

# Public Agenda Pack



## **PLANNING COMMITTEE - EAST**

**Tuesday, 7 January 2025**

**10.00 am**

**Council Chamber, Council Offices, Cannards  
Grave Road, Shepton Mallet BA4 5BT**

### **SUPPLEMENT TO THE AGENDA**

To: The members of the Planning Committee - East

We are now able to enclose the following information which was unavailable when the agenda was published:

Agenda Item 4      Planning Application 2023/1515/OUT - Land at 353038 145483,  
Gypsy Lane, Wells, Somerset (Pages 3 - 38)

To consider an outline application with all matters reserved except for access, for up to 47no. dwellings (including affordable housing), open space, ecological mitigation, and supporting infrastructure.

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Application Number	2023/1515/OUT
Case Officer	Ed Winter
Site	Land At 353038 145483 Gypsy Lane Wells Somerset
Date Validated	8 August 2023
Applicant/ Organisation	Wells LVA LLP and Little Burcott Limited
Application Type	Outline Application
Proposal	Outline application with all matters reserved except for access, up to 47no. dwellings (including affordable housing), open space, ecological mitigation, and supporting infrastructure.
Division	Mendip West Division
Parish	St Cuthbert Out Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

## **Scheme of delegation**

In accordance with the scheme of delegation, this application is to be decided by Planning East Committee, as the recommendation is for approval, whereas the recommendation of St Cuthbert (Out) Parish Council is for refusal.

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

Outline application with all matters reserved except for access, up to 47no. dwellings (including affordable housing), open space, ecological mitigation, and supporting infrastructure.

The application site is located in the parish of St Cuthbert Out. The site is 3.93 hectares. It is classified as “open countryside” by the local plan, for the purposes of the settlement hierarchy (NB, this is not a landscape term, but a settlement hierarchy term, in this context). The site comprises an agricultural parcel of land, currently used for grazing. There are trees and hedgerows to the site boundaries. The site is on a moderate slope, generally falling from north to south. There is an existing field gate access at the northern corner of the site, providing access to/from Gypsy Lane and a further field gate accesses in the south-western and south-eastern corners of the site, providing access to/from Burcott Lane.

Elm Close is located to the immediate north of the site. This is a row of 32 dwellings located on the northern side of the B3139 (Elm Close). A further five residential properties are located west of the northern end of Gypsy Lane on the south side of the B3139 (Wookey Road), with two properties accessed off Gypsy Lane. To the east of the site and south of Elm Close lies agricultural land but this is allocated for the development of 100 homes and the local planning authority has granted outline permission (ref 2019/1381/OTS, 18 June 2024). To the west and south of the site lies agricultural land.

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

- Agricultural land classification: Mainly grade 4, some 3b (not best and most versatile).
- Main river 20m buffer zone.
- SSSI impact risk zones: Wookey Hole, Ebbor Gorge.
- Somerset Levels and Moors SPA Ramsar (catchment).
- Sewage Treatment Buffer: Wells.
- Tip interest zone.
- Somerset Drainage Board area.

### ***Nearby constraints***

- Mendip Hills National Landscape (NL) lies approximately 1.5km at closest, to the north and north-east.
- Ben Knowle Hill special landscape feature (SLF) c 480m east.
- Underwood SLF 1.1km north-north-east.
- Listed buildings (within a 1km radius of site): Burcott Manor House (GII), 550m, Lower Burcott Farm House (GII), 320m, Former Farmhouse at Burcott House Farm (GII), 730m, Burcott Water Mill and Mill House (GII), 820m.

### **Relevant history**

- None relevant.

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

- SC division member: No comments received.
- St Cuthbert Out Parish Council: Objection
  - Concerns raised regarding the following matters:
    - Green Gap & urban sprawl
    - Not allocated in the local plan

- Visual impact (National Landscape, wider landscape)
  - Stranded' neighbourhood – no clear connectivity to development to east.
  - Engulfing Elm Close – applications to south and north of Elm Close and development has already taken place to the east of Elm Close. Developing this site would result in a loss of Elm Close's sense of community and green space around Elm Close
  - Hedgerows need to be considered as part of a network rather than in isolation.
  - Biodiversity – site is part of a wildlife corridor connecting Mendips to Levels, with badger setts reported on site and nine species of bats identified 270m to the north.
  - Access – existing junction off Gypsy Lane does not cater for two way access.
  - Safety – frequent speeding on B3139. Gypsy Lane and Burcott Lane subject to high use already.
  - Traffic generation resulting from development – walking and cycling routes along Burcott Lane hazardous.
  - Public transport is poor.
  - Active travel
  - Safety of attenuation pond
  - Radon
  - Sewage provision
  - No community facilities
- SC Affordable Housing: No objection subject to affordable housing provision secured through s106.
  - SC Contaminated Land: No objection.
  - SC Ecology: No objection subject to conditions regarding further surveys, lighting, BCEMP and LEMP.
  - SC Education: No objection subject to contributions to be secured through s106.
  - SC Environmental Protection: No objection subject to condition (CEMP).
  - SC Highway Authority: No Objection subject to conditions regarding visibility, detailed design, drainage, construction of road and access, construction management, pedestrian, cycle and vehicular movement and parking, EV charging and travel statement.

- SC Lead Local Flood Authority: No objection subject to further consideration at detailed design stage.
- SC Planning Policy: Objection
  - Site is outside Wells development limit.
  - Site has not been allocated for housing.
  - Not necessary to meet the housing requirement for Wells.
  - The Council is unable to demonstrate a 5-year housing supply.
- SC Trees & Woodland: No comments received.
- Avon & Somerset Policy (Designing Out Crime): No objection.
- CPRE (The Countryside Charity): Objection.
  - Not in accordance with local plan.
  - Wells has achieved target identified in the local plan.
  - Does not maximise use of brownfield land.
  - Loss of agricultural and ecological value.
  - Sketchbook images not good design.
  - Not sustainable development.
- Environment Agency: No objection.
- Mendip Hills AONB Unit: No objection subject to design/layout
- Natural England: Further information required. Further information has been provided by the applicant, but no further comments have been received from Natural England. Somerset Ecology Services have confirmed that this application can be determined without further comments from Natural England.
- NHS: No objection subject to contributions to be secured through s106.
- Somerset Drainage Boards Consortium: No objection.
- Somerset Wildlife Trust: Objection
  - Potential impact on Local Wildlife Sites
  - Additional numbers of residents together with additional domestic cats is likely to increase pressures on those areas.
- South West Heritage Trust Archaeology: No objection.
- Wessex Water: No objection.

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

## Objections:

- Gypsy Lane/Elm Close junction already dangerous, with restricted visibility in both directions.
- Whilst speed limit on Elm Close is 30mph, vehicles consistently break this limit (50mph+). The junction is also used as a turning point.
- This area to the west of Wells has already been overdeveloped, with 4 developments totalling over 600 homes complete or nearing completion, with a further 100 allocated and another application for 50. This has all taken place since 2015.
- Gypsy Lane is a single-track road, used as a cut-through by a large number of vehicles, including very large vehicles, every day. It is used by walkers and cyclists, and it is already a dangerous lane, due to the width of the vehicles and the narrow lane. Cyclists and walkers are at risk.
- If this development is to be approved Gypsy Lane should be widened for everyone's safety, and traffic calming measures introduced into Elm Close.
- We have often seen deer on the field and it is very sad to think that they will lose their habitats if this proposal goes ahead.
- This application extends the City boundary taking up valuable agricultural land, currently stocked with sheep, and negatively intrudes into the open Somerset landscape.
- If all three applications in the pipeline were to be granted the residents on Elm Close would be in the midst of a huge building site and subjected to traffic chaos, noise and extremely difficult living conditions for a considerable length of time.
- With more tarmac and concrete this plan can only have a negative impact on an area which hosts a range of wild animals including badgers, roe deer, fox, rabbits. and many species of birds.
- The current line of mature mixed trees and hedging will be removed and the loss of this farmland will reduce the attraction of the area to all including the many walkers and cyclists.
- Building work would create jobs in the short term and a few afterwards in services. Within the population in Wells the over 65's are set to increase and the younger generation set to reduce. The City will become a huge retirement home and the economy will suffer unless new industries can be established to replace all those that have disappeared over the years.
- Any impact studies of ecology, public services, traffic etc do not appear to take into account the already approved development for 100 houses that have not been built as yet on the left hand side of the road on Elm Close.

- The removal of more land that could be used for agriculture is not prudent considering our future need to be more locally resourceful - to avoid the growing expense and unreliability of importing food.
- The proposal of including 'some affordable homes' - this is the only type of housing that Wells as a city would benefit from: as locals are being priced out of residing in area. The amount of 'affordable' houses should be 100% - this would be the only justifiable reason to counter the above reasons.
- Site not allocated for development.
- The area lacks sufficient infrastructure: health and social are overstretched, schools, insufficient jobs and retail, parking is poor and traffic congestion is high, often with long waits when accessing the A371 from Elm Close by car. This would be exacerbated.
- Would encourage commuting.
- The site is a field in open countryside with an elevated position and which is part of the Green Gap that marks the southern and western boundaries of the development of Wells, from the Glastonbury Road north to the Wookey Hole Road and beyond to the AONB, including Arthurs Point and the Mendip Hills. This distinctive encircling "bowl" would be reduced and compromised by the proposed development.
- Rarely, if ever, can a housing development enhance a rural setting.
- The Design & Access Statement (pages 20 and 21) notes that the hedgerows may qualify as "important" under the wildlife and landscape criteria. However, the number of Pedestrian Access points on the West and East Boundaries will surely render the hedgerows useless as wildlife corridors.

### **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)
- Somerset Minerals Plan 2030
- Somerset Waste Core Strategy 2028

*The Wells Neighbourhood Plan (WNP) has been made and is now part of the development plan. However, the application site lies outside the plan area.*



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
- CP4: Sustaining Rural Communities
- CP10: Wells City Strategy

#### 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
- WL5: Land off Elm Close

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

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- National Design Guide (NDG)
- Landscape Character Assessment 2020
- Greenspace SPD
- Design and Amenity of New Development

#### **Assessment against the development plan**

#### **Principle of the use (CP1)**

The site lies entirely outside the settlement limits of Wells (a principal settlement), as identified on the policies map, although it abuts the settlement limits along its eastern side. The settlement limits were expanded westwards as part of LPP2, to include site allocation WL5, which is directly adjacent to the application site.

The site therefore lies in “open countryside” for the purposes of the spatial strategy as set out in policy CP1, where development is to be strictly controlled. This strict control is key to the strategy set out in CP1 to enable the most sustainable pattern of growth for Mendip district.

The local plan does allow for certain exceptions to this strict control, however no of these apply to the proposed development.

The proposed development is therefore contrary to policy CP1 and is not acceptable in principle.

However, it should also be noted that another key element of the spatial strategy outlined in CP1 (to enable the most sustainable pattern of growth) directs the majority of growth to the five principal settlements. The site is directly adjacent to the settlement limits of Wells and therefore, while the site conflicts with CP1 by being outside of settlement limits, there is less conflict with the overall strategy that might be the case if the site were not adjacent to the settlement limits of a principal settlement. Overall the proposed development is considered contrary to CP1.

### **Settlement identity, growth & coalescence (CP10)**

In the recent appeal at New House Farm, Haybridge, the inspector confirmed that the approach of CP10 to preventing coalescence only applies to the specifically identified green gaps. It does not apply more generally.

As the application site is not located within a green gap, it is not contrary to CP10, for the purposes of coalescence.

### **Local identity and distinctiveness (DP1)**

DP1 (Local Identity and Distinctiveness) states

*“1. All development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district.*

*2. 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. Such features may not always be designated or otherwise formally recognised.*

*3. Where a development proposal would adversely affect or result in the loss of features or scenes recognised as being distinctive, the Council will balance up the significance of the feature or scene to the locality, the degree of impact the proposal would have upon it, and the wider benefits which would arise from the proposal if it were approved. Any decisions will also take into account efforts made by the applicant to viably preserve the feature,*

*avoid, minimise and/or mitigate negative effects and the need for the proposal to take place in that location.”*

Supporting text paragraph 6.13 states that *“The following policies are designed to ensure that the distinctive character and diversity of places within Mendip is considered maintained and where possible enhanced.”*

As confirmed by the policy text, local identity and distinctiveness is derived from a range of features at differing scales – from the wider scale of the “built and natural context of their locality” to the smaller scale of specific features such as walls and hedges.

In order to create the access, there would need to be some hedge removal. The new access would also have an urbanising effect on an area considered more rural in character. However, these impacts are considered to be limited. Therefore the proposed development would result in some limited conflict with DP1.

### **Heritage (DP3)**

South West Heritage Trust has commented that there are no objections to this application in relation to archaeology. No undue harm to buried remains is therefore considered likely to arise as a result of the proposed development. There are no scheduled monuments in the vicinity of the site.

There are no conservation areas or listed buildings on site or in the vicinity. The nearest listed building is over 300m to the south-west. No harm to any designated heritage assets is considered likely to arise as a result of the proposed development.

The proposed development is therefore considered to accord with policy DP3.

### **Landscape (DP4)**

Policy DP4 states that *“Proposals for development that would, individually or cumulatively, significantly degrade the quality of the local landscape will not be supported. Any decision-making will take into account efforts made by applicants to avoid, minimise and/or mitigate negative impacts and the need for the proposal to take place in that location.”*

In relation to National Landscapes (former areas of outstanding natural beauty), DP4 states:

*“Proposals in areas adjacent to the AONB will, depending upon their prominence in the wider landscape, be expected to demonstrate that their location and form do not compromise the setting of the designated area.”*

With regard to special landscape features, DP4 states:

*“Proposals for development which lie within or which would affect the setting of Special Landscape Features (as defined on the Policies Map) will be determined with regard to their impacts upon their specific qualities as described in the 2012 “Assessment of Special Landscape Features.””*

Outside of NLs and SLFs or their settings, DP4 states:

*“Outside of designated landscape areas, proposals should demonstrate that their siting and design are compatible with the pattern of natural and man-made features of the Landscape Character Areas, including cultural and historical associations, as detailed in the “Landscape Assessment of Mendip District.”*

A landscape and visual appraisal has been submitted with the application.

The site is located approximately 1.5km from the Mendip Hills NL. Despite the distance of the site from the NL, the LVA considers that the site “lies on the edge of Wells and forms part of the setting of the Mendip Hills AONB.”

The proposed development therefore needs to demonstrate that its location and form do not compromise the setting of the designated area (the NL).

However, the LVA also states that “the proposed development would also not compromise the setting of the AONB. Where there are any views of the proposed development from south of the site, encompassing the AONB landscape beyond to the north, any potential visual effects upon these views towards the AONB would be minimal.”

Given the distance of the site from Mendip Hills NL, in combination with the relatively small scale of the site, it is considered that the proposed development would not compromise the setting of the NL.

The Mendip Hills AONB Landscape Planning Officer has commented that while the application is considered to lie within the setting of the AONB/NL, there is no objection to the application, but it is requested that if permission is granted, this is subject to requirements for *“strong emphasis on tree planting along the north and western boundaries of the site with a treed entrance from the B3139 to reduce the visual impact of the proposed development both in the day and at night. We also request that the ridge height of the dwellings does not exceed the ridge height of the existing adjacent dwellings on the B3139 to the west of the site so that the proposed outline development is sited well in the landscape, and is not incongruous.”*

It is considered that both the requirements for control over landscaping and roof heights are reasonable and necessary. These can be secured by condition. Subject to this, the proposed development would ensure that the setting of the NL is not compromised.

Ben Knowle Hill is the nearest Special Landscape Feature to the site, around 500m to the west of the site. Other SLFs are further off and considered unaffected by the proposed development, including Underwood SLF, which, while closer to the site than the NL is, the setting of the NL is considered wider than that of Underwood SLF. The site is not considered to lie within the setting of Underwood SLF. While the site would be visible from Ben Knowle Hill, given the distance between the site and BKH, and the consented WL5 scheme that would be located behind the application site in views from BKH, it is not considered that the proposed development would result in significant effect on the special features of the SLF.

The LVA assesses the site from a number of viewpoints and concludes that “the site has a relatively limited visual envelope confined largely to close/mid-range views from adjacent lanes and PRoW and Open Access Land on Hay Hill that lies to the south of the site.”

The LVA then considers the landscape effects (effects of change and development on landscape) and visual effects (effects of change and development on the views available to people and their visual amenity).

Landscape effects are considered construction and operation (post-completion) stages, against identified landscape scales, as set out in the table below.

Summary of landscape impacts (from applicant’s landscape appraisal)			
	NCA 143 Mid Somerset Hills	G1 Lower Sheppey Valley	Application site
Construction stage	Negligible	Moderate/minor adverse	Major/moderate adverse
Operation (following completion, once landscaping is in place)	Negligible	Minor adverse	Moderate adverse
Year 15	Negligible	Minor Adverse/Negligible	Moderate/Minor Adverse

As can be seen from the above table, landscape impacts on the national character area Mid-Somerset Hills, is negligible at all stages. This is considered to be largely due to the scale of the NCA, compared to the application site.

Within the G1 Lower Sheppey Valley landscape character area, where the site is located, a moderate/minor impact is identified during construction, reducing to minor on completion.

When considering only the site itself, major/moderate landscape impact is identified during construction, reducing to moderate adverse upon completion and moderate/minor adverse after 15 years.

In relation to landscape effects, DP4 states that “*proposals should demonstrate that their siting and design are compatible with the pattern of natural and man-made features of the Landscape Character Areas*”.

Therefore, the most pertinent assessment scale is considered to be against the G1 Lower Sheppey Valley area. Here, a minor adverse impact is identified at operation stage. This is considered to be the most relevant stage, as the construction stage is temporary. On this basis, the landscape impact is considered compatible with the pattern of natural and man-made features of the Landscape Character Areas.

Visual effects are not specifically referenced in local plan policy DP4, however, the LVA assesses them as is standard practice. The visual effects from the visual receptor groups identified in the appraisal summarised in the table below.

Summary of visual effects (from applicant's landscape appraisal)			
	Construction	Completion (once landscaping is in place)	Year 15
Users of Elm Close	Moderate Adverse	Minor Adverse	Minor Adverse/Negligible
Users of PRow WS 10/55A (eastern boundary of site)	Major/Moderate Adverse	Moderate Adverse	Moderate/Minor Adverse
Users of Burcott Lane	Major/Moderate Adverse	Moderate Adverse	Minor Adverse
Users of Gypsy Lane	Major/Moderate Adverse	Moderate Adverse	Minor Adverse
Users of PRow WS 10/56 (north-west of site)	Moderate Adverse	Moderate/Minor Adverse	Minor Adverse
Users of PRow WS 10/58 (to south of site)	Moderate Adverse	Moderate/Minor Adverse	Minor Adverse
Users of Hay Hill Open Access Land	Major/Moderate Adverse	Moderate Adverse	Minor Adverse
Users of PRow WS 10/63 (further east and SE)	Moderate Adverse	Moderate/Minor Adverse	Minor Adverse
Properties along Harewell Walk and Bubwith Walk	Moderate/Minor Adverse	Minor Adverse	Minor Adverse/Negligible
Users of PRow WS 10/62 (further south of site)	Moderate Adverse	Moderate/Minor Adverse	Minor Adverse
Users of Deerleap Lane in Mendip Hills AONB	No/Negligible	Hidden	Hidden

Users of section of Woodford Rd at Woodford	Moderate Adverse	Moderate/Minor Adverse	Minor Adverse
Residents of Elm Close: Approx 4-5 dwellings	?	Moderate Adverse	Moderate/Minor Adverse

In terms of visual effects, again, as is to be expected, effects are worst during construction. Major/moderate effects are identified for a number of receptors during construction.

Upon completion (once landscaping is in place), moderate adverse impacts are the most commonly identified impact. After 15 years, most impacts are shown as minor.

It is usually the case that the most severe impacts of a development, especially involving a greenfield site, will be felt during construction. This impact, while likely to be highly negative for residents and visitors to the area, is however, temporary.

The more important visual effects are considered to be upon completion, which, as stated is mainly moderate adverse for most of the visual receptor effects.

Finally, DP4 also requires consideration of whether the proposed development would cumulatively significantly degrade the landscape.

The LVA acknowledges that development on the western edge of Wells could result in adverse cumulative effects, but that site analysis has identified few locations where the proposed development would be seen in combination with/to the fore of the main historic part of the city and that taken together with the allocated site WL5, the proposed site would be seen as “perceived as a minor extension to the city edge”.

Overall, it is not considered that the proposed development would result in significant degradation to the landscape. The proposed development is considered compatible with the pattern of natural and man-made features of the Landscape Character Areas and would not compromise the setting of the NL. With regard to impacts upon the specific qualities of the Ben Knowle Hill SLF, no significant adverse impacts are identified. Therefore, while there would be some landscape harm, the proposed development would not result in a significant degradation to the landscape and is therefore considered to comply with DP4.

**Ecology (DP5 & DP6)**

Policy DP5 states:

*“All development proposals must ensure the protection, conservation and, where possible, enhancement of internationally, nationally or locally designated natural habitat areas and species.*

*2. Proposals with the potential to cause adverse impacts on protected and/or priority sites, species or habitats are unlikely to be sustainable and will be resisted. Exceptions will only be made where:*

a) the impacts cannot be reasonably avoided,

b) offsetting/compensation for the impacts can be secured,

c) other considerations of public interest clearly outweigh the impacts, in line with relevant legislation.

*Offsets as mitigation or compensation required under criterion b) will be calculated using Somerset County Council's Biodiversity Offsetting methodology."*

Policy DP6 states:

*"Planning Applications for development on sites within the Bat Consultation Zone will require a 'test of significance' under the Habitats Regulations to be carried out. Applicants must provide, with their application, all necessary information to enable compliance with the Habitats Regulations (or their successor), including any necessary survey work, reports and avoidance / mitigation measures."*

The application site lies 2km north from the North Somerset and Mendip Bats special area of conservation (SAC). The Mendip Woodlands SAC is situated approximately 2.5km north, and the Somerset Levels & Moors Special Protection Area (SPA) and Ramsar site is located approximately 6km to the west of the application site and the site lies within the catchment area for the Ramsar site. In addition, land to the immediate south/east of the proposed drainage outfall route is designated as a Local Wildlife Site (Wells Sewage Plant LWS), recognised for its notable wintering and breeding bird species.

Comments were received from Natural England on 13<sup>th</sup> September 2023 and 27<sup>th</sup> February 2024, in both cases further information was requested by Natural England. This included the requirement to carry out Habitats Regulations Assessments due to the proximity of the site to the North Somerset and Mendip Bats SAC and the Somerset Levels and Moors Ramsar Site. Shadow Habitats Regulations Assessments have now been provided and adopted by the council. Regarding the Ramsar site, proposed mitigation consists of phosphate credits plus the installation of a package treatment plan (PTP) and the closure and demolition of the on-site livestock buildings and associated hardstanding. These would all need to be secured through a legal agreement as conditions are not considered sufficient.

Conflicts between proposed habitats in the habitats evaluation procedure (HEP), nutrient neutrality and mitigation strategy (NNAMS), and the illustrative masterplan and related calculations were also cited by NE. Calculations have subsequently been amended and based on comments from SES are now considered acceptable.

On the basis on advice from Somerset Ecology Services and Natural England, it is concluded that sufficient information has been submitted to demonstrate that the application would accord with policies DP5 and DP6. Shadow Habitats Regulations Assessments has been submitted by the applicant and adopted by the council. Conditions 11 and 19 as recommended would secure this mitigation.

## **Biodiversity**



According to the ecological impact assessment submitted as part of the application, 11% biodiversity net gain could be achieved based on the indicative layout. Given that the application was submitted prior to the 10% biodiversity uplift came into force, it is therefore only required to contribute to a simple net gain. As 11% net gain is stated to be achievable in the ecological impact assessment, it is considered likely that a simple net gain would be achievable on this site and the additional BNG can be considered as a benefit of the scheme.

The proposed development is therefore considered to accord with local plan policies DP5 and DP6.

### **Design and amenity (DP7)**

This application is in outline with all matters reserved except for access. The issues within DP7 would therefore be considered in detail at subsequent planning stages. However, it is considered that the illustrative masterplan demonstrates a layout could be achieved where no undue overbearing or overlooking impacts would arise. The distance between the existing dwellings on Wookey Road and Gypsy Lane, as well as those on Elm Close is also considered sufficient to ensure that undue overlooking or overbearing impacts can be avoided.

Comments have been received for the Avon & Somerset Police's Designing Out Crime Officer. The comments recognise that the application is at outline and therefore matters of layout and landscaping are not being determined at this stage, but comments are made regarding ensuring passive surveillance, avoiding undercroft and shared parking courts, avoiding over reliance on tandem parking, ensuring side and rear accessed can be adequately secured and high levels of permeability (which is associated with higher levels of crime). It is considered that these matters can be addressed through the reserved matters stage.

DP7 also requires that opportunities to make the development as sustainable as possible are maximised. This would be achieved through a condition that requires a sustainability strategy statement to be submitted as part of the reserved matters application and would include solar photovoltaic panels, air source heat pumps, electric vehicle charging points and rainwater harvesting to all dwellings.

At this stage, the proposed development is considered to accord with policy DP7.

### **Environmental protection (DP8)**

Policy DP8 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 section on ecology.

The proposal is approximately 330m from Wells Sewage Treatment Works at closest. However, Wessex Water does not object to the proposed development. The response from Wessex Water states that *“the dwellings as shown on the illustrative layout are approximately 350m from the nearest filter bed and not in a prevailing wind direction. Our odour modelling identifies that the playpark may detect odours from the site at times. However, we do not deem the dwellings to be at risk of fly and odour nuisance and therefore an Odour Assessment is not required on this occasion.”*

The wastewater treatment works is the only potential source of negative impact on air quality (through odour) that has been identified. It is therefore considered that no undue impacts would arise due to air quality.

Wessex Water has also commented on the proposed foul drainage arrangements. They state that while capacity at the Wells Waste Water Treatment Works is limited but that the proposals are for foul water to be treated by a PTP on site, with treated water passing through a wetland before being discharged into a stream off site. Wessex Water states that they do not object to this approach.

The council’s contaminated land officer does not object to the proposals and therefore it is unlikely that there would be any significant contamination on site or nearby.

The council’s environmental protection team raise no objection to the application, subject to a condition requiring a construction environmental management plan. Therefore, no undue effects in terms of ambient noise levels, light or public health and safety would be expected to arise as a result of the proposed development (NB this excludes lighting effects on bats as discussed in the ecology section).

In addition to the above, residential amenity also covers overbearing and overlooking impacts but this has been dealt with in the section of design above.

The proposed development is therefore considered to comply with policy DP8.

### **Highways, transport and access (DP9)**

DP9 states that *“Where appropriate, development proposals must demonstrate how they will improve or maximise the use of sustainable forms of transport (particularly by means other than the private car), and shall include, where relevant, the submission of Travel Plans and/or Transport Assessments.”*

It is 1.1 miles (1.8km) from the proposed access point of the site to the western edge of Wells city centre (taken as the intersection of St Cuthbert St, Priest Row & High St).

St. Cuthberts CoE Junior School is within a 22-minute walk and The Blue School is within a 26 minute walk. There is a Tesco supermarket within a 23-minute walk.

At the recent New House Farm appeal, for which very similar walking distances apply, the inspector stated that *“whilst the distances may deter some from walking, I consider that walking would be an attractive option for many future residents for at least some of their local travel needs.*

It is therefore considered that the site is accessible for a range of daily needs on foot.

Bus stops are located on Elm Close, which is within 400m (5-minute walk) of the centre of the site. However, the frequency of the service to and from Elm Close is limited, with only 5-6 services per day and is provided by a not-for-profit community transport organisation, which suggests the route is of limited profitability and therefore its long-term viability is questionable. The connectivity of the site by bus is therefore considered to be of limited attractiveness to future residents.

All of the above destinations would be accessible by cycle. While there is no dedicated cycle infrastructure all the way from the site to the centre of Wells, in the recent New House Farm appeal, the inspector considered that the Portway to be a typical two-way road widely used by cyclists in many towns and cities and that once past the cemetery, cyclists heading for the centre would have the option of using Coronation Road and Burcott Road, which offer quieter alternative routes. He also considered Burcott Lane a suitable alternative route, which would be accessible from the south of the site.

The site is therefore considered reasonably accessible by cycle to a range of local destinations.

Overall, in respect of the DP9 requirement that *“development proposals must demonstrate how they will improve or maximise the use of sustainable forms of transport”*, this application is considered to comply with DP9, despite the limited bus service.

DP9 also states that development proposals will be supported where they make safe and satisfactory provision for access, avoid causing traffic or environmental problems within the wider transport network or generating any requirement for transport improvements which would harm the character or locality. Outside of development limits, direct access on to national primary or country routes should be avoided.

The application site would be accessed from the B3139, a B-class road and not a national primary or county route.

The application includes a preliminary access layout and is supported by a transport assessment.

The application proposes to modify the junction of the B3139 with Gypsy Lane, to create a new two-way access road, for the development site, off which Gypsy Lane would also be accessed.

The application has been reviewed by the highway authority at pre-application stage, and after further information was submitted over the course of the application. The highway

authority raises no objection to the principle of the development, subject to a number of conditions regarding visibility, detailed design, drainage, construction of road and access, construction management, pedestrian, cycle and vehicular movement and parking, EV charging and travel statement (measures only). However, there are unresolved issues that the highway authority consider can be dealt with through the s278 process (this concerns making alterations to the existing highway and is relevant to the proposed access) and the s38 process (this concerns the adoption of the internal roads or alternatively payment made through the advanced payments code). Essentially, these are matters that do not need to be agreed through this planning application and do not provide a reason for refusal.

The proposed development therefore accords with DP9.

### **Parking (DP10)**

Policy DP10 states that, *“New development will be supported where vehicle parking is proposed which is appropriate to the operational needs of the development.”*

The application is at outline stage and no details of parking have been provided. This would be considered at reserved matters stage and no conflict with this policy is identified at this stage.

### **Affordable housing (DP11)**

Based on the scheme details of up to 47 homes, in line with Policy DP11 of the Mendip Local Plan Part One, 40% affordable housing provision is required on sites of 10 units or more. This equates to a requirement to provide 19 affordable homes. This would be secured through a s106 agreement subsequent to a resolution to grant, should one be forthcoming. A s106 agreement would be needed because a condition would not be appropriate or sufficient to enforce the affordable housing requirement. A policy-compliant level of affordable housing is considered reasonable and necessary. No evidence has been submitted to justify a lower amount.

Subject to the above, the proposed development would comply with DP11.

### **Housing Mix & Type (DP14)**

DP14 specifies requirements for housing mix and type. This matter would be dealt with at reserved matters.

### **Open Space and Green Infrastructure (DP16)**

Policy DP16 Open Space and Green Infrastructure, as supplemented by the Mendip Greenspace Supplementary Planning Document requires all new development to make a contribution to new open space. The SPD states that new open space is to be provided on-site unless exceptional circumstances apply. The SPD also specifies the amount of open space required. This is 2.4ha of new space per additional 1,000 people.

47 dwellings would result in 99 additional people, based on average occupancy of 2.1 persons per dwelling. The 99 additional people generate a requirement for 2,376 sqm (24,000sqm/1,000x99=2,376sqm, (where 2.4 hectares = 24,000sqm)). The illustrative

masterplan shows this amount of open space is comfortably met (the public open space, includes the sustainable urban drainage system, wetland and locally equipped area of play measures approximately 12,000sqm).

The Greenspace SPD, also 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 illustrative masterplan shows a LEAP can be accommodated on-site, to meet the above size standards. No LAP is shown but there is ample space for one. A contribution to a MUGA will be required. All three will be secured as part of the legal agreement.

The MUGA contribution is required to be secured as a planning obligation because financial contributions cannot be secured by condition. The delivery and ongoing management of the POS including LAP and LEAP is also considered inappropriate for condition and therefore must also be secured through planning obligation.

### **Development Contributions (DP19)**

DP19 supports the delivery of local infrastructure to mitigate or compensate for the effects that new development, that would otherwise be unacceptable. This approach is consistent with NPPF paragraph 55, which states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*

Aside from the affordable housing and public open space requirement, discussed in the relevant sections above, representations have also been received from the NHS and the council's education department that the proposed development would result in undue impacts on infrastructure in the local area and would be unacceptable, unless contributions were made to increase capacity.

It is therefore considered that that proposed development is acceptable, subject to appropriate contributions (as specified by the relevant consultee) being secured through a legal agreement.

### **Land drainage and flood risk (DP23)**

The application site is within flood zone 1 and is within the area of interest of the Somerset Drainage Boards Consortium (SDBC) and therefore they are considered to be the lead organisation in terms of flood risk and drainage into the relevant watercourse, in this case, the River Axe.

Both the SDBC and the LLFA have stated that they do not object to the application, subject to a condition requiring submission of a surface water drainage scheme and sustainable urban drainage system prior to commencement.

The proposed development is therefore considered to accord with local plan policy DP23. Further details would be considered at reserved matters stage.

### **Conclusion on accordance with the development plan**

Some conflict has been identified between the proposed development and local plan policy CP1, which is a key part of the spatial strategy. The weight to be attributed to the conflict policy CP1 is considered in as part of the planning balance section that follows.

Overall, it is considered that the proposed development is contrary to the local plan as a whole. The proposed development should therefore be refused, unless material considerations indicate otherwise.

### **Material considerations**

#### ***NPPF as a material consideration and the “titled balance”***

The Somerset East area is currently not able to demonstrate a five-year supply of deliverable housing sites. The five-year supply position is calculated to equate to 3.24 years, which is a shortfall of 1,201 dwellings (2,213 dwellings against the required figure of 3,414 dwellings).

In situations where a local planning authority cannot demonstrate a five-year supply of housing sites, NPPF footnote 8 renders the policies which are most important for determining the application out-of-date and applications must be determined in line with NPPF paragraph 11(d)(ii). NPPF 11(d)(i) does not apply in this case.

*“(d) 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:*

*(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 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.”*

#### ***The most important policies for the determination of this application***

##### ***The most important policies***

The policies considered the most important for determining the application are listed below and are all deemed out-of-date.

- CP1: Mendip Spatial Strategy
- CP2: Supporting the Provision of Housing
- CP10: Wells City Strategy

- DP1: Local Identity and Distinctiveness
- DP4: Mendip's Landscapes
- DP5: Biodiversity and Ecological Networks
- DP6: Bat Protection
- DP9: Highways Impact of New Development

### ***Weight***

While it is accepted that the most important policies for determining the application are out-of-date, this does not mean that they should be given no weight. The amount of weight that should be given to the policies most important for determining the application (with a focus on those that restrict development) is related to the shortfall in supply, which as discussed below, is considered to be a very significant shortage.

### ***The shortfall in supply***

The shortfall in the overall supply of housing in the Somerset East area has been considered at a number of recent appeals.

These appeal decisions establish that there is a very significant shortfall of housing land supply in the Somerset East area.

The housing land supply issue was considered most recently at the allowed appeal at New House Farm, Haybridge, Wells (2023/1087/OUT), by decision dated 30<sup>th</sup> August 2024. This appeal is also notable in relation to the current application, because the two sites lie only 50m from each other at closest. The inspector gave significant weight to the provision of market and affordable housing and attached only limited weight to the conflict with the settlement boundaries.

The current shortfall in supply (3.24 years), as of November 2023 remains a very significant shortfall.

### ***The way in which relevant policies restrict development and associated weight.***

#### 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 developed 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 strategy restricts development that is not within the settlement limit of one the identified settlements. However, the approach of directing the majority of growth to the

largest settlements (which have the widest range of services) is consistent with NPPF aims of achieving sustainable development.

The proposed development is contrary to CP1 because the site lies outside the settlement limits.

However, full weight is attributed to the spatial strategy approach of directing the majority of development to the five principal settlements. While the site is located outside the settlement boundary, it is still considered to be “at” Wells and is therefore in general accordance with this aspect of the policy.

Overall, the conflict with CP1 is considered to be limited.

### CP2

Supporting the Provision of Housing identifies the amount of development required overall and by settlement, based on a review of housing requirements carried out in 2013. This policy is based on a housing requirement of 9,635 over the 23-year plan period, or 420 per year, which is then distributed to settlements based on the hierarchy established in CP1.

CP2 itself does not cap or restrict development. However, it has this effect through related policies. In terms of the weight to be attributed to the housing provision identified by CP2, this should be given reduced weight.

### CP10

As set out in the New House Farm appeal, in terms of coalescence, CP10 applies to the areas identified as green gap, rather than more generally. The application site does not lie with a green gap and therefore the development of the site is not contrary to CP10 in terms of coalescence.

No other conflict with CP10 has been identified. The proposed development is therefore accords with CP10.

### DP1

LPP1 policy DP1 on Local Identity and Distinctiveness is not considered to restrict housing development that is not inappropriate. It is therefore attributed full weight and the conflict identified with DP1 attributed full weight, albeit only limited conflict is identified with DP1.

### DP4

LPP1 policy DP4 on Mendip’s Landscapes is not considered to restrict housing development that is not inappropriate. It is therefore attributed full weight and the conflict identified with DP4 attributed full weight. However, no significant conflict has been identified with this policy.

### DP9

LPP1 policy DP9 policy on Highways Impact of New Development is not considered to restrict housing development that is not inappropriate. It is therefore attributed full weight.



No conflict is identified with DP9 due to the accessibility of the site to key services or highway safety.

### **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 benefit/harm

### **Benefits**

Given the very significant shortfall in supply, which represents a position that has worsened significantly since the previous monitoring year (3.7-year supply or a shortfall of 768 dwellings last year, versus a 3.24-year supply or a shortfall of 1,201 dwellings at most recent monitoring), the delivery of up to 47 homes including 19 affordable dwellings is considered a significant benefit. There would also be other benefits, such as the creation of construction jobs, on-site public open space, the potential for additional spending in the local economy. Together these benefits are considered to be moderate. Environmental benefits such as landscaping, walking and cycling routes within the site and biodiversity enhancements are considered to be mitigations and of limited overall benefit, except for the biodiversity net gain over and above the minimum requirement, which is considered a moderate benefit.

Overall, benefits are considered to be significant.

### **Harms**

Given the very significant shortfall in housing supply, the conflict with CP1, through development outside the settlement limits, is given limited weight and is considered to result in limited harm. No harm is identified in relation to CP10, DP4 or DP9. Limited harm is identified in relation to DP1.

Overall, harms are considered limited.

### **Conclusion on planning balance and overall**

The proposed development is considered to result in limited harm overall harm, whereas the overall benefits are considered to be significant.

While the development is considered contrary to the development plan overall, the NPPF is a material consideration and paragraph 11(d)(ii) states that permission should be granted unless the harms significantly and demonstrably outweigh the benefits.

In this case it is considered that the harms do not significantly and demonstrably outweigh the benefits.

Therefore, permission should be granted.

### **Planning obligations**

The following matters are considered reasonable and necessary to make the development acceptable and cannot be dealt with through conditions. These are therefore required planning obligations to be included within a s106 agreement and therefore the application cannot be finally determined until such an agreement has been signed by all relevant parties.

Affordable housing (19 homes)

Public open space (on-site LAP and LEAP and other open space. Contribution to off-site MUGA)

NHS contribution £17,788

Education contribution £207,552.00/47 (£4,416.00 per dwelling)

### **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.

### **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. Outline Time Limit (Compliance)**

The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990 (as amended).

## **2. Reserved Matters Time Limit (Compliance)**

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

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

This decision relates to the following drawings:

PHL-01 Rev D

10602-FPCR-ZZ-XX-DR-L-0001 P03

## **4. Finished Floor and Levels Ridge Heights (Reserved Matters)**

The Reserved Matters application shall include details of finished floor levels and ridge heights of all dwellings. Thereafter the dwellings shall be constructed in accordance with the approved details.

Reason: For the avoidance of doubt and to clarify the finished ground levels of the development to accord with Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because the ground levels and ridge height of the dwellings have the potential to affect the overall acceptability of the impact of the development.

## **5. Footpath and Cycleway Connections (Reserved Matters)**

The reserved matters application shall include a detailed scheme of a network of cycleway and footpath connections within the site including up to the site boundaries along with a programme of implementation. The footpath and cycleway connections shall thereafter be delivered to the boundary of the site on an unencumbered basis to allow the free passage of users into and out of the site in accordance with the approved details.

Reason: To ensure that suitable access for cyclists and pedestrians is provided and thereafter retained in the interests of amenity and highway safety in accordance with

## 6. **Landscape and Ecological Management Plan (Reserved Matters)**

A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority at the Reserved Matters stage. The LEMP will include confirmation on 5m setbacks for dark bat habitat from the hedgerow and trees along the northwest (Gypsy Lane) and the eastern boundaries of the application site. Existing vegetation along the boundary is to be released from management ahead of works commencing (i.e. six months). Retained and new hedgerows, including the line of trees along the eastern boundary of the application site, will be managed bushy to attain a width of 3-5m and height of 6m and maintain an associated 5m long/tussocky grassland buffer. Details should also be given on new native bolster planting along the boundary where there are gaps, further strengthening the extent of canopy cover where the location of any connection would be chosen on the basis of minimal vegetation loss whilst maximising canopy cover from adjacent trees and this would be agreed under the direction of a suitably qualified ecologist. Information regarding the hedgerow along Burcott Lane to be released ahead of works in order strengthen connections to the eastern boundary. Finally, information should be provided regarding biodiversity net gain (BNG) and how habitats will be managed in order to meet the conditions e.g. fairly good for grassland within the BNG calculations. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) On-going monitoring and remedial measures.

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

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

Reason: In the interests of the 'Favourable Conservation Status' of populations of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006 and in accordance with policy DP5 of the Mendip Local Plan.

## **7. Sustainability Strategy Statement (RM)**

The reserved matters application shall include a Sustainability Strategy Statement ('SSS'). The SSS shall demonstrate how the development will, in line with a timetable, incorporate reasonable and practical sustainability measures through i) the siting, layout and design of the dwellings hereby permitted, and ii) maximising appropriate opportunities for the use of sustainable constructions techniques, renewable energy on site (including the provision of operational solar voltaic panels, air source or ground source heat pumps, electric vehicle charging points and water efficiency measures (including rainwater harvesting or other methods of capturing rainwater) to each dwelling. The development hereby permitted shall be undertaken in accordance with the SSS, which shall thereafter be maintained as such.

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).

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

Construction Management Plan (Pre-commencement)

No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include:

- a. The working methods to be employed on site during the demolition and construction (and preparation associated with construction) of the site.
- b. Measures (including screening) to be taken to minimise emissions of dust, fumes, odour, noise and vibration.
- c. Proposals for the safe disposal of waste materials confirming that no burning of site generated waste will occur.
- d. A map to identify which route(s) is to be used by construction vehicles to access the site.
- e. The parking of vehicles of site operatives and visitors.

- f. Loading and unloading of plant and materials.
- g. Storage of plant and materials used in constructing the development.
- h. Other measures to control the emission of dust and dirt deposition during construction including any wheel washing facilities.

i. Delivery and construction working hours, which shall not permit:

noise generating activities outside of the following hours:

Mon - Fri 08:00-18:00

Sat 08:00 -13:00

All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

The development shall thereafter be carried out in accordance with the approved CMP.

Reason: To minimise the effect of noise, odour and dust from the development on occupiers of nearby properties in the interests of residential amenity and sustainable development, in accordance with Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and having regard to the NPPF, in particular chapters 8 and 12. This is a condition precedent because the impacts identified above need to be understood at the earliest stage of development.

## **9. Construction Ecological Environmental Management Plan (Pre-commencement)**

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

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including for reptiles, nesting birds, dormice and badgers.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.

g) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs.

i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEEMP shall be adhered to throughout the construction period.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with Mendip District Council Local Plan Part 1 Policy DP5, Policy FR3a of the Mendip District Council Local Plan Part 2 and Chapter 15 of the NPPF. This is a condition precedent as harm to protected species needs to be prevented from the earliest stages of the development.

#### 10. **Lighting and Bats (Pre-commencement)**

No development shall commence until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The strategy shall:

a) Identify those areas/features on site that are particularly sensitive for greater horseshoe bats and that are likely to cause disturbance in or around their resting places or along important routes used to access key areas of their territory, for example, for foraging.

b) Show how and where external lighting will be installed (through the provision of lighting contour plans illustrating Lux levels in accordance with Step 5 of Guidance Note 08/18 Bats and artificial lighting in the UK) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent greater horseshoe bats using their territory or having access to their breeding sites and resting places. The design will also include any amenity and or security lighting where needed.

c) Show the use of shields and other methods of reducing light spill (such as the installation of physical barriers) to prevent light spill.

d) 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.

The approved lighting scheme shall be implemented before the occupation of the development hereby permitted and shall thereafter be permanently retained as such.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species, and in accordance with Mendip District Council Local Plan Part 1 Policies DP5 and DP6; Policy FR3a of the Mendip District Local Plan Part 2 and Part 15 of the NPPF. This is a condition precedent

as potential harm to protected species needs to be understood and thereafter prevented from the earliest stages of the development.

#### **11. 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.

Thereafter, the surface water drainage scheme shall be permanently retained as approved.

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.

#### **12. Phosphate Credits Allocation Certificate (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 Development Policies 5 and 8, as well as Paragraphs 180 and 186-188 of the National Planning Policy Framework.

#### **13. Biodiversity Enhancement and Management Strategy (Pre-commencement)**

No development hereby permitted shall take place until a Biodiversity Enhancement and Management Strategy ('BEMS') has been submitted to, and approved in writing by,



the Local Planning Authority. The BEMS shall provide for biodiversity net gain and shall align with the approach set out in the Ecological Impact Assessment (Grassroots Ecology, April 2024 Ref: 1318 April 2024).

Development shall be carried out in accordance with the approved BEMS and the site shall be thereafter be managed in accordance with the approved BEMS for the lifetime of the development.

Reason: To avoid adverse impacts on protected and priority species & habitats in accordance with Development Policies 5 and 6 of the Mendip District Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014) and Chapter 15 of the National Planning Policy Framework.

#### **14. Roads, Footpaths and Turning Spaces (Pre-occupation)**

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

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

#### **15. New Access (Pre-occupation)**

No dwelling hereby approved shall be occupied until the new access as shown on approved drawing number PHL-01 Rev D has been constructed in accordance with that drawing.

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

#### **16. Visibility Splay (Pre-occupation)**

No dwelling hereby approved shall be occupied until the visibility splay shown on drawing number PHL-01 Rev D has been provided. There shall be no on-site obstruction exceeding 600mm above ground level within the visibility splay. The visibility splay shall be retained as such permanently thereafter.

Reason: To ensure sufficient visibility is provided in the interests of highways safety in accordance with Development Policy 9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## 17. **Travel Plan (Pre-occupation)**

Prior to any occupation a Measures-Only Travel Plan in line with the Somerset Council Travel Plan Guidance (2011) shall be implemented in accordance with details which have first been approved in writing by 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).

## 18. **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 plants,
- (b) boundary treatments,
- (c) surfacing materials (including roadways, drives, patios and paths) and
- (d) any retained planting and
- (e) a detailed programme of implementation.

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

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Development Policies 1, 3, 4 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## 19. **Nutrient Neutrality Statement (Compliance)**

The development hereby approved shall be carried out in full accordance with the as submitted in the NUTRIENT NEUTRALITY ASSESSMENT & MITIGATION STRATEGY, dated 2nd April 2024 reference RMA-C2659. This shall include installation of a Package Treatment Plant that does not require any chemical dosing and achieves 0.80 mg/l concentration of phosphorous per litre of effluent discharged.

If the Package Treatment Plant needs to be replaced in the future, the replacement Package Treatment Plan must include a biological treatment (with no chemical dosing) with 0.80 mg/l concentration of phosphorous per litre of effluent discharged or less.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with Development Policy 5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and Part 15 of the National Planning Policy Framework.

## 20. **Estate Roads (Bespoke)**

Except for enabling works (construction access, ground clearance, ecology works, archaeology works and the formation surface water drainage) no development shall commence until details of the proposed estate roads, footways, footpaths, tactile paving, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture have been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include plans and sections, the design, layout, levels, gradients, materials and method of construction.

Reason: To ensure that suitable access, parking and turning areas are provided and thereafter retained in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because any initial construction works could have a detrimental affect on highway safety and residential amenity

## **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. The development hereby approved includes the carrying out of work on the adopted

highway. You are advised that before undertaking work on the adopted highway you must

enter into a highway agreement under Section 278 of the Highways Act 1980 with the

Council, which would specify the works and the terms and conditions under which they are

to be carried out.

NB: Planning permission is not permission to work in the highway. A Highway Agreement

under Section 278 of the Highways Act 1980 must be completed, the bond secured and the

Highway Authority's technical approval and inspection fees paid before any drawings will be

considered and approved

NOTE: If it is not possible to construct the estate road to a standard suitable for adoption,

yet it is deemed the internal layout of the site results in the laying out of a private street,

under Sections 219 to 225 of the Highway Act 1980, it will be subject to the Advance

Payment Code (APC). In order to qualify for an exemption under the APC, the road should

be built and maintained to a level that the Highway Authority considers will be of sufficient

integrity to ensure that it does not deteriorate to such a condition as to warrant the use of

the powers under the Private Streetworks Code. A suitable adoptable layout should be

provided as part of the Reserved Matters application.

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. Please ensure that an advisory note is attached requesting that the developer

contact the Highway Authority to progress this agreement well in advance of commencement of development

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