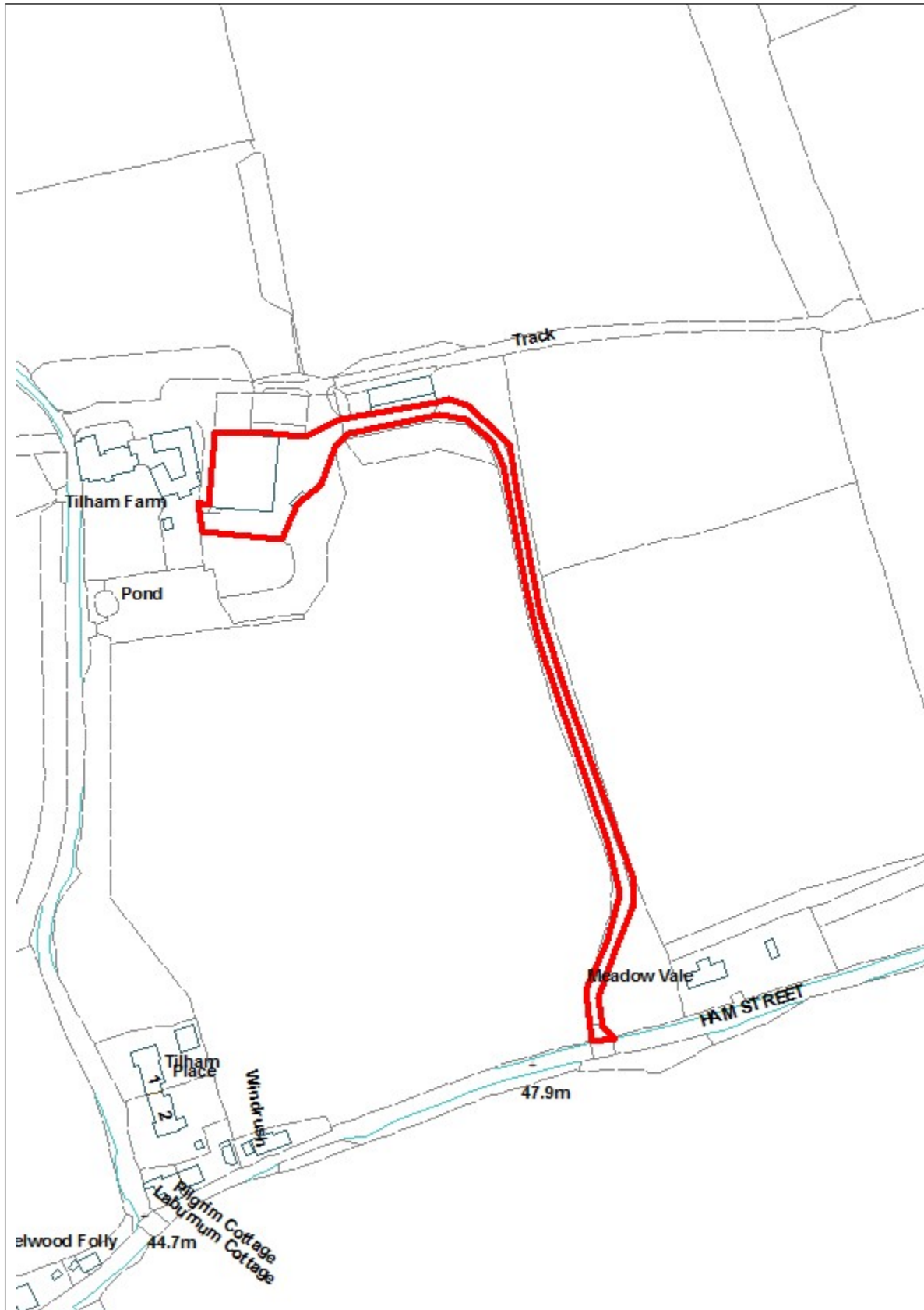
Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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. 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.
3. 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.
4. 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.

5. 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/>
  
6. 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.
  
7. The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation Habitats and Species Regulations 2017 (and as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019). 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.



Planning Board Report 5th March 2024  
Tilham Farm  
Tilham Lane  
Baltonsborough  
Glastonbury  
Somerset  
BA6 8QA

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Application Number	2023/1884/FUL
Case Officer	Kelly Pritchard
Site	Emborough Farm Roemead Road Binegar Radstock Somerset
Date Validated	3 October 2023
Applicant/	P Blatchford
Organisation	
Application Type	Full Application
Proposal	Erection of a temporary rural workers dwelling and associated works.
Division	Mendip Hills Division
Parish	St Cuthbert Out Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

## **What Three Words: Stolen.festivity.snake**

### **Referral to Planning Committee:**

In accordance with the scheme of delegation, this application has been referred to the Chair and Vice-Chair of the Planning Committee following as the case officer recommendation is to refuse, and the Parish Council recommended approval. The Chairman has requested that the application be referred to the Committee for members to consider the extent to which the temporary dwelling and the range of activities to be undertaken on the Farm comply with the requirements of Policy DP13.

### **Description of Site, Proposal and Constraints:**

The application relates to Emborough Farm, Roemead Road, Binegar.

The site is located outside defined development limits and has an existing vehicular access to the highway, the B3135, which is opposite a small industrial estate.

The site is also with a Landscape Character Area, Bat Consultation Zone (Mells Valley Bats Special Area of Conservation) (Band C), Site of Special Scientific Interest Impact Risk Zone, there is a public right of way which runs east to west through the site. It is also located within the Somerset Levels and Moors Ramsar Risk Area.

The application seeks full planning permission for the erection of a temporary rural workers dwelling and associated works, in conjunction with an existing agricultural enterprise.

The dwelling will be a lodge which will provide 2 bedrooms and it will be delivered in two halves. The elevations will be clad in timber planks and the floor area will measure approximately 5m x 13.7m. It is proposed to the east of the existing Hay Barn. The submitted plans show the overall height to be 4m above ground level and 1m below ground level. The trailers being dug into the ground. A patio area and path will be formed next to the lodge to enable ease of access.

Prior to submitting this application, the applicant has not engaged in seeking pre-application advice for the proposal now under consideration.

#### **Relevant History:**

- 2022/2125/AGB - Application for prior notification of agricultural development for a proposed building - Agricultural barn. Prior Approval Not Required. 16.11.22
- 2022/2150/AGB - Application for prior notification of agricultural development for a proposed building - Agricultural barn. Prior Approval Not Required. 16.11.22
- 2024/0002/FUL - Change of use of agricultural land to a secure fenced dog exercise area. Pending consideration.
- 2024/0195/FUL - Erection of two goose houses and one field shelter for alpacas (retrospective). Pending consideration.

With regards to the two agricultural buildings which were approved under the prior approval process, as referred above, the use of these building is currently being investigated by the Planning Enforcement Team. With reference to the barn approved under LPA ref: 2022/2125/AGB the applicant has submitted an application for Building Control approval (ref: 2/FP/23/05267) as follows: *Proposed part conversion of barn to ground floor – residential. First floor - commercial kitchen and teaching room/classroom.*

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

Divisional Member: No comments received.

St Cuthbert Out Parish Council: Approval.

- The structure is in keeping.
- There is no impact on neighbours.
- Layout lends itself to the practical needs for managing livestock and providing security.
- Access to the site has recently been improved considerably, and entry onto the B3135 has good visibility.
- The storage space for machinery and equipment would reduce any disturbance.
- The applicant will reduce their car usage even further and the application furthers their opportunity to progress their business, and contribution to the rural economy.

Highways Development Officer: Objection.

- The visibility splays have been drawn incorrectly and there are concerns that the visibility splay to the south east will cross land that is not within the applicants or highways control.
- No detail for the level of parking has been provided, other than a rough location.
- The length of the access track warrants a passing space.
- The submitted documents make reference to retail, catering and educational uses at the site, no details of these uses have been provided and they have therefore not been considered.

Environmental Protection: No objections.

Ecology: No objection.

The application is supported by evidence pertaining to the Interim guidelines, specifically to the small-scale thresholds of likely significant effects in relation to Package Treatment Plants (PTPs). The interim guidelines state that small discharges from PTPs or Septic Tanks to ground (i.e. less than 2m<sup>3</sup> per day) within the Ramsar catchment will present a low risk of a significant effect where the location of the

drainage field and PTP meet the Proposed thresholds criteria a-h. SES are satisfied that the proposal will result in discharges of less than 2m<sup>3</sup> per day and that the proposed locations of the drainage field and PTP meet the Proposed thresholds criteria a- h.

The application proposes to install a Otto Graf one2clean PTP which has a phosphate discharge rate of 1.6mg/l.

Further to discussions with Natural England, it is therefore concluded that the proposed application, with associated low levels of phosphate production, is unlikely to add significantly to nutrient loading on the Somerset Levels and Moors Ramsar site; therefore 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.

To ensure the provision of the above scheme for the disposal of foul drainage a foul drainage condition should be imposed if planning permission is granted.

Other ecological matters concerning protected species have been considered and subject to the conditions suggested SET has no objection.

#### Somerset Rights of Way: Objection.

- The applicant's plans including the location plan (300723-1) are not drawn to the set scale. The applicant has not shown the legal line of the footpath correctly. The current proposal will obstruct the footpath due to the proposed parking and fence line. The proposal either needs to be revised or a diversion order applied for.

Plans with amended scales were received 17.01.24 and the rights of way officer's summarised comments are as follows;

- The amended plans are still not to the set scales as indicated on the plan's scale bars.
- The distance from the proposed lodge to the hedge appears to be different on location plan 300723-7 compared with the proposed block plan 300723-2 (this is because the location for the lodge is different on both plans).
- The legal line of the footpath (WS 10/37) is not shown correctly.

- Using drawing 300723-7 the proposed lodge, the Hay Barn and parking and potentially the fencing, would obstruct the footpath.
- A public footpath diversion order will be required.

#### Local Representations:

One letter has been received which expresses concerns about highway safety as the access is onto a fast road opposite the Rookery Farm development.

Full details of all consultation responses can be found on the Council's website [www.somerset.gov.uk](http://www.somerset.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)
- CP3 (Supporting Business Development and Growth)
- 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 of New Development)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)
- DP13 (Accommodation for Rural Workers)
- 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 Mendip District Local Plan Part 1 (LPP1) states that to enable the most sustainable pattern of growth for the district, the majority of development will be directed towards the five principal settlements (Frome, Shepton Mallet, Wells, Glastonbury and Street). In rural areas, new development is tailored to meet local need and is to be provided within Primary Villages, which are to accommodate most rural development and Secondary Villages, which may accommodate more localised housing, business and service needs. In villages and hamlets development may be permitted in line with policy CP4, to meet specifically identified local needs. Development in open countryside will be strictly controlled but may exceptionally be permitted in line with CP4.

The site is considered to lie in open countryside, where development is strictly controlled but may exceptionally be permitted in line with policy CP4.

Policy CP4 (Sustaining Rural Communities) states:

“Rural settlements and the wider rural area will be sustained by:

3. 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 set out in Development Policy 13.”

Policy DP13 (Accommodation for Rural Workers) states:

“1. Proposals for permanent or temporary accommodation outside of defined Development Limits which are necessary to support agriculture, forestry or other rural enterprises will be supported where

a) 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;

all alternative accommodation options have been explored and no satisfactory alternative means of providing accommodation has been identified;

the size of the proposed dwelling is commensurate with the established functional requirement for the enterprise;

the design and siting of the proposal does not conflict with the intentions of Development

Policy 5, particularly in relation to Natura 2000 sites and Development Policy 4: Mendip’s Landscapes.

b) For new rural enterprises, in the first instance the Council will only grant permission for temporary accommodation for a 3 year period. Applications for temporary accommodation will be supported where:

the nature of the accommodation means it can easily be dismantled or removed;

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.

Notwithstanding whether the application complies with DP13, 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. In addition, paragraph 188 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 the ecological habitat of the site or further afield, unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of any area of identified of the habitats site.

An agricultural planning appraisal has been submitted to support the application.

Emborough Farm extends to 31.7h, and the land at the site lies close (within 1.5 miles) to the original block of land that the applicants still own (5.7ha) which has provided grazing for their sheep, cows and alpacas. The owned land is augmented with a further 0.8ha rented from a neighbour for peppercorn rent. The farm is in the process of being stocked with mixed livestock including pedigree Highland beef cattle, pedigree Ryeland and other sheep, pigs and poultry, and alpacas for companion walking.

Over the next three years the applicant intendeds to develop the holding into a functioning commercial farm producing livestock for sale of pedigree livestock and or onward slaughter and processing with the sale of meat and other produce direct to the public. They also wish to include catering to support education and community facilities, the manufacture of greeting cards, homemade trinkets, and the formation of a dog walking area.

As stated above two agricultural buildings have been consented on the site.

There is some reference within the submission to classrooms, education of school students, dog walking, farm catering facilities and the pursuit of retailing and catering activities. It is unclear to what extent they contribute to agriculture or whether they are truly ancillary to the agricultural use of the enterprise. The appraisal goes onto to say that



the applicant wishes to develop an educational facility and a classroom which may be erected in the barn. They wish to develop a syllabus for Key Stages 2 and 3 as farming and the countryside will be on the national curriculum from September 2025. They also wish to have on farm catering facilities and make home made cards and calendars to be sold.

The agricultural appraisal states that the current stocking levels include:

- 12 Highland cattle.
- 179 Sheep, mostly Ryeland/coloured Ryeland (with 48 ewes, 53 new lambs and various hoggets.
- 6 alpacas and
- Various chickens, 4 geese and ducks.

The plans for the holding are to establish 12 pedigree highland cows and a bull, a flock of 75 pedigree Ryeland ewes, a herd of 4 rare breed sows, 6 alpacas to be used as walking companions, possibly in special needs education settings or other therapy contexts, a small flock of poultry and providing a dog exercise facility.

The labour for this venture will be provided by Mr Philip Blatchford with his wife assisting. The plans see lambing occurring over a two month window with calving occurring every month to ensure a regular supply of beef; farrowing will be monthly.

The main justification for the residential accommodation of the site relates to the management and welfare of livestock, but also to prevent vandalism and theft.

DP13 sets out a number of specific requirements. This is in the context of CP4, which requires a proven and essential functional need. The requirements of DP13 are considered below.

That the dwelling and its proposed location are essential to support or sustain the functioning of the enterprise

### Need

The submitted appraisal expresses the view that there a number of components to this rural business model all of which require a key worker to live on site. It claims that whilst individually the parts may be considered too small to warrant the input of a full time worker, collectively they do have such a requirement.

The appraisal outlines a number of reasons why agricultural workers need to be on site in relation to calving, illness or injury to cattle with an emphasis on the wellbeing of breeding pedigree bovine to prevent deaths and due to the frequency of calving, birthing cows need to be supervised. This business is to be developed with 12 cows and heifers, with the proposed stock levels likely to calve every month. A similar argument is made with regards to lambing Ewes and sows when they are farrowing and the on going care when they are young. An instance where a lamb died on the site is cited, where it is claimed that this was a result of the applicant not being immediately on site. This event occurred even though the lambing was being watched via CCTV and the distance between the applicant's house and the lambing shed being 200m where it took only 5 mins to get to the site. The alpacas and free-range hens simply add to the mix of needs.

The report also states security on site as being an issue and they have had multiple break ins.

At the time of the visit to site there was no livestock present on site.

Based on the characteristics of the farm, it is stated that there is a labour requirement of one full time employee, based on an assessment of standard man days. However, this alone does not demonstrate an essential need for a rural worker to live at or in close proximity to their place of work to ensure the effective operation of the agricultural enterprise.

It is considered that there will be instances when livestock would require assistance during calving and 12 cows calving every month appears to be very frequent, whereas lambing only lasts a few months each year. Farmers know when their stock is due to give birth, although it is appreciated that some could be premature or late. This advance knowledge would mean that during times of more intense need alternative arrangements could be made.

It is considered that the case being made is based around a need for onsite presence as a result of the day to day running of the enterprise cumulatively as opposed to the requirements associated with a confirmed essential and/or functional need. For instance it is recognised that other livestock on site such as the alpacas, poultry etc will require clean water, bedding etc, however the relatively small numbers of livestock quoted in the appraisal and based on the scale and intensity of the enterprise, it is

considered that the enterprise would not require the presence of an agricultural worker on site at all times.

With regards to security on site, it is recognised that unforeseen events and crime can occur however, it is considered that on site presence is not the only means of secure stock and assets.

### Location

The relationship between the farm and the proposed temporary dwelling is not discussed in the agricultural appraisal. However, the proposed siting of the new dwelling if it complied with policy DP13 (which it doesn't) would be well related to the existing agricultural buildings in terms of functionality.

There is a need for permanent occupation which relates to a full-time worker or one who is primarily employed by the business.

It appears that there is a labour requirement for one full time worker to serve the enterprise, however as stated above this does not demonstrate an essential need for a rural worker to live at or in close proximity to their place of work to ensure the effective operation of the agricultural enterprise.

As set out above, in this instance it is not considered that an essential and or functional need to live on the site has been demonstrated.

All alternative accommodation options have been explored and no satisfactory alternative means of providing accommodation has been identified.

Agricultural workers can sometimes live close to the site, but not on it, in order to carry out the functional needs of the enterprise. Even if the LPA agreed with the applicants view on the need for a worker to be at or in close proximity to the site at all times, Policy DP13 1. a) iii) requires all alternative accommodation options to be explored.

The submitted appraisal states that there are no buildings on site that could be improved to meet the identified need and that they are not aware of any other dwellings available in the locality which are both suitable (in terms of sufficient proximity to the land and the livestock, size and cost) and available to meet the agricultural need.

The submitted appraisal references an historic incident with a fatality of a lamb at the site, stating the distance between the applicant's house and the lambing shed was 200m where it took only 5 mins to get to the site. Whilst this short distance was not beneficial in the incident cited, this type of outcome is likely to be infrequent and could have been a result of something other than distance and time to get to site. It is unclear whether the applicant has another home. It is understood that the applicant will be moving livestock from Binegar which is not far from the application site.

Other than the statement that there is nowhere else suitable to live, there is no clear evidence to show that the use of remote monitoring of the site in some form would not provide an acceptable alternative solution to living on site. In addition, no clear convincing evidence has been provided to demonstrate that the functional need could not be provided within an existing dwelling in the area.

In the absence of the analysis referred to above, it is considered that the requirement in policy DP13 1(a)(iii) is not met.

The size of the proposed dwelling is commensurate with the established functional requirement for the enterprise

This application is for a lodge which is temporary in nature and modest in size.

The design and siting of the proposal does not conflict with the intentions of Development Policy 5, particularly in relation to Natura 2000 sites and Development Policy 4: Mendip's Landscapes.

The site is located within the Somerset Levels and Moors SPA/Ramsar catchment area, which is a Natura 2000 site. Information has been submitted to try to demonstrate that any residual phosphorous discharge will be subject to on-site mitigation, as set out in the NNMAS. The proposal accords with the approach set out in the Interim guidelines on small scale thresholds and nutrient neutrality principles for the Somerset Levels and Moors Ramsar catchment (Somerset Council, May 2021). The ecology impacts from the development have been sufficiently considered.

It is therefore considered that subject to suitable ecology and drainage conditions the requirement in policy DP13 1(a)(v) is met.

The nature of the accommodation means it can easily be dismantled or removed;

The dwelling will be a lodge which will be delivered in two halves and will be on wheels/trailer. The elevations will be clad in timber planks and the floor area will measure approximately 5m x 13.7m. Although the trailers will be dug into the ground and a patio area and path will be formed next to the lodge to enable ease of access, it is considered the accommodation could easily be dismantled and removed.

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.

The appraisal states that the main source of income will be the breeding, rearing, for sale as either breeding stock or as meat, cattle, sheep and pigs. Eggs will be sold, along with geese and farm sales of gluten free catering, meat, charcuterie, fleece products, greetings cards and calendars, informal dog walking and education.

The long term plan for the cattle is to build up and maintain a herd of 12 pedigree Highland cattle breeding females with youngstock sold for breeding or finished from Year 3, onwards. The working assumption is that (by year 3) there will be 12 cattle available for sale each year. Budgets assume 2 cattle sold as breeding stock, 10 for beef each year.

The sheep will be similarly managed, being reared for private sale as shearlings (for breeding), sale as meat and the sale of fleece and fleece products direct from the farm. (The budget assumes 20 sheep will be sold as breeding stock, the remainder as hoggets).

Sales of sheep and alpaca wool/yarn will be sold alongside processed products.

Pigs will be managed with piglets sold either as weaners (20 per annum) or as port sold privately. Eggs, poultry and geese which are surplus to the catering will also be sold. Alongside the agricultural products informal dog walking will be offered along with educational facilities to support local schools.

The net farm profit for year one is in the minus figures (-6,875) rising to 966 in year two and to 31,181 in year three. It is evident that the figures are a reflection of the low levels of live stock and are likely to be reliant and heavily supported by other activities such as dog walking, catering, product making and selling that don't require the applicant to live on site. The investment in the land and existing buildings is likely to

have been substantial, not to mention the costs associated with the living accommodation proposed, buying machinery, maintaining it, vets bills etc.

Whilst the financial tests set out in policy are less stringent than it would be for a permanent dwelling, the figures shown in support of their business plan are not considered convincing and there is doubt over the ability to develop the enterprise on a sound financial basis.

In summary, para. 11d is not engaged as such permission should be granted unless there would be adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The assessment above of principle shows that the proposals do not accord with all the requirements of policies CP1, CP2, CP4 and DP13. These policies are in accordance with the NPPF because they direct development towards sustainable locations, avoiding the development of isolated homes in the countryside but make exceptions to this approach where there is an essential need for a rural worker to be accommodated.

Given that an essential and/or functional to live on site need has not been demonstrated, granting permission would result in the creation of a dwelling in an isolated location without justification. As need has not been demonstrated, there are no identifiable benefits in planning terms. Therefore, the proposed development would not be in accordance with CP1, CP2, CP4 or DP13 of the local plan. The adverse impacts of granting permission are considered to significantly and demonstrably outweigh any benefits.

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

Policy DP1 states that development should contribute positively to the maintenance and enhancement of local identity, and proposals should be formulated with an appreciation of the built and natural context.

Policy DP4 states that development that would individually or cumulatively significantly degrade the quality of the local landscape will not be supported.

Policy DP7 states that high quality design which results in useable, durable, adaptable, sustainable and attractive places will be supported.

Following the assessment above and the conclusion that the application scheme does not comply in principal with the requirements of Policy DP13, whilst the physical addition of another building in the open countryside will add to the built form on the holding given the overall scale, form and it's temporary nature it is not considered that it would have a lasting and detrimental impact on the visual and landscape character of the locality.

### **Impact on Residential Amenity:**

There are no immediate neighbours to be impacted by this development in terms of amenity.

### **Impact on Ecology:**

The application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates, and a Site of Special Scientific Interest Impact Risk Zone. 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.

The comments above from SES are noted and sufficient information has now been submitted to conclude that the proposal would not result in an unacceptable increase in phosphate levels within the foul water discharge affecting the current unfavourable status of the Somerset Levels and Moors Ramsar site. This conclusion is on the assumption of a suitably worded drainage condition as set out in SES's full comments.

Other ecological matters concerning protected species on site have been considered and can be protected and enhanced by way of conditions.

Therefore, the proposed development complies with Policies DP5, DP8 and DP13 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 vehicular access to the highway, the B3135, which is opposite a small industrial estate. Google maps indicated that there was an existing field gate to the highway, but when attending the site visit it looked as though the entrance and surfacing to it was a recent addition. This development was queried with the applicant. His response is as follows:

*“When we bought the land the entrance was terrible with a drop of almost 1 foot from the highway level, making it difficult to pull onto the road safely and visibility was appalling. Since purchasing the land we have significantly widened the entrance and dramatically improved the visibility splays.”*

This alteration which constitutes 'development as defined by the Act' does not appear to benefit from planning permission, and it is unclear exactly when these alterations to the field gate were undertaken, as such the access arrangements for this application are retrospective. The submitted design and access statement states that the existing arrangements for vehicular access provide adequate visibility splays especially as the residential accommodation will reduce existing vehicular movements made at several times of the day to attend site.

This is a fast stretch of road with the national speed limit, as such there should be no obstruction within a visibility splay above 600m. The distance of the visibility splay would be expected to be in excess of 200m in either direction unless a traffic survey suggested that speeds and traffic movements were less and therefore a lesser visibility may be accepted.

The visibility splay plan that has been submitted does not demonstrate the correct visibility splays in accordance with standing advice as referred above. Nor does it demonstrate whether it is achievable within the highway or land that the applicant owns. No traffic survey has been submitted to justify a reduction in the size of visibility splay. It is unclear what traffic will be generated from the site as the submission mentions agricultural use, residential use plus sales, teaching, dog walking, catering etc. which may result in a significant increase in the use of an access.



As such without further information about the intensification of the use of the access, suitable visibility splays befitting to the use and whether the splays can be achieved it is considered that the development has failed to adequately demonstrate safe access.

Insufficient detail has been provided to support the proposed access to serve the development in terms of the access arrangements, visibility splays, off-street parking, road layout, road construction, gradients, surface water drainage, and on site turning. The proposal is therefore contrary to the criteria set out under Policy DP9 of the Mendip District Local Plan.

### **Public Right of Way:**

It is unclear from the submitted drawings whether the two existing barns have been erected over the legal route of the footpath or whether the proposed mobile home will also obstruct it. This is due to the inaccuracies of the plans submitted and failing to show the actual proposed location for the building and other existing buildings as well as the surrounding field boundaries and other existing map features so that rights of way can match to their mapping to check the widths and distances involved. This application is recommended for refusal, but should this application be approved the issue is likely to be overcome by a suitably worded condition to secure a public footpath diversion order prior to works commencing and as such the application is not recommended for refusal for impacts on the rights of way.

### **Land Drainage:**

Surface water runoff from the temporary lodge will be discharged to the ground via a soakaway. A PTP is proposed for foul.

### **Refuse Collection:**

The site is considered capable of providing adequate storage space for refuse and recycling which could be controlled via conditions.

### **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.

## **Recommendation**

### Refusal

1. The proposals would result in an isolated dwelling in an unsustainable location where development is strictly controlled. The need for a rural worker dwelling has not been justified. The adverse impact of an isolated dwelling in an unsustainable location significantly and demonstrably outweighs any benefits, because a need has not been demonstrated, there are no identifiable benefits in planning terms. The proposals are therefore contrary to policies CP1, CP2, CP4, DP9 and DP13 of the Mendip District Local Plan Part 1 (Strategies and Policies) 2006-2029 (adopted 15th December 2014) and Chapter 2 and 5 of the NPPF.
2. Insufficient detail has been provided to satisfy the Local Planning Authority that the proposal provides safe access to the highway, and adequate parking and turning to serve the development proposed which are essential in the interests of highway safety. The proposal is therefore contrary to the criteria set out under Policy DP9 and DP10 of the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies (Adopted Dec 2014) which requires all proposed development to make safe and satisfactory provision for access by all means and thus avoid causing traffic problems for the wider transport network, and Chapter 9 of the NPPF.

## **Informatives**

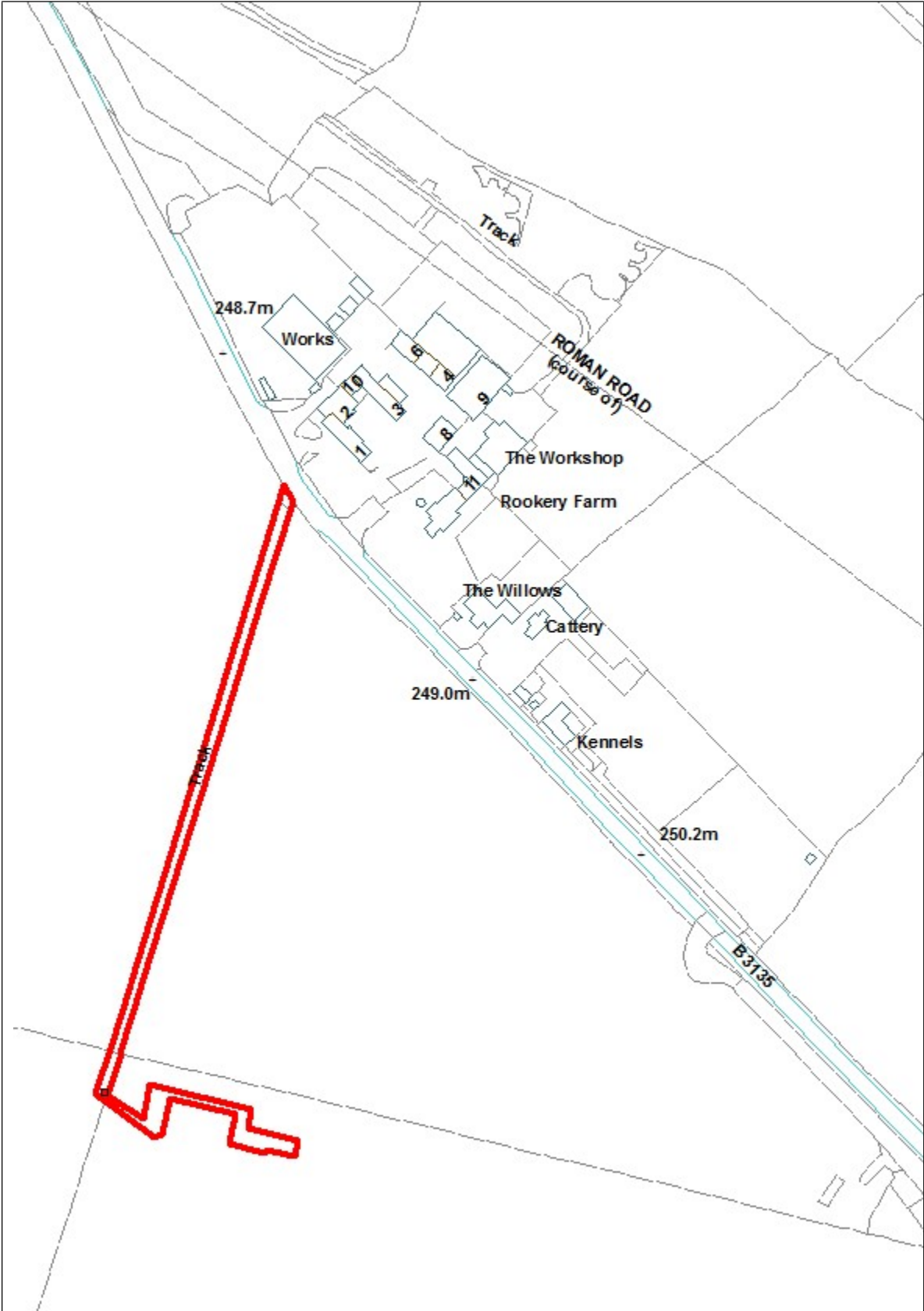
1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy

Framework. The submitted application has been found to be unacceptable for the stated reasons and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

2. This decision relates to drawings;  
270823-1 Existing Entrance Plan, 300723-1 Location Plan, 300723-3 Proposed Elevations, 300723-4 Proposed Floor Plan, 300723-5 Existing Block Plan, Visibility Splay Drawing, and Rural Workers Dwelling Appraisal dated July 2023 by Reading Agricultural Consultants, all received 03.10.23 and drawings 300823-7 Proposed Site Plan, 300723-7 Location Plan and 300723-2 Proposed Block Plan received 17.01.24.

Nutrient Neutrality and Mitigation Strategy received 03.10.23 and technical background papers supporting it received 25.01.24 and 31.01.24

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Planning Board Report 5th March 2024  
Emborough Farm  
Roemead Road  
Binegar  
Radstock  
Somerset  
BA3 4XX

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Application Number	2020/1287/FUL
Case Officer	Simon Trafford
Site	Cheese Yard Peace Close Lane West Horrington Wells Somerset
Date Validated	13 July 2020
Applicant/	M Pullin
Organisation	The Cheeseyard Ltd
Application Type	Full Application
Proposal	Demolition of existing Dutch barn and erection of new dwelling with associated parking (Shadow HRA submitted received 03.01.2024).
Division	Mendip Hills Division
Parish	St Cuthbert Out Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

## **Referral to Ward Member/Chair and Vice Chair/Planning Board**

The application proposes a new residential property outside of settlement limits. The officer recommendation is for approval, and therefore in accordance with the scheme of delegation this application is referred to Planning Committee as a departure from the local plan.

## **Description of Site, Proposal and Constraints:**

The application relates to land within a site known as Cheese Yard, Peace Close Lane, West Horrington. The site is outside of any development limits and within the Mendip Hills AONB, but within the well-established curtilage of the Cheese Yard and the built form of the village of West Horrington. The site lies within the Somerset Levels & Moors RAMSAR catchment area.

The site was formerly part of Middle Farm, but many of the buildings have now been converted to residential (north and west) or commercial uses. The former farm workshop building to the south is currently used for office (Class B1a) and warehousing (Class B8) and there is a cafe/tea rooms (A3) to the south-west, next to the site entrance.

The application seeks full planning permission for the demolition of an existing Dutch Barn, and the development of a new 4 bedroom detached dwelling. The new house which has accommodation over two floors would be set with landscaped garden area with on plot parking. Access would be as existing.

The assessment of this application has been delayed due to the on-going phosphates issue. A solution involving the acquisition of P credits is proposed to redress this matter.

**Relevant History:**

2019/0520/FUL - Replacement of existing Dutch barn with new storage building (Use Class B8). Approved June 2019. The storage building was not constructed and the planning permission has now lapsed.

Unit 1 Cheese Farm: 2016/3056/FUL - Change of use from B1 offices to A3 cafe/tea rooms. Approved with Conditions 25.04.2017

Cheese Farm: 2012/0246 - Conversion and extension of barn and outbuilding to create dwelling and ancillary garaging and store (amendment to an earlier consent). Approved with Conditions 13.08.2012

Various other older applications for conversion of barns to dwellings are recorded for wider site area to the application site

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

Parish Member: No comment.

Parish Council: Recommend approval although some concerns expressed about potential light pollution from the roof lights and its impact on the Mendip Hills AONB.

County Ecologist:: The application site lies within Band B of the Bat Consultation Zone for the North Somerset and Mendip Bats SAC which is designated for its horseshoe bat features. However, the proposed development is unlikely to have an effect on horseshoe bats and therefore I do not propose to carry out a Habitats Regulations Assessment for the application. However, given that light averse horseshoe bats are present in the vicinity of the proposed development the following condition will be required:

1) Prior to construction above damp proof course level, a "lighting design for bats" 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 (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 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 'Favourable Conservation Status' of populations of European protected species and in accordance with policy DP5 of the Mendip Local Plan

Judging from aerial photographs shrubs or tree will require removal to facilitate the proposed dwelling. The following condition will be required:

2) No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird 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 nesting wild birds and in accordance with policy DP5 of the Mendip Local Plan

Update Comments received on 13th February 2023.

#### Somerset Levels and Moors Ramsar and Special Protection Area

The applicant has undertaken a Shadow Habitats Regulation Assessment (sHRA) report. The proposals comprises the erection of one dwelling which would be connected to mains sewerage (Wells Waste Water Treatment Works) which drains into the catchments of the River Brue, which subsequently discharges into the hydrological catchment of the Somerset Levels and Moors European Site. The applicant has provided a Nutrient Assessment which relies on the purchase of phosphorus credits from Yew Tree Farm Phosphorus Credits Scheme. The submitted Nutrient Assessment demonstrates that wastewater production and land use change arising from the proposed development will generate an additional 0.1 kg of phosphorus (TP) per year (including a 20% buffer) after December 2024 (Post AMP7). The NNAMS proposes to mitigate for the additional phosphorus by purchasing 0.1 of Nutrient Credits from Yew Tree Farm Phosphorus Credits Scheme (each credit equating to mitigate 1kgTP/yr). Evidence of a transactional agreement/purchase between the applicant and Yew Tree Farm Phosphorus Credits Scheme to purchase 0.1 of Nutrient Credits has also been provided within the submitted NNAMS.

Subject to the following conditions no objections are raised:

SES recommend the following to be secured by condition or S106 as appropriate:

- 1) Evidence demonstrating that a sufficient number of credits has been purchased

by the applicant from an approved (approved meaning by Natural England) Nutrient Credit Bank concerning application 2020/1287/FUL which illustrates that the number of credits is sufficient to mitigate the nutrient budget totalling to 0.1kg/p/yr.

- 2) Evidence demonstrating no occupation until AMP7 upgrades to the Wells WwTW occur (January 2025).

**Reason:** To ensure that the proposed development is phosphate neutral in perpetuity in accordance with policies DP5 and DP6 of the Mendip Local Plan as well the National Planning Policy Framework (December 2023).

As long as the above is implemented as worded, SES have no further comments to make on matters relating to impacts on the Somerset Levels and Moors Ramsar and Special Protection Area.

Natural England: Further comments from Natural England in relation to this aspect of the assessment will be provided accordingly.

Highways Development Officer: No specific comments provided.

Environmental Protection: No objection subject to conditions.

Land Drainage Engineer: No objection subject to conditions.

Local Representations: Two letters of support stating that the new dwelling will be in keeping with area and welcoming new housing in the village. One letter of objection raising concerns about light pollution.

**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 - Supporting the Provision of New Housing
- CP4 - Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP4 - Mendip’s Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP6 – Bats Protection
- DP7 - Design and Amenity
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP20 - Reuse of Employment Sites
- 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 village of West Horrington is not identified within the development plan as either a primary or secondary village. However, the village does benefit from a school, cafe and access to Bath & Wells on the 173 bus service. The village does not have a settlement boundary, so by definition is classed as being within the open countryside. Under core policy CP1, development is strictly controlled to prevent sporadic development. The policy seeks to focus development in the major towns and villages. Policy CP2 sets out where new housing should be located. .

Policy CP4 sets out some exceptions where new residential development in rural locations may be acceptable. This includes rural affordable housing where there is evidence of local need and accommodation for occupational dwellings to support rural based enterprises. The

application

does not meet these criteria and therefore conflicts with Policy CP4.

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 and CP2) do not carry full weight in the decision-making process. 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.

Although the site is within a countryside location in policy terms, it is not considered to be an isolated site, located, adjacent to other residential and commercial uses, and is therefore not considered to be in a wholly unsustainable location remote from services or facilities as referred above.

Therefore, with the site not being isolated nor wholly unsustainable, the 'tilted balance' is applied, and planning permission should only be refused where there a clear relevant development plan policies which would significantly and demonstrably outweigh the benefits of the scheme when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted. This aspect of the proposal will be assessed below, and all of the factors weighed in the balance at the end of this report.

### **Employment Protection**

Policy DP20 seeks to protect land or buildings previously or currently used or currently allocated for uses falling with Use Classes B1, B2 and B8. The existing Dutch barn on the site which would be demolished was previously used for agricultural purposes but in recent years has been used for low key storage. The B8 storage building approved in 2019 has not been built so therefore the proposal does not result in the loss of B1, B2 or B8 uses. The proposal therefore complies with Policy DP20.

### **Design of the Development and Impact on the Street Scene and Surrounding AONB:**

The proposed new dwelling is considered modest in form and scale with dormers within the roof space to accommodate a second storey. It has been designed to reflect the character and scale of the existing traditional barn conversions that adjoin the site. The proposed materials are random rubble stone with ashlar heads and cills and a slate roof. These materials are typical of the surrounding vernacular of the AONB. The existing Dutch barn is in a dilapidated state and therefore it is considered that the proposed dwelling will enhance the appearance of the surrounding area. The proposal is therefore considered to have a positive impact on the character of the surrounding AONB in contrast to the existing building.

The site is visually well contained within the former farmyard and within the village, being tucked behind a large storage building. The development will not encroach beyond the built-up area of the village and will not extend into open countryside. Whilst concerns have been raised about light pollution, the roof windows (3 proposed) are modest in scale. Any light spillage will be seen within the context of the surrounding buildings. It is therefore considered that the dwelling will not adversely affect the setting of the surrounding AONB.

In summary, 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 and would not adversely affect the natural beauty of the landscape of the designated AONB. The proposal accords with Policy DP1, DP4 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

### **Impact on Residential Amenity:**

The nearest residential occupiers are at Poppy Bank to the north and Dairy Barn to the west. There will be no first floor windows overlooking Poppy Bank with the exception of 2 small roof windows. There will be no inter visibility between the windows of the new dwelling and Dairy Barn. The new dwelling will replace an existing open barn which is unsightly, and its replacement with a permanent building of solid construction which will improve the outlook of neighbouring occupiers. It would also not be noticeably closer to any nearby residential properties. The existing storage building to the south is sited closer to Dairy Barn than the proposed dwelling.

Given the overall 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 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 site lies in Band B of the Bat Consultation Zone for the North Somerset & Mendip SAC. The County Ecologist as suggested a couple of conditions requiring a lighting design for horseshoe bats and the prevention of hedgerow/tree/shrub removal between March and August.

Nutrients: 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. Any new housing, including single dwellings, would 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.

A shadow Habitat Regulations Assessment (sHRA) and a Nutrient Neutrality Assessment and Mitigation Strategy (NNMAS) have been submitted by the applicant demonstrating the development can achieve nutrient neutrality. This can be achieved through on the purchase of P credits. Credits have been agreed at the Manor Farm site, which has agreement from the Local Planning Authority (please refer to SES comments above). Credits can now be secured by conditions, which are recommended accordingly. As the nutrient calculations rely on planned upgrade works to the Wessex Water treatment works (AMP7 improvements) a condition is required to restrict occupation until the water treatment works completed. The shadow Habitat Regulations Assessment as submitted which has been recommended for adoption is sufficient to demonstrate that the LPA has appropriately discharged its legislative duties in this respect. Finally in this regard the permission will not be issued until Natural England have submitted their comments regards the appropriate assessment

Subject to confirmation from Natural England as explained above, taking all of the above into consideration, including the suite of controls as set out in the recommended conditions sufficient information has been submitted to confirm that the proposal would not result in an unacceptable increase in phosphate levels within the foul water discharge and not affect the current unfavourable status of the Somerset Levels and Moors Ramsar site and as such passes Regulation 63 of the Habitat Regulations 2017. On this basis it is therefore considered that the proposed development 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:**

The existing access onto Peace Close Lane is to be utilised. Parking for 4 cars and

satisfactory turning space will be provided. 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 4 of the National Planning Policy Framework.

### **Flood Risk and Drainage**

The site lies within flood zone 1 – low risk. The proposal would result in an increased hardstanding area. A condition is sought to require the agreement of an alternative method of surface water drainage if infiltration testing and soakaway design is unable to meet Building Regulations.

### **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:**

Paragraph 11 of the NPPF sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining applications for new housing and which are out of date, planning 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. Given the lack of a five-year housing land supply, paragraph 11 d) of the Framework is engaged.

The benefits of the proposal, a single dwellinghouse, would make a very modest contribution to assisting the Council's shortage of housing land within the District as a whole. The proposal would have some economic benefits for the duration of the construction. However the amount of weight given to these benefits is however limited given the conflict with policies CP1 and CP2.

In summary as set out in the technical assessment of the application scheme, no demonstrable harm has been identified in terms of the usual planning controls of design, amenity, highway safety and impact on the AONB. The proposed siting for the proposed dwelling would be behind a large barn which largely screens it from the road. As such, the site could not be described as forming part of open land and/or isolated from other development. Furthermore the application site is within conceivable walking distance of a primary school and public transport links to Well, therefore meaning that any future occupiers will not wholly rely on the private car.

In the absence of any specific identified and demonstrable harm, and taking into account the limited benefits, a recommendation for approval is on balance considered justified.

## Recommendation

Approval

;

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: PL4296 /D1rev A PROPOSED LOCATION PLAN PL4296 /D2 EXISTING BLOCK PLAN PL4296 /D3 PROPOSED BLOCK PLAN PL4296 /D4 PROPOSED DWELLING FLOOR PLANS PL4296 /D5 PROPOSED ELEVATIONS

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. **External Lighting (Bespoke Trigger)** Prior to construction above damp proof course level, a "lighting design for bats" 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 (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 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 'Favourable Conservation Status' of populations of Bats and in accordance with policy DP5 of the Mendip Local Plan.

5. **Nesting Bird Protection (Bespoke Trigger)** No removal of trees hedges or shrubs shall take place between 1st March and 31st August 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 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 DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Surface Water Drainage System (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.

7. **Construction Management Plan (Pre-commencement)** The development hereby

approved shall not commence until a Demolition, Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- o Details of the working methods to be employed on site during the demolition and construction (and preparation associated with construction) of the site.
- o Measures (including screening) to be taken to minimise emissions of dust, fumes, odour, noise, vibration.

Details for the safe disposal of waste materials shall also be included confirming that no burning of site generated waste is permitted.

- o The parking of vehicles of site operatives and visitors;
- o Loading and unloading of plant and materials;
- o Storage of plant and materials used in constructing the development;
- o Prevention of nuisance caused by radios, alarms, PA systems or raised voices
- o Delivery and construction working hours.

o the parking of vehicles of site operatives and visitors;

- o wheel washing facilities;
- o Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;

The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that safe operation of the highway and minimise the effect of noise, odour and dust from the construction phase of development on occupiers of nearby properties in the interests of residential amenity and sustainable development, in accordance with Policies DP7, DP8 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029. This is a pre-commencement condition because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

8. **Parking Area (Pre-occupation)** The dwelling hereby approved shall not be occupied until the parking spaces shown on drawing PL4296 /D3 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).

9. **Phosphate Credits (Pre Commencement)** The development hereby permitted shall not be commenced until an Allocation Certificate has been submitted to and approved in writing by the Local Planning Authority which addresses the additional nutrient input arising from the development within the fluvial catchment area upstream of the Somerset Levels and Moors Ramsar site and on the same hydrological pathway. The Allocation Certificate shall be a written certificate issued

by the phosphate credit provider confirming the allocation of the full phosphate credit requirement generated by the development (1kg total phosphorous), thereby mitigating the additional nutrient load imposed on the Somerset Levels and Moors Ramsar site by the development when fully occupied enabling the local planning authority to conclude on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected site, having regard to the conservation objectives for the site.

Reason: To ensure that the proposed development is phosphate neutral in perpetuity in accordance with policies DP5, DP6, DP8 and DP23 the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) as well as part 15 of the National Planning Policy Framework

10. **AMP7 Improvements (Pre Occupation)**The development hereby approved shall not be occupied until written evidence that the Asset Management Plan 7 (AMP7) planned upgrades to the Wells Waste Water Treatment Works by Wessex Water to provide additional treatment capacity and improvement to nutrient capture have been completed and that the increase in phosphorus arising from occupation of the development will accordingly be no more than the permit licence of 1 mgP/l total phosphorous.

Reason: To ensure that the proposed development is phosphate neutral in perpetuity in accordance with policies DP5, DP6, DP8 and DP23 the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) as well as part 15 of the National Planning Policy Framework.

## 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.

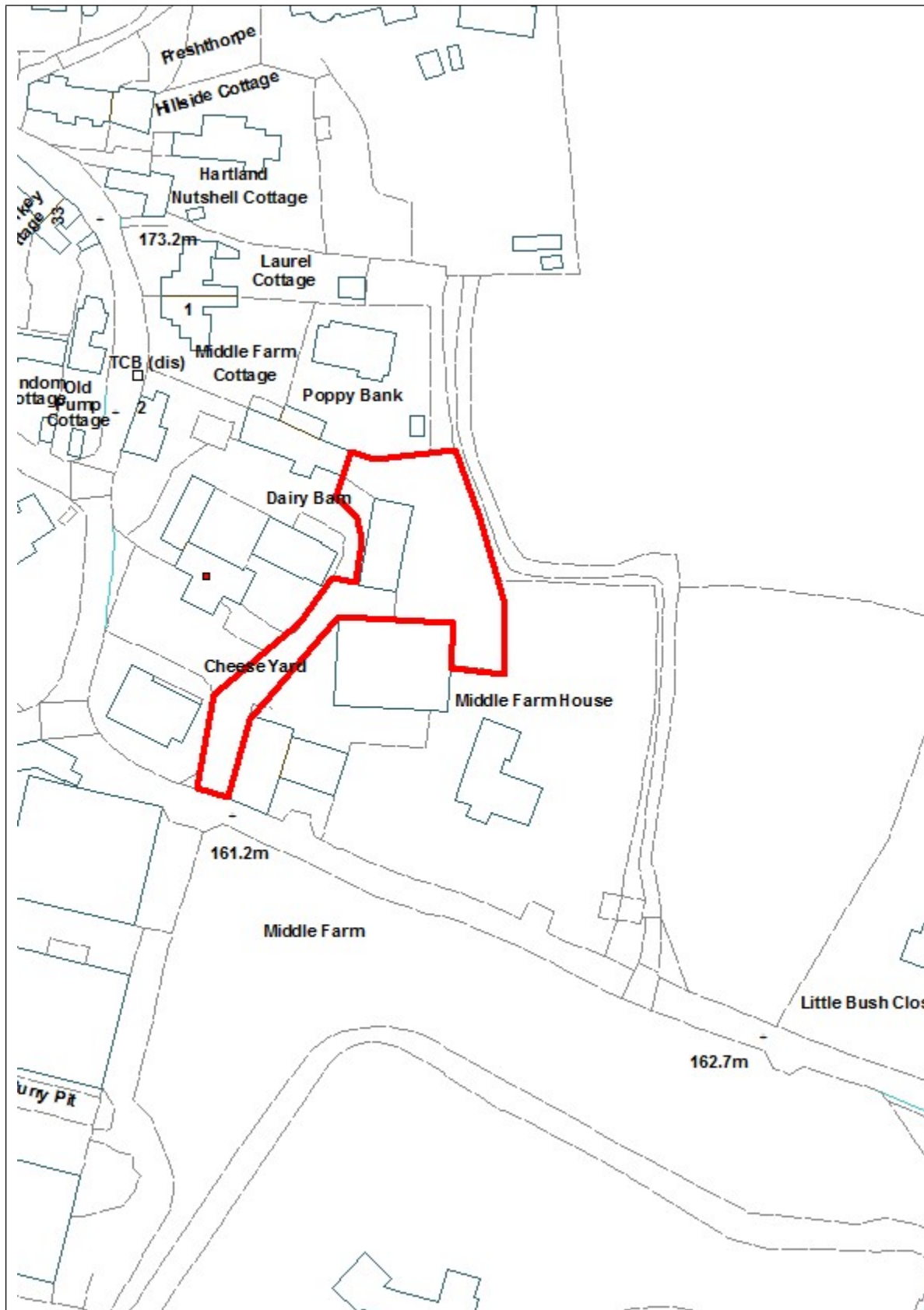
Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

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. 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. 2. 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.



Planning Board Report 5th March 2024  
Cheese Yard  
Peace Close Lane  
West Horrington  
Wells  
Somerset

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Application Number	2023/1275/FUL
Case Officer	Anna Jotcham
Site	Wells Police Station 18 Glastonbury Road Wells Somerset
Date Validated	5 July 2023
Applicant/ Organisation	Churchill Retirement Living
Application Type	Full Application
Proposal	Redevelopment to form 47 No Retirement Living Apartments for Older People (Sixty Years of Age and/or Partner over Fifty-Five Years of age), Guest Apartment, Communal Facilities, Access, Car Parking and Landscaping.
Division	Wells Division
Parish	Wells City Council
Recommendation	Approval
Divisional Cllrs.	Cllr Theo Butt Philip Cllr Tessa Munt

## **WHAT 3 WORDS**

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

///delays.cascaded.asleep

## **SCHEME OF DELEGATION**

The application is automatically referred to Planning Committee because the divisional member (Cllr. Theo Butt Phillip) and Wells City Council have objected, and the application is classified as a major application.

## **SITE DESCRIPTION AND PROPOSAL**

The application relates to the redevelopment of a former police station. The site falls within the development limit of Wells and is located on the south-western extent of the city to the north of Glastonbury Road (A39). The site is broadly rectangular in shape and

0.39 hectares. The site is predominantly flat but is situated on higher ground above the road, behind a low ashlar stone retaining wall, and gate piers which define the access.

The northern and eastern boundaries of the site comprise Wells Health Centre and a children's day nursery, with the Grade II listed Priory Hospital beyond. The north-western boundary of the site is defined by the sports pitches associated with St. Cuthberts Church of England Junior School. To the west sits a row of terraced houses which along with the police station building define an open grassed space facing Glastonbury Road (A39). New residential development, including a care home has been built to the south of the site on the opposite side of the A39.

The site comprises three brick buildings set back from the roadside including the former police station, associated offices and garage/storage block, surrounded by areas of hardstanding. The police station, a two-storey building with wings to the rear constructed in a buff brown brick and hipped roof, is the largest building on the site and lies at an angle to the road. The associated offices building is smaller in mass although constructed in similar materials.

The application site is outside the Wells Conservation Area but there are several designated heritage assets within the vicinity of the site, including the Grade II listed Priory Hospital (30 metres north-east) and the Grade II listed Gatehouse (90 metres south-west).

The proposal seeks to demolish all buildings on site and construct a 47-unit age-restricted retirement flat complex with associated communal facilities, landscaping, vehicular access, and car parking. The development consists of 31 one-bedroom units and 16 two-bedroom units, each benefiting from its own front door, entrance hall, lounge / dining room, kitchen, bedroom(s) and bathroom. These units share communal facilities including an owners' lounge, guest suit and refuse room.

Access to the site is shared with existing cottages to the south-west. This access will be retained and widened in the current position.

The application is a resubmission of planning application 2020/2234/FUL which was approved on 28 April 2023. Apart from a slightly amended site plan (which omits a



drainage sub-station and turns a mobility scooter store 180 degrees) the design remains identical to the approved scheme, with the main change being to viability.

The application is supported by a suite of technical documents including a Planning Statement; Design and Access Statement; Heritage Statement; Ecological Assessments; Bat and Bird Survey; Habitat Regulation Assessment; Nutrient Neutrality and Mitigation Strategy; Affordable Housing Statement; Archaeological Assessment; Drainage Statement; Land Contamination Assessment; Arboricultural Assessment; Transport Statement; Travel Plan; Flood Risk Assessment; Indicative Landscaping Plans; and a Statement of Community Involvement.

During the planning application process, further information has been submitted in respect of drainage.

## **RECENT PLANNING HISTORY**

2020/2234/FUL – Redevelopment to form 47 No Retirement Living Apartments for Older People (Sixty Years of Age and/or Partner over Fifty-Five Years of age), Guest Apartment, Communal Facilities, Access, Car Parking and Landscaping (Additional information received 20/12/2022) – APPROVAL – 28.04.2023.

## **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)
- Somerset Waste Core Strategy (2013)

- Somerset Mineral Plan (2015)
- Made Neighbourhood Plans

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
- CP10 – Wells City Strategy
- DP1 – Local Identity and Distinctiveness
- DP3 – Heritage Conservation
- DP5 – Biodiversity and Ecological Networks
- 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
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Design and Amenity of New Development Policy DP7 SPD (March 2022)
- Fields in Trust – Guidance for Outdoor Sport and Play (2015)
- City of Wells Neighbourhood Plan 2019 – 2029 (February 2024)

## **SUMMARY OF CONSULTATION RESPONSES**

The consultation responses are summarised below. Full comments can be viewed on the public website.

**Wells City Council (WCC)** – Objection on grounds of inadequate parking and lack of affordable housing (guided by principles of the Draft Neighbourhood Plan, policy H1). Asks for WCC to be considered for any S106 funds.

**Divisional Member (Cllr. Theo Butt Phillip)** – Objection on grounds of lack of affordable housing provision (on site or off site).

**Environmental Protection** – No objection, subject to conditions.

**Contaminated Land** – No objection, subject to conditions.

**Lead Local Flood Authority** – No objection, subject to conditions.

**Highways** – No objection, subject to conditions.

**Archaeology** – No objection.

**Affordable Housing** – No objection.

**Tree and Woodland Officer** – No comments received.

**Education** – No comments received.

**Drainage Board** – No comments received.

**Ecology** – No objection, subject to conditions.

**Waste Management Officer** – No objection in principle but queries size and location of bin stores.

**NHS Somerset** – Requests a financial contribution (£17,484) towards the cost mitigation of the pressures on the local healthcare facility should be provided.  
*[Officer note: Contribution figure amended during the life of the planning application following further review/re-assessment from the NHS on the initial figure].*

**Natural England** – No objection, subject to appropriate planning controls which secure phosphorus mitigation.

**Environment Agency** – No comments received.

**Wessex Water** – No objections.

**Other representations / third party comments –**

1 objection comment received raising concerns about the removal of obligations relating to affordable housing and phosphate neutrality.

**ASSESSMENT OF RELEVANT ISSUES**

**PRINCIPLE OF DEVELOPMENT**

To enable the most sustainable pattern of growth, policy CP1 (Mendip Spatial Strategy) of the Mendip District Local Plan - Part 1 directs most of the growth identified in policy CP2 (Supporting the Provision of New Housing) towards the five principal settlements (Frome, Shepton Mallet, Wells, Glastonbury and Street).

The application site lies within the development limits of Wells and is on previously developed land. A police station use is sui generis, and as such, the proposal does not fall within the remit of policy DP17 (Safeguarding Community Facilities) or policy DP20 (Reuse of Employment Sites). In any case, the police station has been moved to another location due to the rationalisation of the Force in terms of property management and as such does not represent a loss of police facilities in Wells.

The Local Planning Authority (LPA) has already confirmed the proposal is acceptable, through a decision made under delegated powers on 28 April 2023. The planning committee is asked to remake this decision, considering the additional information put forward on viability, discussed below.

**HOUSING MIX**

The development consists of 31 one-bedroom units and 16 two-bedroom units which will contribute to the variety of housing needs in the District in line with policy DP14 (Housing Mix and Type).

## **AFFORDABLE HOUSING & VIABILITY**

Since the proposal is for a development of Use Class C3 'retirement living', there is a requirement for affordable housing as set out in policy DP11 (Affordable Housing). In Wells, the policy requires 40% affordable housing, which would equate to 19 affordable units on site.

The previous planning application (2020/2234/FUL) was accompanied by a viability report (Report on Affordable Housing and Viability, dated October 2020) which presented a case for an off-site payment in lieu of on-site affordable housing. On review, it was accepted that the practical management issues affecting the provision of affordable housing within an age-restricted scheme were justifiable, and that registered providers were unlikely to be prepared or willing to operate affordable housing units within this type of housing scheme. As a result, the provision of an off-site affordable housing contribution was considered appropriate and following negotiation an affordable housing contribution of £434,404 was agreed. This was secured in a section 106 agreement (along with a contribution towards health care of £13,596) and the subsequent planning permission was issued on 28 April 2023.

The current application has submitted a revised viability report (Report on Affordable Housing and Viability, dated June 2023) claiming that the financial viability of the scheme has significantly deteriorated from when the LPA and the applicant agreed the total financial contributions, approximately two years earlier in June 2021. The revised viability report, including the methodology and revised inputs, has been heavily scrutinised and subjected to an independent review by Stephen Blake Consultancy Ltd.

The viability report concludes that the scheme cannot support any financial contribution towards affordable housing (or any other section 106 financial contributions). However, this position does not include changes that took place during the intervening period (i.e. the reduction in phosphate mitigation allowance and increase in drainage costs for the additional off-site sewer that Wessex Water require), discussed elsewhere in this report.

Taking the reduced phosphate mitigation costs into account and re-running the financial models overcame the shortfall in profit and generated a potential affordable housing financial contribution of £71,191. However, when the additional cost of resolving the Wessex Water drainage issues at the site are taken into account there is again a shortfall in the required profit position of approximately £54,000.

The process concluded that the latest financial viability assessment results in no financial contributions whatsoever. However, the applicant is conscious that this position would not be viewed favourably by the Planning Committee. As a result, the applicant has offered to make an affordable housing contribution of £100,000 (and a contribution towards health care of c.£18,000). The applicant has made it clear that this is “on the basis of achieving a local level consent and would be clearly reassessed should the cost and delay of a planning appeal arise which would clearly account for the expedient uplift”.

It should be noted that the updated viability report refers to Vacant Building Credit and confirms that the building is now vacant. If Vacant Building Credit is taken into account when assessing the viability of the scheme, it would strengthen the applicant’s case to reduce any potential affordable housing contributions.

In light of the above, the LPA is willing to accept the independent review recommendation to allow a reduced affordable housing contribution. The monies would support other affordable housing schemes, as and when they are proposed. The contribution, albeit less than the amount agreed under the previous planning permission, is still seen a significant benefit to the scheme.

Subject to a section 106 legal agreement, the development is considered to accord with policy DP11.

## **DESIGN AND VISUAL IMPACT CONSIDERATIONS**

Policy DP1 (Local Identity and Distinctiveness) 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 (Design and

Amenity of New Development) states that proposals should be of a scale, mass, form, and layout appropriate to their local context.

The proposal will result in the loss of all buildings on the site. The former police station building is two-storeys high with a hipped roof and lies at an angle to the road. It has considerable mass and bulk and has a certain presence within the streetscene. The associated office building is smaller in mass but is still a prominent feature within the site. The surrounding built development displays a mixture of design, scale and materials. To the east lies the substantial buildings of the Grade II listed Priory Hospital. To the west sits a row of two-storey terraced houses and a large two-storey care home. Opposite the site the redevelopment of the former Nutricia site includes three-storey dwellings and a two-storey care home (reduced from a previously approved three storey scheme).

The proposal seeks to demolish the existing buildings on the site and replace with an 'L' shaped building three and a half storeys high, where accommodation is tucked into a dormered roof. The proposed building will have a larger mass than the existing buildings it will replace but will follow the existing building lines referencing the orientation of the police station and areas of open space around the building. The set-back position of the building will help reduce the overall perceived mass and bulk of the building in views along the streetscape. The design of the building is simple, with the rear leg of the building, sitting behind the formal front elevation. The proposed materials (brick, render and roof tiles) reflect the palette used locally and are sympathetic to the terrace of housing to the west (nos. 20-26). The massing and scale of the building is broken up by tile hopped pitched roofs and the combination of brick and render walls which also add visual detail. Confirmation of materials can be secured by condition.

In terms of contribution to the public realm, the most important elevation of the building is the south elevation facing Glastonbury Road. The central bay sits at three and a half storeys high with wings either side that drop down to three storeys. The simple, formal and balanced elevation takes its design cue from the police station it will replace. Fenestration follows the window hierarchy, and the existing stone portico is proposed to be reused to create a feature on the road facing elevation. The existing access point and retaining stone wall provide a positive contribution to the surrounding streetscape and

are proposed to be retained (i.e. reinstated after the construction process) and widened in the current position.

The proposed layout broadly follows the footprint of the buildings which will be demolished. This respects the open space to the west in front of the terraced houses and provides a suitable set back and landscaping buffer to the designated recreational grounds of St Cuthbert's Junior School to the north.

The proposed landscape design is at a domestic scale to reflect the intended residential use. The existing hedge and trees will be retained on the north-western boundary with proposed orchard trees to enhance the natural screening between the proposed and existing developments. Landscaped amenity areas are provided either side of the rear projection and can be accessed from the building.

Overall, the design, scale, mass, form and layout of the proposed development is acceptable and has regard to the local context. As such, the proposal complies with policies DP1 and DP7.

## **IMPACT ON HERITAGE ASSETS**

Policy DP3 (Heritage Conservation) confirms proposals and initiatives will be supported which preserve and, where appropriate, enhance the significance and setting of the district's heritage assets, whether statutorily or locally identified, especially those elements which contribute to the distinct identify of the area.

The application is supported by a Heritage Statement. This identifies the heritage assets that may be affected by the development and their significance. The site is located approximately 30 metres south-west of the Grade II listed Priory Hospital (also known as the Wells Infirmary) and 90 metres north-east of the Grade II listed Gatehouse.

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 NPPF at paragraph 190 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.

Here it is considered that the setting or significance of the Gatehouse will be unaffected by the proposals as the building is not immediately adjacent to the development site and so its immediate context will be unaffected. The site and the listed building share a streetscape, but these are constantly evolving. Any change introduced by redevelopment along Glastonbury Road would reflect the continuing urban development of this area.

The Priory Hospital would suffer partially from a change in the built-form and use of the site. Despite what the Heritage Statement says, inter-visibility between the site and the listed building would to some degree be affected. However, it is agreed that the views identified do not make a significant contribution to the heritage significance of the listed building. As such, the proposed scheme would not affect the principal components of the designated heritage asset, nor would it result in any adverse impact on the key elements of setting which contribute to its significance. In this sense, the proposal would cause less than substantial harm to the listed building, at the lower end of the spectrum. As advised in the NPPF, this harm must be balanced against the benefits of the proposal. This will be dealt with in the Planning Balance section of this report.

To construct the apartments, the police station will need to be demolished as its retention and adaptation is not practical for the proposed use. The heritage significance of the (unlisted) police station derives from its original purpose and construction. Although the buildings are aesthetically pleasing to the eye, they are not particularly notable buildings in terms of architecture or characteristics of the area. As such, the supporting Heritage Assessment concludes that the existing buildings hold a low heritage significance with some local value. The ashlar stone wall which runs along the

southern boundary of the site is a positive feature of the streetscape of Glastonbury Road (A39) and the proposed retention of this feature is therefore welcomed.

## **SUSTAINABLE CONSTRUCTION**

The siting, layout and design of buildings can have a fundamental impact on energy efficiency and can be addressed through the planning system. Policy DP7 (Design and Amenity of New Development) 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.
- New residents to minimise, re-use and recycle waste.
- Use locally sourced or recycled materials wherever practically possible.
- Undertake construction in a manner that makes efficient use of materials and minimises waste.

The application is supported by a Design and Access Statement which sets out principles for achieving energy efficiency through building design and how this might be applied in the proposed development.

A summary of the measures which will be incorporated into the new development includes:

- Photovoltaics located within the valet of the roof (and hidden from view).
- Low energy lighting and movement sensor controls.
- Water saving appliances (e.g. flow restrictors, aerated taps, dual flush low-capacity cisterns, shower cubicles rather than baths).
- Water butts to collect rainwater for gardening use.
- Covered electric mobility scooter parking with charging points.
- 'Home shopping scheme' which allows residents to order food shopping collectively and have it delivered.
- All external lighting powered by photovoltaic fittings.

- Communal refuse room with recycling facilities.

Given the requirements of policy DP7 and the Council's green pledge, a condition is attached to ensure that sufficient measures are designed into the scheme and secured.

## **ARBORICULTURAL IMPLICATIONS**

An Arboricultural Assessment and Method Statement has been submitted with the application. This confirms that no trees will be lost through the proposal, but three off-site trees (on adjacent land) may be affected during the construction activity. Protection of these trees is recommended, and a Tree Protection Plan is included within the submission. Compliance with this can be secured by condition. Details of new tree planting (species, size, location etc.) can be agreed as part of a landscaping scheme. This can also be secured by condition.

The impact of the development to trees is acceptable with the imposition of relevant conditions. The proposal therefore complies with policy DP1 (Local Identify and Distinctiveness).

## **ECOLOGICAL IMPLICATIONS**

The application is supported by the Protected Species Report (dated September 2020) which was submitted with the previous planning application (2020/2234/FUL), and an Update Bat and Bird Survey (dated May 2023). The latter confirms that the habitats are unchanged from those described within the original report, with much of the site comprising hardstanding car park and buildings, with several small shrubs and small amenity grassland gardens.

A shadow Screening Assessment was undertaken in October 2023 which concluded that there will be no likely significant effects to both the North Somerset and Mendip Bats Special Area of Conservation (SAC) and the Mendip Woodland SAC as a result of the proposed development. No evidence of nesting birds was recorded, however birds such as house sparrow and blue tit could potentially use the structures proposed for demolition. Providing mitigation and enhancement measures are followed, no adverse impacts to bats or nesting birds are predicted.

Somerset Ecology Services (SES) has been consulted on the application and has not raised any ecological concerns, subject to the inclusion of various conditions. Given that the habitats on the site have not changed since the previous planning application was approved it is reasonable to duplicate the conditions on the previous permission, rather than impose new ones. Informatives reminding developers of the legal protection afforded to nesting birds, badgers and their resting places are attached.

The application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. The Ramsar is in an 'unfavourable condition' or at risk from the effects of eutrophication caused by excessive phosphates. As such, any new housing development is likely to give rise to additional phosphates within the hydrological catchment. Mitigation is therefore required to ensure that the development achieves nutrient neutrality.

A Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS) (dated October 2023) notes that the total phosphate budget for the proposed development is currently 6.73 kg/year, reducing to 3.36 kg/year after the end of 2024 once the upgrades to the wastewater treatment works have been completed. The applicant has agreed to delay occupation of the development until the treatment works have been upgraded (post December 2024). An agreement has been made (and a certificate of allocation provided) to purchase 3.36kg/year of phosphate credits at the strategic mitigation scheme at Yew Tree Farm near Wraxall in Somerset. The mitigation site is in the same catchment as the application site and is used currently as a pig farm. Mitigation is to be provided by the closure and demolition of the on-site pig unit. With the mitigation in place at Yew Tree Farm, the phosphate budget arising from the proposed development would be off-set and therefore there would be no adverse effects on the Somerset Levels and Moors Ramsar site.

Natural England have formally approved the NNAMS and subsequent Shadow Habitats Regulations Assessment (sHRA) prepared on behalf of the applicants. The Council supports this view and adopts the sHRA to fulfil its responsibilities under Regulation 63 the Conservation of Habitats and Species Regulations 2017 (as amended). Conditions have been included where appropriate.

## **HIGHWAY SAFETY**

The existing site access is located off Glastonbury Road (A39) and takes the form of a dropped kerb vehicle crossover. Glastonbury Road is approximately 10m wide and is subject to a 30mph speed limit. The proposal seeks to utilise the existing access arrangements. However, as part of the development it is proposed to relocate the left-hand pillar to increase the width at this point (by c.6.5m) to accommodate two-way vehicle movements. Visibility splays of 2.4m x 43m are demonstrated as achievable to the kerblines in both the primary and secondary direction. A dedicated pedestrian access will be provided via an opening in the boundary wall to avoid conflict with incoming and outgoing vehicles.

The Transport Statement provides that the proposed development is likely to result in a decrease in the number of vehicle movements. A police station falls under the sui generis land use category and therefore there are no directly comparable site uses available on the national TRICS database, which is the national standard methodology for assessing trip generation. Baseline figures used in the Transport Statement are based on the 'office' use class instead, selected as the most comparable land use to understand the trip generation of the existing/former use on site. The approach and findings used in the assessment is disputed by a third-party consultee but accepted by the Highways Officer. Overall, it is not anticipated that the proposal will result in a severe impact on the local road network from an operational, capacity or safety perspective.

The proposal will provide 23 car parking spaces for the 47 units which equates to a provision of 0.49 spaces per apartment. Given that there are no specific standards in the Somerset Parking Strategy for this type of development use, this is deemed reasonable and appropriate to the operational needs of the development under policy DP10 (Parking Standards). In terms of cycle parking, the scheme proposes a shared cycle/mobility scooter store in the northern part of the development which can be used by those who may own a bicycle or buggy. Electric vehicle charging facilities will be controlled through the building regulations process.

The proposed access arrangements allow a refuse vehicle to enter and exit the site in a forward gear and the turning area will allow refuse collection to take place off the highway. As the access route is not suitable for adoption, it is recommended that the applicant / developer engage with the refuse collection service provider to ensure such an arrangement is appropriate.

Overall, it is concluded that the proposed development, as revised, is acceptable in highway terms. Subject to conditions, the proposal complies with policies DP9 (Transport Impact of New Development) and DP10 (Parking Standards).

## **DRAINAGE AND FLOODING**

The site is in Flood Zone 1 but is surrounded by Flood Zone 3, including the main access from the Glastonbury Road. The site is shown to be at very low risk of surface water flooding on the Environment Agency's Long Term Flood Risk Map with low to medium risk along the access road.

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. Whilst the lower edge of the site access is within Flood Zone 3, flood depths remain shallow (less than 200mm) and can facilitate emergency service vehicles. During a flood event the remainder of the site remains above flood levels and provides a safe environment.

The NPPF explains that a sequential test and exception test is required because part of the site falls within Flood Zone 3. Its aim is to steer new development to areas of the lowest risk of flooding. Given that the access arrangements are existing (i.e. part of the former police station access) and that the entirety of the proposed housing units and majority of the access are within Flood Zone 1 a pragmatic approach has been taken. The lack of a sequential test and exception test would not justify a reason for refusal in this instance.

The Environment Agency has been consulted on the application and has not made any comments. Concerns raised by Wessex Water (who coincidentally did not comment on the previous application) have been addressed through amendments to the site layout and through submission of additional information. The site layout changes have omitted a drainage sub-station and turned the proposed mobility scooter store 180 degrees so that the access is on the other side giving sufficient space to the foul pumping station.

The applicant has advised that they will pursue a section 102 of the Water Industry Act and upgrade an existing highway drainage system to Wessex Water sewer adoptable

standards. The applicant will then use this system to discharge surface water from the site and have the sewer adopted by Wessex Water. Wessex Water and the Highways Authority have accepted this approach in principle. As such, the applicant has demonstrated that there is a feasible discharge location from the site. The applicant is aware that this may require significant works and time both on and off site. There may also be works required on third party land or structures, and the Lead Local Flood Authority (LLFA) will expect full details to be submitted.

Overall, it is considered that an appropriate sustainable surface water drainage scheme can be designed, and this can be secured via condition. Subject to an acceptable drainage scheme being designed there will be no increase in flood risk from the development. The proposal accords with policy DP23 (Managing Flood Risk).

### **IMPACT ON RESIDENTIAL AMENITY**

Policy DP7 (Design and Amenity of New Development) advises that new development should protect the amenities of neighbouring occupiers and users and provide an adequate standard of amenity for the benefit of the proposal's future occupiers. Policy DP8 (Environmental Protection) states that development should not give rise to unacceptable adverse environmental impacts, including in relation to residential amenity.

The proposed building is positioned to the centre and north of the site to avoid harmful impact on the amenity on existing neighbouring occupants, as well as future occupants of the development. The proposed 'L-shaped' design and orientation, together with the parking court and amenity garden buffer spaces, results in an acceptable layout that avoids harmful overlooking of nearby existing buildings.

In terms of separation, the western boundary of the proposed building is approximately 11.5 metres away from the gable of the adjacent residential property. However, no windows are in the gable of this property and the separation distance increases as the proposed building returns into the site to a minimum of 18 metres from the closest proposed window. The eastern boundary of the proposed building is approximately 12.5 meters from the neighbouring day nursery. However, the day nursery is a single storey building behind a close board fence with windows that front into the fence. To the north,

the end of the proposed building fronts obliquely onto the school playing field and the health centre. There is no direct overlooking of residential gardens or the school playing field, which are both at an angle.

The Environmental Protection Officer has reviewed the submission and not raised any objection subject to a condition securing a Construction Management Plan (CMP). This will control and minimise harm to neighbouring occupiers during the construction process.

Based on the above, Officers are satisfied that the development would protect the amenities of neighbouring occupiers and users and provide an adequate standard of amenity for the benefit of the proposal's future occupiers. The development therefore complies with the relevant policies (DP7 and DP9).

## **PUBLIC OPEN SPACE**

Policy DP16 (Open Space and Green Infrastructure) requires that proposals for new residential development make provision for public open space based on the National Playing field Association's long-standing standard of 2.4ha of new space per additional 1,000 people.

Based on this standard and an average dwelling occupancy of 2.1 persons per dwelling, this equates to approximately 99 people living on site (2.1 persons x 47 units). This means that the required area of open space based on the proposed population is 0.24ha (2.4ha / 1000 x 99).

'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 provides amenity gardens within the site which equates to around 0.12ha, which is an under supply against the defined need. However, given the age-restricted nature of the scheme, it is not considered that many occupiers of the proposed development would use public open space in the form of a dedicated LAP, LEAP or MUGA, or put pressure on existing ones in the locality. The proposed amenity



gardens, with dedicated patio and outdoor seating options, is considered more appropriate for the target audience.

On balance, given the target age group who will occupy the development, it is not considered appropriate or necessary in this instance to require on-site provision of formal public open space or seek financial remuneration towards it.

## **HEALTH CARE PROVISION**

As set out in policy CP1 (Mendip Spatial Strategy) new development will be expected to contribute to new local infrastructure. NHS Somerset Clinical Commissioning Group (CCG) have commented on the application advising that the combined surgeries of Wells City Practice and Wells Health Centre are already over capacity within their existing footprint. Therefore, it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review.

Taking the above into account the CCG have requested a financial contribution towards the cost mitigation of the pressures on the local healthcare facility. The cost will be £17,484 and this will be secured through a section 106 agreement.

## **CONTAMINATED LAND**

The Ground Investigation report submitted with the application indicates that a former underground diesel storage tank is present on the site. This tank will need to be decommissioned and removed and any contamination associated with the tank will be required to be remediated before development commences. These matters can be secured via conditions.

## **OTHER MATTERS**

The Wells Neighbourhood Plan was 'made' on 16 February 2024. The policies in the plan have been reviewed and do not present any conflict with the proposed development.

## **PLANNING BALANCE / CONCLUSION**

The application is a resubmission of 2020/2234/FUL which remains extant until 28 April 2026. This is a material consideration which carries significant weight in the assessment of the current submission.

The overall thrust of government policy as set out in the NPPF is to encourage the delivery of sustainable development and for local authorities to significantly boost the supply of housing. The application scheme offers a proposal which would provide 47 age-restricted dwellings, including a financial contribution towards affordable housing. This is given significant weight in the planning balance, particularly in the context of the lack of five-year housing land supply in the district.

The application proposals will deliver simultaneously, economic, social and environmental benefits:

- Economic benefits will be linked to employment opportunities during the construction period but also through the increase in population and the consequent use of local businesses and services in the locality, and also through council tax receipts.
- In the context of social benefits, the proposal would provide 47 age-restricted homes to contribute towards the current shortfall across the district as well as a financial contribution towards affordable housing in the district.
- With regards to environmental benefits, the scheme will deliver ecological enhancements and open space across the development area. Sustainable construction methods and technologies will be secured by condition.

Harm to a nearby heritage asset is identified. The Grade II listed Priory Hospital would be affected by a change in the built-form and use of the site, and intervisibility between the site and the listed building would to some degree be affected. However, these are not designated views and do not surmount to the entirety or majority of the hospital's setting. This degree of impact on setting would cause less than substantial harm to the listed building at the lower end of the spectrum.

Considerable importance and weight must be given to the conservation of the heritage asset when carrying out the balancing exercise. When the less than substantial harm to the significance of the hospital is weighed with the public benefits of the proposal, the balance tips in favour of an approval given the high level of public benefits. In reaching

this decision, officers have had due regard to the requirements of Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990 and the provisions of local plan policy DP3 (Heritage Conservation) and Chapter 16 of the NPPF.

Regarding phosphates, Natural England and the Council's Ecologist are satisfied that subject to the proposed mitigation measures the development will not adversely affect the integrity of the Somerset Levels and Moors Ramsar site. Wildlife on site can be protected through the attachment of conditions.

There are no highway, flooding or drainage issues which are not capable of being resolved through the attachment of appropriate conditions. The layout and design of the scheme preserves acceptable living conditions for neighbours. A financial contribution towards healthcare provision will help mitigate pressures on the local healthcare facility.

Overall, the development is sustainable development, and the application is therefore recommended for approval, subject to conditions and planning obligations secured in a legal agreement.

The planning obligations are set out within the report but comprise the following:

- £100,000 towards off-site affordable housing.
- £17,484 towards the cost mitigation of the pressures on the local healthcare facility.
- Purchase of 3.36 kg/year phosphate credits (on the basis that occupation of the development is delayed until after the upgrades to the Wells wastewater treatment works have occurred (post December 2024).

It is regrettable that affordable housing financial contributions are proposed to be reduced from the previous planning application (2020/2234/FUL). However, the applicant has put forward a strong viability case which provides evidence to justify this lesser amount. Having regard to the circumstances in this case the proposal is considered acceptable and permission, subject to conditions, is recommended.

Given the policy requirements and infrastructure needs arising from the development all the above obligations are necessary to make the development acceptable in planning terms. These 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).

## **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 Equality 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:

04 Jul 2023 - 10108WL-PA00 - THE LOCATION PLAN

04 Jul 2023 - SU-01 - TOPOGRAPHIC SURVEY  
04 Jul 2023 - 10108WL-PA10 - ELEVATION - EXISTING  
04 Jul 2023 - A-00-2 REV 1 - BLOCK A GROUND FLOOR PLAN  
04 Jul 2023 - A-01-2 REV 1 - BLOCK A FIRST FLOOR PLAN  
04 Jul 2023 - B-00-1 REV 1 - BLOCK B GROUND FLOOR PLAN  
04 Jul 2023 - C-00-1 - BLOCK C GROUND FLOOR PLAN  
23 Nov 2023 - 10108WL-PA01 G - PROPOSED SITE PLAN  
04 Jul 2023 - 10108WL-PA02 - PROPOSED GROUND FLOOR PLAN  
04 Jul 2023 - 10108WL-PA03 - PROPOSED FIRST FLOOR PLAN  
04 Jul 2023 - 10108WL-PA04 - PROPOSED SECOND FLOOR PLAN  
04 Jul 2023 - 10108WL-PA05 - PROPOSED THIRD FLOOR PLAN  
04 Jul 2023 - 10108WL-PA06 - PROPOSED ROOF PLAN  
04 Jul 2023 - 10108WL-PA07 - PROPOSED SOUTH & WEST ELEVATIONS  
04 Jul 2023 - 10108WL-PA08 - PROPOSED NORTH & EAST ELEVATIONS  
04 Jul 2023 - 10108WL-PA09 - PROPOSED SITE SECTION  
04 Jul 2023 - 20028-BT2 - TREE PROTECTION PLAN

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 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 schedule shall include:

1. Detailed specification of the proposed materials (type, size, colour, brand, quarry location, etc.);
2. Photographs of all the proposed materials;
3. An annotated drawing showing the parts of the development using each material.

Samples of any of the materials in the submitted schedule shall be made available at the request of 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 Development Policies 1, 3 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

4. **Materials - Retaining Wall - Making Good (Compliance)**

All work of making good to the low ashlar stone retaining wall, and gate piers which define the access, shall be finished to match the existing stonework in respect of type, size, colour, pointing, coursing, jointing, profile and texture.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Development Policies 1, 7 and 22 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Sustainable construction (Bespoke trigger)**

Prior to works above ground level, a detailed Sustainability Strategy Statement shall be submitted to and approved in writing by the Local Planning Authority. This shall follow the broad principles for achieving energy efficiency set out in the Design and Access Statement and shall demonstrate how the development has incorporated reasonable and practical measures through siting, layout and design, and maximised the opportunities for the use of sustainable construction techniques, renewable energy on site and water efficiency measures. The development will thereafter be carried out in full accordance with the approved details.

Reason: To ensure that sustainable construction and renewable energy opportunities are maximised in accordance with DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

No occupation shall commence until a hard and soft landscape scheme has 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 shrubs,
- (b) boundary treatments,
- (c) surfacing materials (including roadways, drives, patios and paths),
- (d) any retained planting, and
- (e) a detailed programme of implementation.

All new trees planted on site should ideally be from local native stock, such as field maple, ash, hornbeam, dogwood, spindle and beech).

All new shrubs must be high nectar producing to encourage a range of invertebrates to the site, to provide continued foraging for bats. The shrubs must also appeal to night-flying moths which are a key food source for bats. The Royal Horticultural Society guide, "RHS Perfect for Pollinators, [www.rhs.org.uk/perfectforpollinators](http://www.rhs.org.uk/perfectforpollinators)" provides a list of suitable plants both native and non-native.

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 and provide biodiversity net gain in accordance with Development Policies 1, 3, 4, 5, 6 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), paragraph 174(d) of the National Planning Policy Framework, and the Draft Environment (Principles and Governance) Bill 2018.

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

The development hereby approved shall be carried out in full accordance with the approved Arboricultural Assessment and Method Statement (by Barrell Tree Consultancy, dated 14 July 2020) and Tree Protection Plan (drawing nos. 20028-BTS).

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).

**8. Walkover Survey (Bespoke Trigger)**

No removal of vegetation or works to or demolition of the buildings or structures

shall take place until a site walkover survey undertaken by a suitably qualified ecologist has taken place to ensure that no species (particularly bats and nesting birds), which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm will need to be submitted to and approved by the local planning authority in writing.

Reason: In the interests of the strict protection of European protected species and in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**9. Biodiversity and Enhancement Plan (Bespoke Trigger)**

No works above ground level shall take place until a Biodiversity Enhancement Plan (BEP) has been submitted to, and approved in writing by, the Local Planning Authority. The content of the BEP shall provide details of where suitable biodiversity enhancement will be situated in the site and shall include the following:

- (i) Bat box (south and/or west elevations).
- (ii) Bird box (east and/or north elevations).
- (iii) Bee brick (south elevation).

All works within the BEP shall be carried out in accordance with the approved details prior to the occupation of the development.

Reason: To provide biodiversity gain in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), paragraph 174(d) of the National Planning Policy Framework, and the Draft Environment (Principles and Governance) Bill 2018.

**10. 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, the specification of lights to be used and the kelvin outcome (recommended 2,700 - 3,000 degrees Kelvin) 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.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

11. **AMP7 Improvements (Pre-occupation)**

The development hereby approved shall not be occupied before 1 March 2025, unless otherwise agreed in writing with the Local Planning Authority on production of written evidence that the Asset Management Plan 7 (AMP7) planned upgrades to the Wells Waste Water Treatment Works by Wessex Water to provide additional treatment capacity and improve nutrient capture have been completed and that the increase in phosphorus arising from occupation of the Development will accordingly be no more than 3.36 kg/year.

Reason: To ensure that the proposed development is phosphate neutral in perpetuity in accordance with policies DP5, DP6, DP8 and DP23 the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) as well as Paragraphs 174 and 180-182 of the National Planning Policy Framework (July 2021).

12. **Phosphate Credits (Pre Commencement)**

The development hereby permitted shall not be commenced until an Allocation Certificate has been submitted to and approved in writing by the Local Planning Authority which addresses the additional nutrient input arising from the development within the fluvial catchment area upstream of the Somerset Levels and Moors Ramsar site and on the same hydrological pathway.

The Allocation Certificate shall be a written certificate issued by the phosphate credit provider confirming the allocation of the full phosphate credit requirement generated by the development, thereby mitigating the additional nutrient load imposed on the Somerset Levels and Moors Ramsar site by the development when fully occupied enabling the local planning authority to conclude on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected site, having regard to the conservation objectives for the site.

Reason: To ensure that the proposed development is phosphate neutral in perpetuity in accordance with policies DP5, DP6, DP8 and DP23 the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) as well as Paragraphs 174 and 180-182 of the National Planning Policy Framework.

13. **Standard Water Usage (Compliance)**

No individual dwelling hereby approved shall be occupied until the optional requirement for potential consumption of wholesome water by persons occupying that dwelling in Part G of Schedule 1 and Regulation 36 of the Building Regulations 2010 of 110 litres per person per day has been complied with.

Reason: To improve the sustainability of the dwellings in accordance with the policies DP5, DP6, DP8 and DP23 the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).and Paragraphs 134, 154 and 180 of the National Planning Policy Framework.

14. **Access, Refuse Collection Point, Parking and Turning Areas (Pre-occupation)**

No occupation shall commence until the access, refuse collection point, parking and turning areas have been constructed in accordance with details shown on the approved plans (drawing nos. 135.0032.003-C and 10108WL-PA01-G) . The vehicular access, refuse collection point, parking and turning areas shall thereafter be maintained in that condition, kept clear of obstruction and shall not be used other than for the intended uses in connection with the development hereby permitted.

Reason: To ensure that suitable access, refuse collection point, parking and turning areas are provided and thereafter retained 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).

15. **Travel Plan (Compliance)**

The Approved Travel Plan (by Paul Basham Associates, dated May 2021) shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in

accordance with the agreed Travel Plan targets to the satisfaction of the Local Planning Authority.

Reason: To support sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling in accordance with Development Policy 9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

16. **Construction Management Plan (Compliance)**

The development hereby approved shall be carried out in accordance with the approved Construction Management Plan, received 29 March 2023.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Development Policies 7, 8 and 9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

17. **Surface Water Drainage System (Pre-commencement)**

No development, except demolition, shall commence until details of a sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. Such scheme should aim to meet the four pillars of SuDS (water quantity, quality, biodiversity, and amenity) to meet wider sustainability aims as specified by The National Planning Policy Framework (July 2021) and the Flood and Water Management Act (2010). The development shall include measures to control and attenuate surface water, and once approved the scheme shall be implemented in accordance with the approved details and maintained at all times thereafter unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding in accordance with Policies DP7, DP8 and 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.

18. **Surface Water Drainage System (Pre-occupation)**

No development approved by this permission shall be occupied or brought into

use until a plan for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved by the Local Planning Authority. The approved drainage works shall be completed and maintained in accordance with the details agreed.

Reason: To safeguard the long-term maintenance and operation of the proposed system to ensure development is properly drained in accordance with Policies DP7, DP8 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

19. **Rainwater Harvesting (Pre-occupation)**

No occupation of the approved dwellings shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. water butts) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

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

20. **Contaminated Land - Remediation Scheme (Pre-commencement)**

No development, except demolition, 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 development shall not commence until the approved remediation scheme has been carried out, excepting 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 sections 11 and 15 of 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.

21. **Contaminated Land - Verification Report (Pre-occupation)**

No occupation shall commence 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 with sections 11 and 15 of 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. 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. **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 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see 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.

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 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 examples a plank or sloped end, to allow any animals to escape. In the even 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.
6. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. The developer should, therefore, intercept such water and convey it to a suitably sized soakaway on land within their ownership.
7. In relation to discharging condition 'Surface Water Drainage System' the Local Lead Flood Authority (LLFA) will expect to see the following:
  - Drawing / plans illustrating the proposed surface water drainage scheme including the sustainable methods employed to delay and control surface water discharged from the site, sewers and manholes, attenuation features, pumping stations (if required) and discharge locations. The current proposals may be treated as a minimum and further SuDS, such as raingardens / planters illustrated in discussions previously, should be considered as part of a 'SuDS management train' approach to provide resilience within the design.

- Detailed, network level calculations demonstrating the performance of the proposed system are required and this should include:

- a) Details of design criteria etc. and where relevant, justification of the approach / events / durations used within the calculations.
- b) Where relevant, calculations should consider the use of surcharged outfall conditions.
- c) Performance of the network including water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details / discharge rates.
- d) Results should be provided as a summary for each return period (as opposed to each individual storm event).
- e) Evidence may take the form of software simulation results and should be supported by a suitably labelled plan/schematic to allow cross checking between any calculations and the proposed network.

- Detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific.

- Details for provision of any temporary drainage during construction. This should include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system. Suitable consideration should also be given to the surface water flood risk during construction such as not locating materials stores or other facilities within this flow route.

- Further information regarding external levels and surface water exceedance routes and how these will be directed through the development without exposing properties to flood risk.

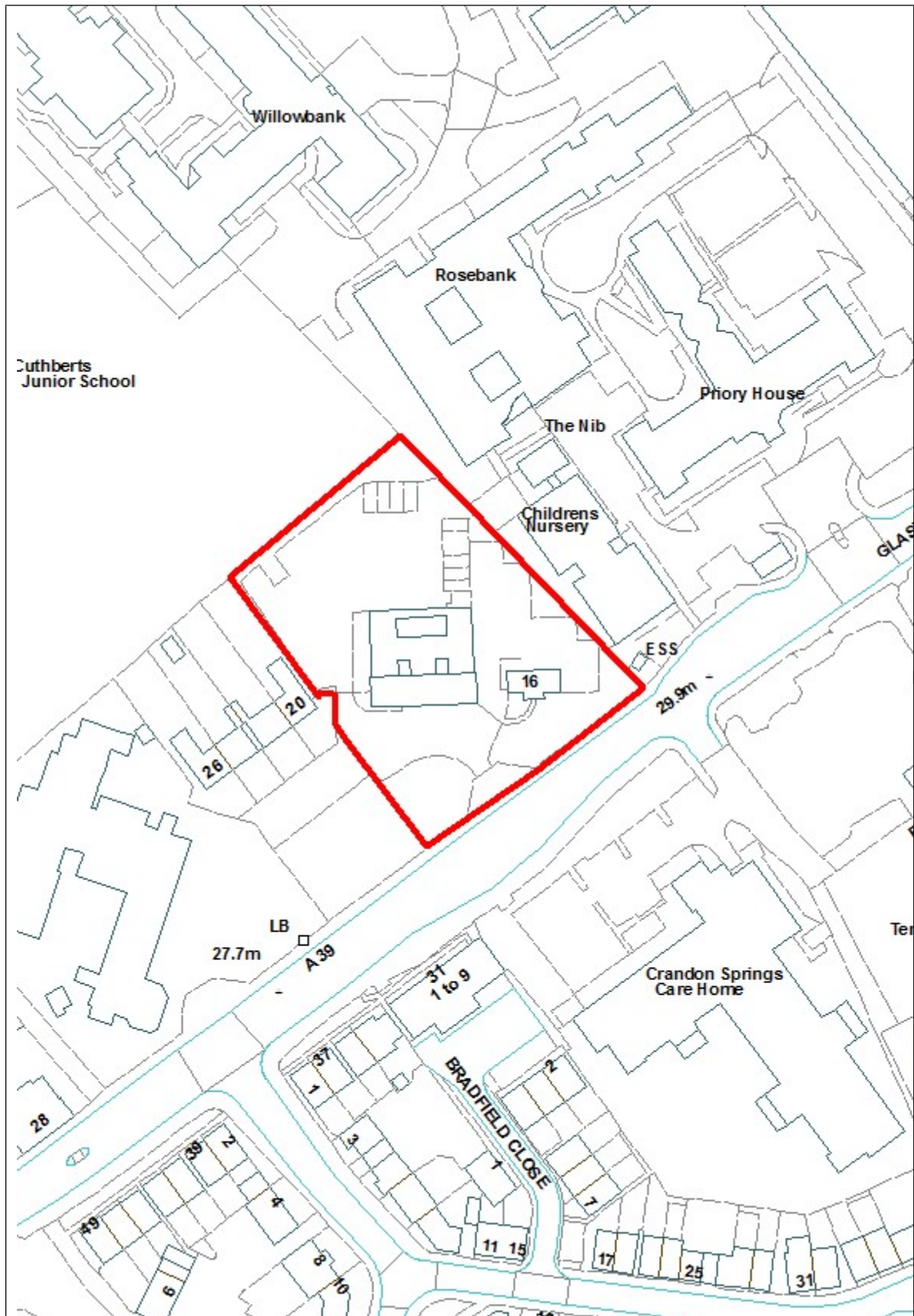
- With regards to maintenance, the following information will be required:

- a) Detailed information regarding the adoption of features by a relevant body. This may consider an appropriate public body or statutory undertaker (such a water company through an agreed S104 application) or management company.



- b) A management and maintenance plan for the lifetime of the development which shall outline site specific maintenance information to secure the long-term operation of the drainage system throughout the lifetime of the development.
8. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
  9. 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.
  10. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.

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Planning Board Report 5th March 2024  
Wells Police Station  
18 Glastonbury Road  
Wells  
Somerset

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## Planning East – Appeal Decisions

Please see below list of appeal decisions made by the Planning Inspectorate between 23<sup>rd</sup> January 2024 and 21<sup>st</sup> February 2024.

Full details of all appeals, can be found on the Council's website <https://publicaccess.mendip.gov.uk/online-applications/>

Application Reference	2020/1598/FUL
Site Address	115 Wells Road, Glastonbury, Somerset
Applicant/Organisation	N Kite
Application Type	Full Planning Permission
Proposal	Erection of a bungalow residential dwelling.
Decision	Refusal (Chair)
Appeal Decision	Appeal Dismissed
Appeal Decision Date	31.01.2024



## Appeal Decision

Site visit made on 16 January 2024

by **Alexander O'Doherty LLB (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 31 January 2024**

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**Appeal Ref: APP/Q3305/W/23/3318216**

**115 Wells Road, Glastonbury, Somerset BA6 9AJ**

- 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 Neil Kite against the decision of Somerset Council.
  - The application Ref 2020/1598/FUL, dated 19 August 2020, was refused by notice dated 26 September 2022.
  - The development proposed is described on the application form as, "Proposed bungalow north of 115 Wells Road, Glastonbury".
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal was submitted against the decision of Mendip District Council. Somerset Council has now taken over the functions of Mendip District Council. Somerset Council has therefore been named in the banner header, above.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken the comments received into account. I have had regard to the December 2023 version of the Framework in my decision.

### Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

5. The appeal site chiefly consists of the rear garden of 115 Wells Road (No 115), a detached 2-storey dwelling. The wider area is varied with respect to its built form, density, and uses, and includes a nearby bungalow (111 Wells Road). However, the primary relationship of No 115 is with the group of dwellings of which it forms a part on Wells Road. Each of these dwellings benefit from long rear gardens which contribute to the spaciousness of the area, as does the large car park associated with a building known as the Waggon & Horses (stated by the appellant as now being in use as an 'Airbnb'), located adjacent to the site.
  6. The presence of the wide and deep rear garden at No 115 is particularly noticeable due to its location at the end of the run of dwellings of which it forms a part, and it makes a positive contribution to the spacious character of the area. The large block of garages behind 167 Wells Road and the various
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outbuildings behind 169 Wells Road are sufficiently distant from the site so as to not undermine this spacious character. The numerous trees and shrubs present in the rear gardens of the group of dwellings of which the site forms a part, and the trees and area of green space to the rear of the car park associated with the Waggon & Horses building, contribute to the verdant character of the area.

7. In its proposed location to the rear of No 115, whilst the materials of the proposed bungalow would complement nearby dwellings, it would not be in keeping with the largely linear pattern of development along Wells Road of which the site forms a part, which consists of detached and semi-detached dwellings with gardens / driveways directly fronting Wells Road.
8. Due to its large footprint and proposed siting in a rear garden area, it would erode much of the contribution which the site makes to the spacious and verdant character of the area, referred to above, even taking account of the proposed planting and landscaping which could be secured by planning condition. As a single-storey dwelling situated to the rear of No 115, it would also appear as an incongruous addition amongst the array of nearby 2-storey dwellings fronting Wells Road.
9. The comings and goings to the proposed new bungalow, including from vehicles, and the accumulated domestic paraphernalia which would be visible from the rear windows of nearby dwellings on Wells Road, would serve to undermine the established character of the area, where backland development consisting of single dwellings is not commonplace.
10. Merrick Road and Baily Close are cul-de-sacs, each having a legible pattern of development mainly consisting of numerous dwellings directly fronting the road. The block of garages behind 167 Wells Road and the outbuildings behind 169 Wells Road, referred to above, are not perceived in the street scene as comprising independent residential dwellings. As such, these examples are not directly comparable with the proposed development of one new dwelling, which is proposed to be situated in a backland location. They do not change my findings as a result.
11. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with part 1. of Policy DP1 of the Mendip District Local Plan 2006-2029 – Part 1: Strategy and Policies (adopted 2014) (Local Plan) which provides that, amongst other things, all development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district, and with part 1. a) of Policy DP7 of the Local Plan which provides that proposals for new development should demonstrate that they are of a scale, mass, form and layout appropriate to the local context.
12. The proposed development would also conflict with paragraph 135 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

### **Other Matters**

13. The conduct of the Council during the processing of the planning application is not a matter that I can assess in the context of a planning appeal.

### **Planning Balance**

14. The Council did not refuse the application on matters relating to highway safety, the living conditions of nearby occupiers, or the living conditions of the future occupiers of the proposed bungalow. I also note that the Inspector in appeal decision Ref APP/Q3305/W/20/3246746 did not find a proposed development of 2 semi-detached dwellings to be unacceptable in relation to these matters. However, even if I were to likewise reason that the proposed development would be in compliance with the development plan and the Framework in these respects, these would be neutral factors rather than ones which weigh positively in favour of the proposed development.
15. Whilst I note the size of the garden, the site appears to currently be in residential use, and in this context few details have been provided to show that the rear garden at No 115 is under-utilised in land use terms, with respect to paragraph 124 d) of the Framework. As such, this is a neutral matter, which does not weigh in favour of the proposed development.
16. The appellant has asserted that the Waggon & Horses site will be developed in the near to medium term future. However, as few details have been provided to substantiate this, this matter can only be given very little weight in support of the proposed development.
17. Although reference has been made to the proposed new dwelling being a self-build project (which is supported by the Framework), no mechanism is before me to secure this, which means that only little weight can be given to this matter.
18. The appellant has referred to the potential for a similarly-sized structure to be built under permitted development rights. The evidence indicates that there is a real prospect of this occurring, in the event that this appeal is dismissed. However, whilst in visual terms such a structure could be similar to the proposed bungalow, it would not be occupied as an independent residential dwelling. Hence, its effect on the character of the area in terms of comings and goings and the presence of domestic paraphernalia would not be as pronounced as the proposed development. It would accordingly be less harmful in planning terms than the proposed development. The fall-back position has been given little weight in support of the proposed development as a result.
19. The site is in an accessible location near to Glastonbury town centre. It is common ground between the main parties that the Council currently cannot demonstrate a 5-year supply of deliverable housing sites. The appellant has stated that Mendip District Council's latest 5-year housing land supply position as at October 2022, is that there is a supply of 3.7 years, and this figure has not been disputed by the Council. The proposed development of one new dwelling would provide a very modest contribution to addressing this shortfall. The proposed bungalow would contribute towards housing choice and mix in the local area, especially considering the needs of older people.
20. The proposed development would provide work for construction professionals, and would support the local construction materials supply chain. The future



- occupiers of the proposed development would also likely support local services and facilities.
21. The proposed bungalow would be water and energy efficient (including through the use of solar panels), and bicycle storage would be provided, which in combination would help to minimise the proposed development's impact on the environment.
  22. The above-mentioned considerations would be in compliance with a number of the Council's development plan policies, including part 1. a. of Core Policy 1 of the Local Plan, which seeks to direct development towards 5 principal settlements, including Glastonbury, and with part 3 of Core Policy 1 which provides that, amongst other things, in identifying land for development the Local Plan's emphasis is on maximising the re-use of appropriate previously developed sites and other land within existing settlement limits as defined on the Policies Map.
  23. Taking account of the minimal quantum of one new dwelling in light of the Council's shortfall of deliverable housing sites (which is not severe), and all of the benefits identified above (including the potential exercise of permitted development rights), moderate weight has been given to the proposed development's compliance with the relevant policies of the development plan.
  24. The proposed development would have an unacceptable and harmful effect on the character and appearance of the area. Given that it would not ensure that the distinctive character and diversity of places within Mendip is considered maintained and where possible enhanced, as required by paragraph 6.13 of the Local Plan, very significant weight has been given to the proposed development's conflict with the development plan. It follows that the proposed development would conflict with the development plan when considered as a whole.
  25. As mentioned above, the Council is currently unable to demonstrate a 5-year supply of deliverable housing sites, meaning that paragraph 11 d) of the Framework is engaged.
  26. In this regard, the proposed development would support the Government's objective of significantly boosting the supply of homes, mentioned at paragraph 60 of the Framework. I am also mindful of paragraph 70 of the Framework which provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. Nevertheless, the overall scale of the economic, social, and environmental benefits of the proposed development would be constrained by the minimal quantum of development, of one new dwelling only, resulting in no more than moderate weight being accorded to these benefits.
  27. The proposed development would not support the creation of high quality places. As paragraph 131 of the Framework stresses that this is fundamental to what the planning and development process should achieve, this is a matter of considerable importance, to which I ascribe very significant weight.
  28. Balancing the very significant weight of these adverse impacts against the moderate weight given to the collective benefits of the proposed development, the adverse impacts would significantly and demonstrably outweigh the

benefits, when assessed against the policies of the Framework taken as a whole. The proposed development would not benefit from the presumption in favour of sustainable development, found at paragraph 11 of the Framework.

29. Overall, I find that none of the other considerations, which include the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.
30. As mentioned in the first reason for refusal given in the Council's decision notice, the Council has raised concerns in relation to potential impacts arising from an increase in phosphate levels on the Somerset Levels and Moors Ramsar site (including relevant protected species). However, as the appeal is being dismissed for other reasons, there is no need to consider the potential implications of the proposed development in this respect. I therefore make no further comments on this matter.

**Conclusion**

31. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

*Alexander O'Doherty*

INSPECTOR

Application Reference	2023/0149/VRC
Site Address	The Forge Cottage, Dark Lane, North Wootton, Shepton Mallet, Somerset
Applicant/Organisation	Mr & Mrs Stevens
Application Type	Variation/Removal of condition Application to remove conditions 3 (holiday accommodation occupancy and ancillary use (compliance), 4 (operation of holiday let (compliance) of planning approval 2019/1813/FUL.
Decision	Refusal (Delegated)
Appeal Decision	Appeal Allowed
Appeal Decision Date	12.02.2024



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## Appeal Decision

Site visit made on 18 December 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 12 February 2024**

**Appeal Ref: APP/Q3305/W/23/3323389**

**The Forge Cottage, Dark Lane, North Wootton, Shepton Mallet, Somerset BA4 4AQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr & Mrs Matthew & Cassia Stevens against the decision of Mendip District Council.
- The application Ref 2023/0149/VRC, dated 27 January 2023, was refused by notice dated 24 March 2023.
- The application sought planning permission for Redevelopment of Existing Workshop with a 3 Bedroom Dwellinghouse, along with Conversion & Extension of Existing Dwellinghouse to Studio/Workspace & Ancillary Accommodation for Tourism or Annexe Use without complying with conditions attached to planning permission Ref 2019/1813/FUL, dated 14 February 2020.
- The conditions in dispute are Nos 3 and 4 which state that:  
Condition 3: *'The building shown on drawing number 1392-05A as ancillary accommodation and home workspace shall be used for accommodation ancillary to the dwelling hereby approved or for holiday let use only and shall not be occupied as a person's sole or main place of residence.  
In relation to the holiday let an up-to-date register of all occupiers on the site (including their main home address), shall be maintained and this information shall be made available at all reasonable times to the Local Planning Authority.'*  
Condition 4: *'The holiday let use hereby approved shall not be operated other than by the occupiers of the new dwelling hereby approved.'*
- The reasons given for the conditions are:  
3. *The use of the holiday let as an independent dwelling would require further detailed consideration given the proximity to the host dwelling in terms of amenity and the provision of parking in accordance with Policies CP1, CP3, DP7 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).'*  
4. *To allow the Local Planning Authority the opportunity to assess the acceptability of the Holiday let being operated independently in the interests of protecting residential amenity of the occupiers of both properties and providing adequate parking provision having regard for Policies DP7 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).'*

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### Decision

1. The appeal is allowed and planning permission is granted for Redevelopment of Existing Workshop with a 3 Bedroom Dwellinghouse, along with Conversion & Extension of Existing Dwellinghouse to Studio/Workspace & Ancillary Accommodation for Tourism or Annexe Use at The Forge Cottage, Dark Lane, North Wootton, Shepton Mallet, Somerset BA4 4AQ in accordance with application Ref 2023/0149/VRC dated 27 January 2023 without compliance with condition numbers 1, 2, 3, 4, 5, 7, 8, 10, 11, 12, 13 and 14 previously

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imposed on planning permission Ref 2019/1813/FUL dated 14 February 2020 and subject to the schedule of conditions below.

#### **Application for costs**

2. An application for costs was made by Mr & Mrs Matthew & Cassia Stevens against Mendip District Council. This application is the subject of a separate Decision.

#### **Background and Main Issue**

3. Planning permission was granted under reference 2019/1813/FUL on the 14 February 2020 for the redevelopment of an existing workshop to create a dwelling along with conversion and extension of an existing dwelling to a studio/workshop and ancillary accommodation for tourism or annexe use. The planning permission was subject to conditions. The planning permission has been implemented.
4. On the 27 January 2023 the appellant applied to remove condition numbers 3 and 4. Condition number 3 states that the ancillary accommodation and workspace shall be used for ancillary accommodation or for a holiday let only and shall not be occupied as a person's sole or main place of residence. Condition number 4 states that the holiday let shall not be operated other than by the occupiers of the new dwelling.
5. On the 24 March 2023 the application to remove the conditions was refused by the Council on the basis that the proposal would result in a permanent dwelling in an unsustainable location where residents would be dependent on the use of the car contrary to local plan policies and the National Planning Policy Framework (the Framework). This reason does not relate to the original reasons for imposing the conditions.
6. In light of the above, the main issue is whether consideration of the removal of conditions is confined to the original reasons for imposing the conditions, and if it is not, whether the removal of the conditions would result in a dwelling in an appropriate location, with particular regard to the local development strategy.

#### **Reasons**

7. I acknowledge that the reason for refusal does not relate to the original reasons for imposing the conditions and that when imposing conditions clear and precise reasons must be given in accordance with the Framework and Planning Practice Guidance (PPG). I further acknowledge that considerations regarding the removal of conditions usually stem from the reasons given for the conditions when permission was granted. However, consideration of an application to remove conditions must be based on present circumstances regardless of whether an applicant has knowledge of planning or the planning history of a site. As a result, a Council may argue as part of an application to remove conditions that the conditions are necessary for different or additional reasons. This is what the Council have done in this case in relation to condition number 3. As a result, consideration of the removal of conditions is not confined to the original reasons for imposing the conditions.
8. Turning to the location of the appeal site, Core Policies 1 and 2 of the Mendip Local Plan 2006-2029 Part 1: Strategy and Policies (December 2014) (LP) direct new residential development towards the five principal settlements and

to the Primary and Secondary Villages. The site does not fall within one of these settlements.

9. In other villages and hamlets, development may be permitted in line with Core Policy 4 of the LP. Core Policy 4 allows for some limited development in rural settlements and the wider rural area, but the proposal for an unrestricted dwelling does not meet any of the identified circumstances where development would be supported in rural areas.
10. As the removal of condition number 3 would result in an unrestricted dwelling in the countryside, its removal would be contrary to the local development strategy. Moreover, the appeal site is in a location that is remote from a range of services and facilities with the access roads generally narrow, unlit and without pavements. As a result, walking and cycling to services and facilities would not be attractive to the majority of people who would be reliant upon the use of the car contrary to Policy DP9 of the LP that supports proposals where they 'make safe and satisfactory provision for access by all means of travel (particularly by means other than the private car)'.
11. With regard to condition number 4, I note that the Council state that they have no concerns with the removal of this condition and would have granted its removal had they been able to issue a split decision. On the basis of the presence of a high fence and public footpath between the dwellings, separate parking provision and outdoor space of usable sizes, and separation distance between Forge Cottage and Forge House, the removal of condition number 4 would not result in significant harm to the living conditions of either occupiers.
12. Whilst I also agree with the parties that no harm would arise by reason of the original reason for imposing condition number 3 due to the separation distance and provision of suitable parking, this does not outweigh the concerns raised above in relation to the location of the appeal site.
13. It follows therefore that although the removal of condition number 4 would be acceptable, the removal of condition number 3 would result in a dwelling in an inappropriate location, with particular regard to the local development strategy. As such, the removal of condition number 3 is contrary to Core Policies 1, 2, 4 and 9 of the LP.

#### **Other Considerations and Planning Balance**

14. I have taken into account the lack of objections to the proposal from third parties and the Parish Council, but this is neutral in my consideration. I have also had regard to the lack of other concerns with the proposal with regard to design, impact upon the street scene, living conditions and highway safety. However, these matters are requirements of local and national planning policy and as such are also neutral in my consideration.
15. The appellant raises concerns regarding the lack of engagement and conduct of the Council during its consideration of the planning application. However, these are not matters which are for consideration in this appeal.
16. The removal of condition number 3 would be contrary to the local development strategy due to the location of the site resulting in reliance upon the use of the car. The relevant policies are largely consistent with the Framework where it states that planning decisions should guide development towards sustainable solutions. 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.

17. 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. The appeal proposal would provide a number of benefits, including much needed open market housing which would contribute towards the supply and mix of two-bedroom dwellings in a location that I have been advised is not constrained by phosphates entering the Somerset Levels RAMSAR site. However, given the scale and nature of the development, the benefits would be limited. In contrast, I have found that the appeal proposal would result in significant harm to the local development strategy. 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.

#### **Conditions**

18. The PPG makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. The conditions have been amended from the conditions on the original planning permission to reflect the implementation of the consent.
19. As the planning permission has been implemented, there is no need for a time limit condition (Condition No. 1 of planning permission Ref: 2019/1813/FUL). However, a condition listing the approved plans is again necessary for the avoidance of doubt and becomes condition number 1.
20. In light of my findings above, condition number 3 is necessary but becomes condition number 2 and I have amended the wording to reflect the plans before me. Condition number 4 is removed.
21. The wording of original condition number 5 is amended to ensure the retention of parking and turning spaces given that the development has been occupied. This becomes new condition number 3.
22. There was no condition number 6 on the original permission, but original condition numbers 7 required submission and retention of details related to the provision of a bat box. Whilst condition number 7 has been discharged, the original condition required the bat box to be retained in perpetuity. As a result, I have amended the wording of the condition to reflect this, and it becomes new condition number 4.
23. Original condition number 8 requiring works affecting bats to proceed under the supervision of an ecologist has been complied with so is no longer necessary. Original condition number 9 ensuring that any external lighting is provided such that it does not harm bats is again required in the interests of protecting biodiversity. This becomes new condition number 5.
24. Original condition number 10 required works to take place between 1<sup>st</sup> March and 30<sup>th</sup> September but as the development has been constructed, this condition is no longer necessary.
25. Original condition numbers 11 and 12 required submission and retention of details related to the provision of bat boxes and provision for nesting swallows.

As these conditions have not been complied with, they are amended and re-imposed to ensure that the bat boxes and provision for nesting swallows are approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and provision of the details before the development takes place. The conditions will ensure that the development can be enforced against if the requirements are not met. These become new condition numbers 6 and 7.

26. As the original development has been implemented and occupied, there is no need for the remaining original condition numbers 13 and 14.

### **Conclusion**

27. For the reasons set out above condition number 3 is reasonable and necessary and should therefore remain subject to amended wording. However, condition 4 is not required to make the development acceptable and therefore does not meet the tests as set out in paragraph 56 of the Framework. Therefore, the appeal is allowed by amending condition 3 and deleting condition 4 as set out in the decision paragraph above.

*C Rose*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1595-01A Existing Location Plan Drawing; 1595-02A Existing Block Plan Drawing; 1595-03A Existing Site Plan Drawing; 1595-04A Existing Cottage Floor Plans; and 1595-05A Existing Cottage Elevations.
- 2) The building shown on the approved plans as The Forge Cottage shall be used for accommodation ancillary to The Forge House or for holiday let use only and shall not be occupied as a person's sole or main place of residence.  
  
In relation to the holiday let an up-to-date register of all occupiers on the site (including their main home address), shall be maintained and this information shall be made available at all reasonable times to the Local Planning Authority.
- 3) The access, parking and turning areas shown on the approved plans shall 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.
- 4) The bat box provided to the building as detailed in the photographs and associated email dated 8 April 2020 shall be retained in perpetuity.
- 5) 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.

- 6) Unless within 3 months of the date of this decision details of a scheme for provision for nesting swallows have been submitted in writing to the Local Planning Authority for approval, and unless the approved scheme is implemented within 2 months of the Local Planning Authority's approval, the use of the site shall cease until such time as a scheme is approved and implemented. Upon implementation of the approved scheme, it shall be retained thereafter in accordance with the approved details. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limit specified in this condition will be suspended until that legal challenge has been finally determined.
- 7) Unless within 3 months of the date of this decision two Beaumaris Woodstone maxi bat boxes or similar have been mounted under the eaves, at least 4 metres above ground level and away from windows on the south west elevation of the dwelling hereby approved, the use of the site shall cease until such time as the bat boxes have been provided. Upon implementation of the bat boxes, they shall be retained thereafter in perpetuity. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limit specified in this condition will be suspended until that legal challenge has been finally determined.

**\*\*\*END OF SCHEDULE\*\*\***

Application Reference	2022/0932/VRC
Site Address	Churh Farm, Frome Road, Rode, Somerset
Applicant/Organisation	Autograph Homes
Application Type	Variation / Removal of Conditions Variation of condition 9 (Estate Roads), condition 13 (Housing Land Access), condition 15 (Pedestrian Access), condition 17 (Housing Land Drainage Scheme), condition 20 (Tree and Hedge Protection), condition 24 (Noise Mitigation), condition 25 (Construction Environmental Management Plan), condition 29 (Housing Land Parking), condition 34 (Housing Land Refuse and Recycling), condition 35 (Ecological Mitigation), condition 38 (Housing Land Materials) and condition 49 (Housing Land Sample Panel) of permission 2011/3124.
Decision	Refusal (Chair)
Appeal Decision	Appeal Allowed
Appeal Decision Date	21.02.2024



## 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: 21 February 2024**

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**Appeal Ref: APP/Q3305/W/22/3312171**

**Church Farm, Frome Road, Rode, BA11 6PW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Autograph Homes against the decision of Mendip District Council.
  - The application Ref 2022/0932/VRC, dated 4 May 2022, was refused by notice dated 12 October 2022.
  - The application sought planning permission for the Demolition of existing buildings at Church Farm, Rode (except buildings in the conservation area), and redevelopment of the site for 44 dwellings and associated public open space and improved access. Development of land off Parkgate Lane for a replacement farmyard incorporating 8700m<sup>2</sup> of new and replacement employment floor space for the use of agriculture, haulage, building supplies, agricultural storage, food production and ancillary uses together with widening of Parkgate Lane and provision of a new access; and change of use of part of an agricultural field to form an extension to the existing playing field. Provision of two new footpath/cycleways from Church Farm to Church Lane and playing field extension to Church Lane (Access only to be considered, all other matters reserved for subsequent consideration) (amended plans received 05/12/12) without complying with conditions attached to planning permission Ref 2011/3124, dated 10 February 2014.
  - The conditions to which variations are sought are Nos 9, 13, 15, 17, 20, 24, 25, 29, 34, 35, 38 and 40, which are set out at the end of this decision in the attached Appendix.
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### Decision

1. The appeal is allowed and planning permission is granted for Demolition of existing buildings at Church Farm, Rode (except buildings in the conservation area), and redevelopment of the site for 44 dwellings and associated public open space and improved access. Development of land off Parkgate Lane for a replacement farmyard incorporating 8700m<sup>2</sup> of new and replacement employment floor space for the use of agriculture, haulage, building supplies, agricultural storage, food production and ancillary uses together with widening of Parkgate Lane and provision of a new access; and change of use of part of an agricultural field to form an extension to the existing playing field. Provision of two new footpath/cycleways from Church Farm to Church Lane and playing field extension to Church Lane (Access only to be considered, all other matters reserved for subsequent consideration) at Church Farm, Frome Road, Rode, BA11 6PW in accordance with the terms of the application, Ref 2022/0932/VRC, dated 4 May 2022, subject to the conditions as set out in the attached Schedule.

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### **Applications for costs**

2. Applications for costs were made by Mendip District Council against Autograph Homes, as well as by Autograph Homes against Mendip District Council. These applications are the subject of separate decisions.

### **Background and Main Issue**

3. The application sought to amend several conditions attached to a previous planning permission, in the interest of clarity. The Council raise no issue with this and accept the proposed amendments. However, in addition to amending the wording of these conditions, the appellant also sought to revisit the requirements of a previously completed S106 planning obligation, principally in respect of the affordable housing provision within the development. It is with this element of the proposal against which the Council raise objections.
4. The completed planning obligation secured a 30% provision of affordable units. The appellant now seeks to reduce this provision to 25%. On this basis, the main issue for me to consider is whether the scheme would make appropriate provision for affordable housing, having regard to development viability.

### **Reasons**

#### Policy

5. The Council's approach to seeking affordable housing provision within new development is set out in Policy DP11 of the Mendip District Local Plan, Part 1: Strategy and Policies (adopted December 2014). This sets out that on-site provision will be sought on residential developments of seven or more dwellings, or sites larger than 0.25 hectares, and that proposals are required to make provision for 30% of the total number of new homes to be provided in affordable tenures. The policy also states that where proposals cannot viably deliver the required provision, that there will be negotiation on the matters of tenure, subsidy design and the amount of provision.
6. The reasoned justification to this policy further provides, in terms of development viability, that:

*"The Council is mindful that in setting a district-wide target, the characteristics of individual sites and local market conditions can impact on site viability. Where specific viability issues are identified, and evidenced by an applicant in relation to individual development proposals, this will be taken into account when considering that proposal. Where the applicant cannot fulfil the policy requirements set out in this policy (in respect of on-site provision or contributions), the applicant would need to demonstrate that viability is a consideration through the preparation and submission of a financial appraisal."*

as well as,

*"The Council is mindful that the housing market is subject to rises and falls in profitability and that this can impinge upon the delivery of housing by house builders or result in under delivery of affordable homes where market conditions have improved since the planning obligation was agreed."*

and,

*"The Council's primary aim is to increase the level of affordable housing available to meet the needs of the local resident population."*

**Assessment**

7. At the time of the original planning application, a S106 planning obligation was signed and completed that secured the provision of 30% affordable housing within the development, this equated to the delivery of thirteen units within the appeal site. Based on the original financial viability assessment, this would enable the developer to realise a 18.73% profit on the gross development value (GDV), well within the range of 15-20%<sup>1</sup> which the Planning Practice Guidance (PPG) advises may be considered a suitable return for developers (for the purpose of plan making). It is also worth noting that the PPG additionally states, "A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk."
8. The development has now been built out, with all open market dwellings having been disposed of, as well as all but two of the affordable housing units also being disposed of. Thus, there remain only two dwellings that the developer retains, two bungalows that are also (under the requirements of the existing obligation) required to be affordable housing units. It is the fate of these two units with which this appeal is concerned.
9. The appellant asserts that during the development there have been a number of factors that have influenced the financial viability of the development, principally contended to be the impacts of the Covid-19 pandemic and Brexit.
10. Development commenced in January 2019, when the appellant highlights that market conditions were normal, and it was expected that the intended return of circa 18% was achievable. Work on site then ceased in March 2020, due to the national lockdown, with work then re-starting and personnel being brought back onto site in the summer and autumn of 2020. From this time on, the appellant contends that full production rates were not achieved, due to the loss of trades and construction requirements having to respond to bank funding cashflow requirements. This reduction in construction rate consequently resulted in a reduced sales rate of the dwellings.
11. Moreover, the appellant states that following the end of the UK's transition period following leaving the European Union, there was consequential disruption to the import, availability, and pricing of materials, further impacting financial viability.
12. In support of the above, the appellant has submitted additional financial viability information to demonstrate that the profit on GDV has reduced significantly as the development has progressed, and now sits at 3.6%. In order to re-coup some of the previously expected profits, the appellant seeks to reduce the affordable housing provision from 30% to 25%, omitting the two remaining dwellings from the on-site provision and then selling them on the open market. This would thereby enable the developer to increase their return on the development.

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<sup>1</sup> Paragraph: 018 Reference ID: 10-018-20190509

13. The principal consideration in these terms is whether the development is viable with the 30% affordable housing provision or whether this should be reduced to 25%.
14. When considering this, I am mindful of the guidance of the PPG, which states that: *"As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer,"*<sup>2</sup>
15. I accept that since the grant of the planning permission and the agreement to the requirements of the planning obligation, that there have been economic changes which have affected the financial return that the developer will realise from the development. However, there is always a level of risk associated with undertaking development of this scale and type. This is inherently considered in viability assessments and accounted for in the expected developers return. While in this case, the difference between expected and actual return is not insignificant, to my mind, this is not an unusual risk and is part of the risk-versus-reward arrangement of undertaking such schemes. There will be occasions where profitability will reduce during the course of the development, such as in this case, but conversely there may well also be occasions where profitability will increase.
16. I am also particularly mindful in this case, that the vast majority of the development has already been delivered and sold, with only two dwellings yet to be disposed of. Much of the rationale for the level of profit that is initially expected is to ensure that there is sufficient incentive for schemes to be delivered. This has already taken place in this case and consequently, there is no risk that the scheme will not come forward. This also applies to the remaining two units that are yet to be occupied, about which there is no indication that they will not be completed and delivered.
17. Bearing in mind therefore that the Council's priority is to increase the provision of affordable housing to meet the needs of the local population, together with the advice of the PPG that the purpose of reviewing viability is not to protect the profits of a developer, I find that to reduce the affordable housing provision at this late stage would not be acceptable. To do so would conflict with Policy DP11 of the Mendip District Local Plan, Part 1: Strategy and Policies, as well as the advice of the PPG.

#### **Other Matters**

18. I am aware that there has been a previous application to modify the planning obligation. This however was a separate matter from that which is before me as part of this appeal.
19. There is also the contention that some obligations have not been met by the developer in regard to the existing planning obligation. This is not a matter however that influences my decision, as the enforcement of any existing agreement is a matter for the Council.
20. My attention has been drawn to several previous appeal decisions, most notably one where an Inspector considered that the mere fact that work

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<sup>2</sup> Paragraph: 009 Reference ID: 10-009-20190509

continued on-site was not a reason to ignore viability evidence. However, that decision makes clear that work was still ongoing on site, albeit that it is not said how far the development had advanced. A further case where work had commenced is also cited. In this case, all structures are built, and it is just the handover of the units that remains. As such, I do not find the situation in this appeal to be sufficiently comparable to those set out in the previous decisions to which I have been referred. Thus, none of the decisions change my findings above.

21. The appellant has drawn my attention to a letter from the Secretary of State in which it is stated that "*councils should be open and pragmatic in agreeing changes to developments where conditions mean that the original plan may no longer be viable, rather than losing the development wholesale or seeing development mothballed.*" While this is noted, in this case, there is no prospect of the development not being delivered or being mothballed, as it has already been built out. As such, this matter has little bearing on my decision.

### **The Legal Agreement**

22. The original planning permission was subject to an agreement made under S106 of the Act. This secured the provision of the affordable housing, as well as matters in respect of public open space, playing fields, public access, employment land, phasing, surface water drainage, education, travel plans, and highways improvements. This original agreement has also been subsequently amended through deeds of variation.
23. The appeal is accompanied by a further Supplemental Agreement made under Section 106, which comes into effect upon the grant of any permission pursuant to this appeal. It also secures that the original deed (i.e., the original legal agreement) will apply to any permission that is granted subject to this appeal. As such, there is a safeguard in place to ensure that any permission I may grant is effectively tied to the existing agreement.
24. There has been reference to flexibility in respect of the education contribution that is secured by the planning obligation. This matter is not part of the reason for refusal of the application. The Supplemental Planning Agreement provides that should the appeal be allowed, that the obligations requiring the last 50% of the education contribution to be paid shall no longer be of any effect. However, there is little evidence before me to convince me that the education contribution should not be delivered as set out in the original planning agreement. As such, I find no reason to agree to this amendment of the obligation.
25. The Supplemental Agreement includes a "blue pencil clause" which states that should I find that any modification in the agreement should not be permitted, the planning obligation as set out in the original agreement shall continue to have effect. Considering my findings above, I find that the modification in respect of the provision of affordable housing, as set out in the Schedule of the Supplemental Agreement should not be permitted. Similarly, the modification in respect of education contributions also should not be permitted. Therefore, pursuant to paragraph 6.2 of the Supplemental Agreement, the modifications in respect of these matters shall have no effect.

### **Conditions**

26. The application made under Section 73 was in respect of a previously granted outline planning permission. In considering this appeal, I have the option to grant either a new outline planning permission, or a new full planning permission. However, in this case, the description of development as set out in the original planning permission specifically refers to access only being for consideration, with all other matters reserved for subsequent consideration. If I were to grant a new full planning permission, referring to all detailed matters, this would conflict with the operative part of the permission, i.e., the description of development. As such, I am only able to grant a new outline permission. I shall therefore only amend the specific conditions referred to in the application.
27. I note that within the Council's Case Officer Report, there is reference to other conditions that contain triggers that have passed. However, no details have been given in respect of these. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

### **Conclusion**

28. The part of the proposal to reduce the provision of affordable housing would conflict with the development plan as a whole, and there are no material considerations sufficient to indicate that a decision on this matter should be taken other than in accordance with it. However, for the reasons set out above, I am able to grant a new planning permission, varying the conditions as sought by the application but without agreeing to the proposed amendments to the legal agreement.
29. Therefore, for these reasons, and having regard to all matters raised, I conclude that the appeal should be allowed, and that planning permission should be granted, without the requested amendments to the planning obligations.

*Martin Allen*

INSPECTOR



### **Schedule of Conditions**

1. The dwellings hereby approved shall be constructed only on the Housing Land, that being the area shaded orange on Plan 5 appended to this decision and hereinafter referred to as the Housing Land.
2. The agricultural and employment floorspace hereby approved shall be constructed only on the Employment Land, that being the area shaded brown on Plan 2 appended to this decision and hereinafter referred to as the Employment Land.
3. The development on the Employment Land hereby approved 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 relating to the Employment Land, whichever is the latest.
4. The development on the Housing Land hereby approved 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 relating to the Housing Land, whichever is the latest.
5. Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the Employment Land (hereinafter called the Employment Land reserved matters') shall be obtained from the Local Planning Authority in writing before the Employment Land is commenced.

Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the Housing Land (hereinafter called the Housing Land reserved matters') shall be obtained in writing from the Local Planning Authority before the Housing Land is commenced.

6. Plans and particulars of the Employment Land reserved matters and the Housing Land reserved matters referred to in condition 05 above shall include when relevant details of:
  - a. the provision to be made for the garaging and parking of vehicles within the site;
  - b. the space to be provided for the loading, unloading and turning of vehicles within the site including LGVs;
  - c. the surface treatment of the footways and cycle paths;
  - d. all external materials to be used;
  - e. existing and proposed ground and floor levels;
  - f. details of all walls, fences, trees, hedgerows and other planting which are to be retained;
  - g. details of all new walls, fences and other boundary treatments;
  - h. a planting specification to include numbers, positions, species and size of all new trees and the location of grassed areas and areas for shrub planting;
  - i. details of the hard surface treatment of the open parts of the site;
  - j. a programme of implementation of landscaping works for each part of the sites.

7. The development hereby permitted shall be carried out in accordance with drawing numbers Unnumbered Site Boundary drawing, 102-PL-Fig 07, 102-PL-Fig 11, 102a-PL-Fig 07A, 102a-PL-Fig 07C, 102a-PL-Fig 11A, 102a-PL-Fig 078, 102a-PL-Fig 118.
8.
  - a..The total gross floorspace of all buildings constructed on the Employment Land shall not exceed 8,700 square metres, of which no more than 893 square metres shall be used for purposes falling within Use Class B8 of the Use Classes Order 1987 (as amended)
  - b..Of the remainder no more than 1500 square metres shall be used for the purposes of storage of agricultural products and such area shall not be used for any other purpose falling within Class B8 of the Use Classes Order other than such agricultural storage.
  - c..All floorspace not used for uses within Class B8 under paragraphs or a. or b of this condition shall be used only for the purposes of agriculture and for no other use.
  - d. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) the Employment Land shall be used only as set out in paragraphs a. , b. and c. of this condition shall not be used for any purpose other than those specified in the said paragraphs
  - e. All non agricultural uses on the Employment Land shall be integral to the agricultural use of the Employment Land.
9. Estate roads relating to the Housing Land shall be completed in accordance with details as approved under application 2018/2218/APP on 18.07.2019.
10. The proposed roads, footpaths and turning spaces relating to the Housing Land shall be completed such that each dwelling before it is occupied is served by a properly consolidated and surfaced footpath and carriageway.
11. No works shall commence on the Employment Land (other than archaeological investigation) until all works to provide access from the site to the A361 Frome Road, including any road widening, have first been completed in accordance with a design and specification that has first been submitted to and approved by the Local Planning Authority.
12. The Employment Land shall not be first occupied/brought into use until the access from the site onto the public highway has been completed in the approved location in accordance with a detailed design and specification that has first been submitted to and approved by the Local Planning Authority.
13. The works to the access from the Housing Land onto the A361 shall be maintained in accordance with the details approved under application 2018/2218/APP on 18.07.2019.

14. No vehicular accesses to serve either the Housing Land or the Employment Land shall be formed other than those shown on the approved plans Fig 07 and Fig 11.
15. The development shall be retained and maintained in accordance with the details of pedestrian access, approved under application 2018/2218/APP on 18.07.2019, received 07.09.2018.
16. No works shall commence on the Employment Land (other than archaeological investigation, site clearance or remediation) until a surface water drainage scheme for that land has first been submitted to and approved by the LPA. The scheme shall include details of gullies, connections, soakaways and means of attenuation on site. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development and shall include details of any phasing of the surface water drainage infrastructure and how the scheme shall be maintained and managed after completion. No part of the Employment Land shall be first occupied or brought into use until the surface water drainage scheme for the Employment Land has been fully implemented in accordance with the approved details and is operational.
17. The surface water drainage scheme for the Housing Land shall fully accord with details approved under application 2018/2218/APP on 18.07.2019.
18. All hard and soft landscape works relating to the Housing Land shall be carried out in accordance with the approved details. The works approved for the Housing Land shall be carried out prior to the occupation of any dwelling or in accordance with an alternative programme of implementation that has first been 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 planting, 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.
19. All hard and soft landscape works relating to the Employment Land shall be carried out in accordance with the approved details. The works approved for the Employment Land shall be carried out prior to the occupation of any part of the Employment Land or in accordance with an alternative programme of implementation that has first been 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 planting, 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.
20. The development shall be maintained in full accordance with the tree protection details, approved under application 2015/1776/APP on 23.11.2015.
21. No site works or clearance shall be undertaken on the Employment Land until protective fences which conform with British Standard 5837:2012 have been erected around any existing trees and other existing or proposed

landscape areas in positions to be indicated on plans to be first submitted to and approved in writing by the Local Planning Authority. Until the development has been completed these fences shall not be removed and the protected areas are to be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works.

22. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence on the Housing Land until parts A to D of this condition have been complied with. 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 part D of this condition has been complied with in relation to that contamination.

**A. Site characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
- (iii) Human health,
- (iv) Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwater's and surface waters, ecological systems, archaeological sites and ancient monuments;
- (v) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

**B. Submission of remediation scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, submitted to and approved in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must 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.

C. Implementation of approved remediation scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of unexpected contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

23. If at any time during the development unexpected contamination is found on the Employment Land then no further development shall be carried out until the developer has submitted to, and had written approval from the Local Planning Authority for, a remediation strategy detailing how this will be dealt with. The remediation works shall thereafter be fully implemented in accordance with an agreed timetable.
24. The development shall be maintained in full accordance with the details for noise mitigation measures approved under application 2020/2476/APP on 07.01.2021.
25. The development shall be maintained in full accordance with the details for clearance, remediation and construction approved under application 2018/2218/APP on 18.07.2019.
26. The Employment Land hereby approved shall not be first occupied or brought into use until details of the location, type and maximum height of materials and equipment to be stored externally within the Employment Land has first been submitted to and approved by the LPA. All external storage shall thereafter be in accordance with the approved details. For the avoidance of doubt, this requirement does not apply to external storage of materials in use for construction of the development hereby approved on the Employment Land.
27. No works (other than that required by this condition) shall be undertaken on the Employment Land unless a programme of archaeological work, including excavations, has been implemented in accordance with a written scheme of investigation which has been first submitted to and approved in writing by the Local Planning Authority.

28. No part of the Employment Land shall be occupied nor the use commenced until provision has been made within the Employment Land for the parking, turning, loading and unloading of vehicles and the parking of cycles and motorcycles to serve the Employment Land, in accordance with details that have first been submitted to and approved by the Local Planning Authority as part of the reserved matters submission for the Employment Land. Such areas shall not thereafter be used for any purpose other than the parking, turning, loading and unloading of vehicles associated with the Employment Land.
29. The development shall be maintained in full accordance with the details for the parking and turning of cars, cycles and motorcycles to serve the Housing Land approved under application 2019/2560/APP on 18.07.2019.
30. The Employment Land hereby approved shall not be occupied or brought into use unless details of the maximum number of large goods vehicles (LGV's) proposed to be parked on the site have first been submitted to and approved by the Local Planning Authority, which may be as part of a reserved matters approval for the layout of the Employment Land. Thereafter there shall not at any time be more than the approved maximum number of large good vehicles parked on the site. Such vehicles shall only be parked within the part of the site designated for such purposes in accordance with the approved layout.
31. No external storage shall take place on the Employment Land other than in areas that have first been submitted to and approved by the Local Planning Authority as part of a reserved matters approval for the layout of the Employment Land. For the avoidance of doubt "external storage" shall not include storage of materials during construction of the buildings hereby approved on the Employment Land.
32. No external lighting shall be erected, placed or operated on any part 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. Under no circumstances shall external illumination be operated on the site other than in accordance with the approved scheme.
33. No part of the Employment Land hereby approved shall be occupied unless refuse and recycling storage provision for the Employment Land has first been provided and made available for use in accordance with details that have first been submitted to and approved by the Local Planning Authority. The refuse storage provision shall be permanently retained thereafter in accordance with the approved details.
34. The development shall be maintained in full accordance with the details for the refuse and recycling storage provision for the Housing Land approved under application 2018/2218/APP on 18.07.2019.
35. The development shall be maintained in full accordance with the details of ecological mitigation measures for the Housing Land including an implementation programme approved under application 2015/1776/APP on 23.11.2015.

36. No works (including demolition) shall commence on the Employment Land until details of ecological mitigation measures for the Employment Land, including an implementation programme, have been submitted to, and approved in writing by, the LPA. The development shall be carried out in accordance with the approved details.
37. No works shall be undertaken on the Employment Land unless samples of the materials to be used in the construction of the external surfaces, including roofs of all buildings and structures within the Employment Land, have been submitted to and approved in writing by the Local Planning Authority. The works for the Employment Land shall thereafter be carried out only in accordance with the details so approved.
38. The external facing materials shall be maintained in full accordance with the Materials Schedule approved under application 2019/1572/APP on 30.10.2019.
39. No works shall be undertaken on the Employment Land (other than for site clearance, archaeological investigation, remediation of contamination and/or construction of accesses) unless a sample panel of any stonework and/or render to be used on the external surface of any building or structure in the Employment Land has first been within the Employment Land and approved in writing by the Local Planning Authority. The sample panel shall be kept on site for reference until the Employment Land is completed. The works shall thereafter be carried out only in accordance with the details so approved.
40. The external walling materials shall be maintained in full accordance with the Materials Schedule approved under application 2019/1572/APP on 30.10.2019.

End of Schedule

**Appendix - Conditions to which variations are sought**

9. Any approved estate roads relating to the Housing Land shall be completed in accordance with details and a programme of works that have been first submitted to and approved by the Local Planning Authority  
*Reason: To ensure adequate access is provided to the dwellings hereby approved having regard to Saved Policy Q3 of the Mendip District Local Plan 2002*
13. No dwelling hereby approved shall be occupied until the works to the access from the Housing Land onto the A361 have first been completed in the approved location in accordance with a detailed design and specification that has first been submitted to and approved by the Local Planning Authority. The design and specification shall include all associated works to the A361.  
*Reason: In the interests of highway safety having regard to Saved Policy Q3 of the Mendip District Local Plan 2002*
15. No pedestrian accesses shall be formed to serve either the Housing Land or the Employment Land unless in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority (which may be as part of the reserved matters submission(s) for layout of the Housing Land and Employment Land).  
*Reason: In the interests of highway safety having regard to Saved Policy Q3 of the Mendip District Local Plan 2002*
17. No works shall commence on the Housing Land (other than demolition, site clearance or remediation) until a surface water drainage scheme for that land has first been submitted to and approved by the LPA. The scheme shall include details of gullies, connections, soakaways and means of attenuation on site. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development and shall include details of any phasing of the surface water drainage infrastructure and how the scheme shall be maintained and managed after completion. No dwelling shall be occupied until the surface water drainage scheme for the Housing Land has been fully implemented in accordance with the approved details and is operational.  
*Reason: To prevent flooding having regard to Saved Policy EN17 of the Mendip District Local Plan 2002 and the National Planning Policy Framework*
20. No site works or clearance shall be undertaken on the Housing Land until protective fences which conform with British Standard 5837:2012 have been erected around any existing trees and other existing or proposed landscape areas in positions to be indicated on plans to be first submitted to and approved in writing by the Local Planning Authority. Until the development has been completed these fences shall not be removed and the protected areas are to be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works.  
*Reason: To safeguard the areas to be landscaped and the existing trees and planting to be retained within the site having regard to the provisions of Saved Policies Q1, Q4 and EN5 of the Mendip District Local Plan 2002.*



24. No dwelling shall be occupied unless all noise mitigation measures have first been installed/implemented for that dwelling in accordance with details that have first been submitted to and approved by the LPA. Such measures shall be designed to mitigate the effects of noise from the A361 and shall include glazing specification, additional acoustic ventilation details, acoustic barriers, roof insulation. The mitigation measures shall be designed to ensure that habitable rooms which front the A361 meet the "good" standard defined in BS8233 Sound insulation and noise reduction for buildings - Code of practice.  
*Reason: To safeguard the amenities of the occupiers of those dwellings from road noise having regard to Saved Policies Q1 and Q12 of the Mendip District Local Plan 2002.*
25. No works shall commence on the Housing Land until a Construction Environmental Management Plan (CEMP) has first been submitted to and approved by the Local Planning Authority. The CEMP shall include measures to mitigate impacts on neighbouring residential properties during clearance of the site and construction of new development, including hours of working, noise and vehicle management measures, and measures to control dust, odour or other pollution. All works for clearance, remediation and construction on that part of the site shall thereafter be carried out in accordance with the CEMP.  
*Reason: To safeguard the amenities of the occupiers of neighbouring properties from road noise having regard to Saved Policies Q1 and Q12 of the Mendip District Local Plan 2002.*
29. The dwellings hereby approved shall not be occupied until space has been laid out within the Housing Land for the parking and turning of cars, cycles and motorcycles to serve the Housing Land in accordance with details that have first been submitted to and approved by the Local Planning Authority as part of the reserved matters submission for the Housing Land. Such areas shall not thereafter be used for any purpose other than the parking and turning of cars, cycles and motorcycles associated with the Housing Land.  
*Reason: To make provision for parking and turning having regard to Saved Policy Q3 of the Mendip District Local Plan 2002 and the Somerset Countywide Parking Strategy*
34. No part of the Housing Land hereby approved shall be occupied unless refuse and recycling storage provision for the Housing Land has first been provided and made available for use in accordance with details that have first been submitted to and approved by the Local Planning Authority. The refuse storage provision shall be permanently retained thereafter in accordance with the approved details.  
*Reason: To ensure that adequate refuse and recycling storage provision is provided in the interests of visual amenity having regard to Saved Policy Q1 of the Mendip District Local Plan 2002.*
35. No works (including demolition) shall commence on the Housing Land until details of ecological mitigation measures for the Housing Land, including an implementation programme, have been submitted to, and approved in writing by, the LPA. The development shall be carried out in accordance with the approved details.  
*Reason: To safeguard protected species and other wildlife and to prevent a net loss of biodiversity on and around the site having regard to Saved Policies EN3*

*and EN4 of the Mendip District Local Plan and the provisions of the National Planning Policy Framework*

38. No works shall be undertaken on the Housing Land unless samples of the materials to be used in the construction of the external surfaces, including roof, of all buildings and structures within the Housing Land, have been submitted to and approved in writing by the Local Planning Authority. The works relating to the Housing Land shall thereafter be carried out only in accordance with the details so approved.

*Reason: In the interests of visual amenity having regard to Saved Policy Q1 of the Mendip District Local Plan 2002.*

40. No works shall be undertaken on the Housing Land (other than for site clearance, archaeological investigation, remediation of contamination and/or construction of accesses) unless a sample panel of any stonework and/or render to be used on the external surface of any building in the Housing Land has first been erected on that part of the site and approved in writing by the Local Planning Authority. The sample panel shall be kept on site for reference until the Housing Land is completed. The works shall thereafter be carried out only in accordance with the details so approved.

*Reason: In the interests of visual amenity having regard to Saved Policy Q1 of the Mendip District Local Plan 2002.*